# Colorado Revised Statutes 2020

# TITLE 22

EDUCATION

**Cross references:** For provisions on junior colleges, contained in this title prior to 1975, see articles 71 and 72 of title 23.

**Law reviews:** For article, "Fundamentalist Christians, the Public Schools and the Religion Clauses", see 66 Den. U.L. Rev. 289 (1989).

## GENERAL AND ADMINISTRATIVE

## ARTICLE 1

General Provisions

**22-1-101. Schools defined.** (1) A public school is a school that derives its support, in whole or in part, from moneys raised by a general state, county, or district tax.

(2) A charter school is a public school that operates pursuant to a charter contract entered into pursuant to the provisions of article 30.5 of this title. As used in this title, unless the context otherwise requires, "charter school" includes any type of charter school created pursuant to the provisions of article 30.5 of this title.

**Source: G.L.** § 2521. **G.S.** § 3071. **R.S. 08:** § 6008. **C.L.** § 8495. **CSA:** C. 146, § 289. **CRS 53:** § 123-21-1. **C.R.S. 63:** § 123-21-1. **L. 2004:** Entire section amended, p. 1586, § 12, effective June 3.

**22-1-102. Residence of child.** (1) Every public school shall be open for the admission of all children, between the ages of five and twenty-one years, residing in that district without the payment of tuition. The board of education shall have power to admit adults and children not residing in the district if it sees fit to do so and to fix the terms of such admission.

(2) A child shall be deemed to reside in a school district if:

(a) Both his or her parents, or the survivor of them, or the one of them with whom such child resides a majority of the time pursuant to an order of any court of competent jurisdiction resides in the school district;

(b) The legally appointed guardian of his person resides in the school district;

(c) After emancipation by his parents, or the survivor thereof, from their or his control, and he has no guardian, he lives within the school district;

(d) In the judgment of the board of education of the school district wherein the child lives, the child has been abandoned by his parents;

(e) The child has become permanently dependent for his maintenance and support on someone other than his nonresident parents, or upon any charitable organization, if the dependent child is actually to make his home and receive his support within the school district where he desires to attend;

(f) If one of the child's parents or the guardian of his person is a public officer or employee living temporarily for the performance of his duties in a school district other than that of his residence. Unless the parents of a child are permanently separated, the residence of the husband shall be deemed to be the residence of the child, but, if the parents have permanently separated, the residence of the child shall be that of the parent with whom the child actually lives.

(g) Regardless of the residence of the parents, if any, the child adopts a dwelling place within the district with the intent to remain there indefinitely and with the intent not to return to the dwelling place from which he came, and regularly eats or sleeps there, or both, during the entire school year as defined in section 22-1-112; but the child shall be deemed not to have the requisite intent if he regularly returns to another dwelling place during summer vacations or weekends;

(h) The child is found to be homeless pursuant to the provisions of section 22-1-102.5 and the child presently seeks shelter or is located in the school district; except that a homeless child shall be deemed to reside in another school district if the child attended school in such school district at the time the child became homeless, the child remains homeless, the affected school districts find that attendance in such other school district is in the best interests of the child pursuant to section 22-33-103.5, and the child chooses to continue attendance in such other school district;

(i) The child is found to have become homeless pursuant to the provisions of section 22-1-102.5 during a period that school is not in session, the child remains homeless, and the child presently seeks shelter or is located in the school district; except that the child shall be deemed to reside in another school district if the child attended school in such school district immediately prior to the time the child became homeless, the child remains homeless, the affected school districts find that attendance in such other school district is in the best interests of the child pursuant to section 22-33-103.5, and the child chooses to continue attendance in such other school district.

(3) School districts shall follow the procedures specified in section 22-33-103.5 in determining where a homeless child shall attend school and the educational services provided to homeless children.

**Source: G.L.** § 2522. **G.S.** § 3072. **L. 1889:** p. 301, § 3. **R.S. 08:** § 6009. **C.L.** § 8496. **L. 31:** p. 831, § 1. **CSA:** C. 146, § 290. **CRS 53:** § 123-21-2. **C.R.S. 1963:** § 123-21-2. **L. 67:** pp. 37, 824, §§ 1, 2. **L. 73:** p. 1280, § 3. **L. 90:** (2)(h) added, p. 1040, § 1, effective April 3. **L. 98:** (2)(a) amended, p. 1410, § 74, effective February 1, 1999. **L. 2002:** (2)(h) amended and (2)(i) and (3) added, pp. 204, 205, §§ 2, 3, effective July 1. **L. 2005:** (1) amended, p. 69, § 2, effective March 25.

**Cross references:** For the constitutional requirement for establishment and maintenance of public schools, see § 2 of article IX of the state constitution.

**22-1-102.5. Definition of homeless child.** (1) The general assembly finds and declares that, because of the growing number of children and families who are homeless in Colorado, there is a need to ensure that all homeless children and youth receive a proper education. It is the intent of the general assembly that no child or youth shall be denied the benefits of a free education in the public schools because the child or youth is homeless.

(2) (a) As used in this article 1, unless the context otherwise requires, "homeless child" means:

(I) A school-aged child or youth, including preschool, who lacks a fixed, regular, and adequate nighttime residence, including but not limited to:

(A) A child or youth who is living in a motel, hotel, or camping ground due to a lack of alternative adequate accommodations;

(B) A child or youth who is living in an emergency or transitional shelter; and

(C) A child or youth who is abandoned in a hospital;

(D) (Deleted by amendment, L. 2018.)

(II) A school-aged child or youth, including preschool, who has a primary nighttime residence that is:

(A) A supervised, publicly or privately operated shelter designed to provide temporary living accommodations, including welfare hotels, congregate shelters, and transitional housing for persons with behavioral or mental health disorders; or

(B) (Deleted by amendment, L. 2018.)

(C) A public or private place not designed for, nor ordinarily used as, a regular sleeping accommodation for human beings, including but not limited to an automobile, a park, an abandoned building, a bus or train station, or a similar setting; or

(III) A child or youth who is sharing the housing of another due to loss of housing, economic hardship, or for similar reasons.

(b) "Homeless child" shall not include any individual imprisoned or otherwise detained pursuant to an act of congress or a state law.

(c) "Homeless child" shall include a migrant school-aged child, including preschool, who meets the requirements of this subsection (2).

(d) "Homeless child" shall include a school-aged child, including preschool, who meets the requirements of this subsection (2) who is not in the physical custody of a parent or legal guardian.

**Source: L. 90:** Entire section added, p. 1040, § 2, effective April 3. **L. 2002:** (2) amended, p. 205, § 4, effective July 1. **L. 2006:** (2)(a)(II)(A) amended, p. 1404, § 61, effective August 7. **L. 2017:** IP(2)(a) and (2)(a)(II)(A) amended, (SB 17-242), ch. 263, p. 1318, § 169, effective May 25. **L. 2018:** Entire section amended, (HB 18-1306), ch. 364, p. 2182, § 5, effective August 8.

**Cross references:** For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017. For the legislative declaration in HB 18-1306, see section 1 of chapter 364, Session Laws of Colorado 2018.

**22-1-103. Policy of state to instruct in English - exceptions.** Instruction in the common branches of study in the public schools of this state shall be conducted principally through the

medium of the English language; except that it shall be the policy of the state also to encourage the school districts of the state to develop bilingual skills and to assist pupils whose experience is largely in a language other than English to make an effective transition to English with the least possible interference in other learning activities.

**Source: G.L.** § 2523. **L. 1883:** p. 271, § 12. **G.S.** § 3073. **L. 1887:** p. 401, § 37. **L. 01:** p. 362, § 1. **R.S. 08:** § 6010. **L. 19:** p. 599, § 1. **C.L.** § 8497. **CSA:** C. 146, § 291. **CRS 53:** § 123-21-3. **L. 59:** p. 675, § 1. **C.R.S. 1963:** § 123-21-3. **L. 69:** p. 1029, § 1.

**22-1-104. Teaching of history, culture, and civil government.** (1) The history and civil government of the United States and of the state of Colorado, which includes the history, culture, and social contributions of minorities, including, but not limited to, American Indians, Latinos, African Americans, and Asian Americans, the lesbian, gay, bisexual, and transgender individuals within these minority groups, and the intersectionality of significant social and cultural features within these communities, and the contributions and persecution of religious minorities, must be taught in all the public schools of the state.

(2) Satisfactory completion of a course on the civil government of the United States and the state of Colorado, including the subjects described in subsection (1) of this section, is a condition of high school graduation in the public schools of this state.

(3) (a) In an effort to increase civic participation among young people, each school district board of education shall convene a community forum on a periodic basis, but not less than once every six years, for all interested persons to discuss adopted content standards in civics, including the subjects described in subsection (1) of this section. The history, culture, social contributions, and civil government in education commission established in section 22-1-104.3 shall actively participate in any such forums.

(b) Based upon input from this community forum, each school district board of education shall determine how the subject areas specified in subsection (1) of this section are addressed when establishing graduation requirements.

(4) (a) In an effort to strengthen the teaching of the history, culture, social contributions, and civil government of the state of Colorado and of the United States in all public schools of the state in accordance with the requirements of this section, the department of education, in conjunction with the history, culture, social contributions, and civil government in education commission established in section 22-1-104.3, shall assist the school districts of the state in developing and promoting programs for elementary and secondary students that engage the students in the process of discovery and interpretation of the subjects and topics set forth in subsection (1) of this section.

(b) The department of education is authorized to accept gifts, grants, and donations in furtherance of the objectives specified in subsection (4)(a) of this section.

(c) It is the intent of the general assembly that the objectives specified in subsection (4)(a) of this section are funded through the state education fund created in section 17 (4) of article IX of the state constitution. The general assembly hereby finds that the development, promotion, and maintenance by the school districts of the state of programs for elementary and secondary students that engage such students in the process of discovery and interpretation of the subjects and topics set forth in subsection (1) of this section assist these students in meeting state academic standards and may therefore be funded from money in the state education fund.

(5) (a) In an effort to strengthen the teaching of history, culture, social contributions, and civil government, as described in subsection (1) of this section, in all public schools of the state in accordance with the requirements of this section, the department of education, in conjunction with the history, culture, social contributions, and civil government in education commission established in section 22-1-104.3, shall assist the school districts of the state in developing and promoting programs for elementary and secondary students that address the state model content standards for history and civics and promote best practices while also addressing the subjects and topics described in subsection (1) of this section.

(b) It is the intent of the general assembly that the objectives specified in this subsection (5) are funded through the state education fund created in section 17 (4) of article IX of the state constitution. The general assembly hereby finds that the development, promotion, and maintenance by the school districts of the state of programs for elementary and secondary students that address the state model content standards for history and civics and promote best practices while addressing the subjects and topics described in subsection (1) of this section assist these students in meeting state academic standards and may therefore be funded from money in the state education fund.

(6) The state board of education shall take into consideration any recommendations of the history, culture, social contributions, and civil government in education commission established in section 22-1-104.3 when performing its six-year review of the state's education standards pursuant to section 22-7-1005 (6).

**Source: L. 21:** p. 728, § 1. **C.L.** § 8498. **CSA:** C. 146, § 292. **CRS 53:** § 123-21-4. **C.R.S. 1963:** § 123-21-4. **L. 69:** p. 1022, § 2. **L. 98:** (2) amended, p. 328, § 1, effective April 17. **L. 2003:** (3) and (4) added, p. 1228, § 1, effective August 6. **L. 2004:** (5) added, p. 875, § 2, effective May 21. **L. 2005:** (6) added, p. 438, § 14, effective April 29. **L. 2015:** (4)(a) amended, (HB 15-1323), ch. 204, p. 719, § 17, effective May 20. **L. 2019:** Entire section amended, (HB 19-1192), ch. 302, p. 2773, § 1, effective May 28.

**Cross references:** For the legislative declaration contained in the 2004 act enacting subsection (5), see section 1 of chapter 251, Session Laws of Colorado 2004.

**22-1-104.3. History, culture, social contributions, and civil government in education commission - established - membership - duties.** (1) There is established the history, culture, social contributions, and civil government in education commission, referred to in this section as the "commission". The purpose of the commission is to make recommendations to the state board of education and department of education to be used in conjunction with the regular six-year review of the state's education standards and programs pursuant to section 22-7-1005 (6). The recommendations must seek to further the discovery, interpretation, and learning of the history, culture, social contributions, and civil government of the United States and Colorado, including the contributions of American Indians, Latinos, African Americans, and Asian Americans, the lesbian, gay, bisexual, and transgender individuals within these minority groups, and the intersectionality of significant social and cultural features within these communities, and the contributions and persecution of religious minorities. The commission shall work cooperatively and in conjunction with the department of education and local school boards of education as described in section 22-1-104.

(2) The commission consists of sixteen members and, to the extent practicable, must include persons from throughout the state and persons with disabilities and must reflect the ethnic diversity of the state. A majority of the commission members must have either classroom experience or experience in developing education content standards. On or before August 15, 2019, the appointing officials shall appoint membership of the commission as follows:

(a) The governor shall appoint, through the office of boards and commissions, the following members of the commission:

(I) Two members from the American Indian community;

(II) Two members from the Latino community;

(III) Two members from the African American community;

(IV) Two members from the Asian American community;

(V) One member from the lesbian, gay, bisexual, and transgender community;

(VI) One member who is a teacher and holds an initial or professional teacher license pursuant to article 60.5 of this title 22;

(VII) One member from an organization that represents either school superintendents or local school boards; and

(VIII) Two members representing higher education. One member must represent a large state institution of higher education, and one member must represent a smaller state institution of higher education.

(b) The commissioner of education shall appoint two members from the department of education, who are nonvoting members; and

(c) The president of the state historical society, established in part 2 of article 80 of title 24, or the president's designee, who is a nonvoting member.

(3) Commission members serve for terms of four years; except that, of the members first appointed, two members appointed pursuant to each of subsections (2)(a)(I), (2)(a)(II), and (2)(a)(III) of this section and one member appointed pursuant to subsection (2)(a)(IV) of this section, as designated by the governor, serve initial terms of two years. The appointing officials shall fill any vacancies on the commission for the remainder of any unexpired term.

(4) Beginning in September 2019, the commission shall meet a minimum of two times per year and additionally as needed in conjunction with the community forums established in section 22-1-104 (3)(a).

(5) Commission members serve without compensation but may be reimbursed for actual and reasonable expenses incurred in the performance of their duties.

**Source: L. 2019:** Entire section added, (HB 19-1192), ch. 302, p. 2775, § 2, effective May 28.

**22-1-104.5. Teaching of visual arts and performing arts - definitions.** (1) As used in this section, unless the context otherwise requires:

(a) "Course" includes, but need not be limited to, a traditional class, an online course of study, an internship, an externship, a mentor experience, or an independent study course that culminates in an integrative or specialized performance, showcase, or exhibition.

(b) "Performing arts" means art forms that are expressed by individuals or groups that involve performance through multi-sensory experiences, which performances may include, but need not be limited to, dance, music, theater, and digital or electronic productions.

(c) "Visual arts" means art works created by individuals or groups using a variety of media and processes, which art works may include, but need not be limited to, drawing, painting, ceramic arts, sculpture, photography, graphic arts, printmaking, media arts, electronic or digital design, textiles, jewelry, glass arts, and fine woodworking.

(2) Each public school in the state is strongly encouraged to provide courses in visual arts and in performing arts, which courses shall be based on content standards for visual arts and performing arts and provided in compliance with state and federal law. School districts and public schools are strongly encouraged to explore and implement innovative delivery mechanisms for performing arts and visual arts courses, including but not limited to using on-site technology and software, online education, and collaboration among community colleges, other school districts or public schools, boards of cooperative services, and regional service areas.

**Source: L. 2010:** Entire section added, (HB 10-1273), ch. 233, p. 1020, § 2, effective May 18.

**Cross references:** For the legislative declaration in the 2010 act adding this section, see section 1 of chapter 233, Session Laws of Colorado 2010.

**22-1-104.7. Teaching of Holocaust and genocide studies - definitions.** (1) As used in this section, unless the context otherwise requires:

(a) "Genocide" means any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial, or religious group:

(I) Killing members of a national, ethnic, racial, or religious group;

(II) Causing serious bodily or mental harm to members of a national, ethnic, racial, or religious group;

(III) Deliberately inflicting on a national, ethnic, racial, or religious group conditions of life calculated to bring about its physical destruction in whole or in part;

(IV) Imposing measures intended to prevent births within a national, ethnic, racial, or religious group; or

(V) Forcibly transferring children of a national, ethnic, racial, or religious group to another group.

(b) "Holocaust" means the systematic, bureaucratic, state-sponsored persecution and murder of approximately six million Jews and five million individuals targeted for their religion, disability, or identity by the Nazi regime and its collaborators.

(c) "Holocaust and genocide studies" means studies on the Holocaust, genocide, and other acts of mass violence, including but not limited to the Armenian Genocide.

(2) (a) For school years beginning on or after July 1, 2023, each school district board of education and charter school shall incorporate the standards on Holocaust and genocide studies developed by the state board pursuant to section 22-7-1005 (2.7) into an existing course that is currently a condition of high school graduation.

(b) The provisions of subsection (2)(a) of this section applies only if the standards are adopted by the state board on or before July 1, 2023.

(3) A school district or charter school may utilize the resource bank created pursuant to section 22-2-127.3 or other alternative programs or materials to implement the provisions of this section. Any programs or materials used in teaching Holocaust and genocide studies must

represent best practices and be developed using input from experts in the area of Holocaust and genocide studies.

**Source: L. 2020:** Entire section added, (HB 20-1336), ch. 252, p. 1227, § 1, effective July 8.

**22-1-105. Commissioner of education to provide course. (Repealed)**

**Source: L. 21:** p. 728, § 2. **C.L.** § 8499. **CSA:** C. 146, § 293. **CRS 53:** § 123-21-5. **C.R.S. 1963:** § 123-21-5. **L. 84:** Entire section repealed, p. 579, § 1, effective February 17.

**22-1-106. Information as to honor and use of flag.** (1) The commissioner of education shall provide the necessary instruction and information so that all teachers in the grade and high schools in the state of Colorado may teach the pupils therein the proper respect of the flag of the United States, to honor and properly salute the flag when passing in parade, and to properly use the flag in decorating and displaying.

(2) (Deleted by amendment, L. 2004, p. 166, § 1, effective March 17, 2004.)

(3) Each school district shall provide an opportunity each school day for willing students to recite the pledge of allegiance in public elementary and secondary educational institutions. Any person not wishing to participate in the recitation of the pledge of allegiance shall be exempt from reciting the pledge of allegiance and need not participate.

**Source: L. 23:** p. 550, § 1. **CSA:** C. 146, § 294. **CRS 53:** § 123-21-6. **C.R.S. 1963:** § 123-21-6. **L. 2003:** Entire section amended, p. 2367, § 1, effective August 6. **L. 2004:** Entire section amended, p. 166, § 1, effective March 17.

**22-1-107. Pupils to be instructed.** Upon such information and instruction being furnished, it is the duty of each teacher in such schools to see that the pupils therein receive such instruction and information.

**Source: L. 23:** p. 550, § 2. **CSA:** C. 146, § 295. **CRS 53:** § 123-21-7. **C.R.S. 1963:** § 123-21-7.

**22-1-108. Federal constitution to be taught.** In all public and private schools located within the state of Colorado, there shall be given regular courses of instruction in the constitution of the United States.

**Source: L. 25:** p. 447, § 1. **CSA:** C. 146, § 296. **CRS 53:** § 123-21-8. **C.R.S. 1963:** § 123-21-8.

**22-1-109. Taught at what stages.** Such instruction in the constitution of the United States shall begin not later than the opening of the junior high schools or seventh grade and shall continue in the high school course and in courses in state colleges, universities, and the educational departments of state and municipal institutions to an extent to be determined by the commissioner of education.

**Source: L. 25:** p. 447, § 2. **CSA:** C. 146, § 297. **CRS 53:** § 123-21-9. **C.R.S. 1963:** § 123-21-9.

**22-1-110. Effect of use of alcohol and controlled substances to be taught.** The nature of alcoholic drinks and controlled substances, as defined in section 18-18-102 (5), C.R.S., and special instruction as to their effects upon the human system in connection with the several divisions of the subject of physiology and hygiene, as to the physical, emotional, psychological, and social dangers of their use with an emphasis upon the nonuse of such substances by school-age children, and as to the illegal aspects of their use shall be included in the branches of study taught to school-age children during grades kindergarten through twelve in the public schools of the state. They shall be studied and taught, as thoroughly and in the same manner as other like required branches are taught in said schools, by the use of instructional materials and strategies designated by the board of directors of the respective school districts.

**Source: L. 1887:** p. 378, § 1. **R.S. 08:** § 6011. **C.L.** § 8500. **CSA:** C. 146, § 298. **CRS 53:** § 123-21-10. **C.R.S. 1963:** § 123-21-10. **L. 82:** Entire section amended, p. 254, § 12, effective May 3. **L. 85:** Entire section amended, p. 718, § 1, effective July 1. **L. 2012:** Entire section amended, (HB 12-1311), ch. 281, p. 1625, § 63, effective July 1.

**22-1-110.5. Education regarding human sexuality - prior written notice to parent - content standards. (Repealed)**

**Source: L. 2004:** Entire section added, p. 1373, § 1, effective July 1. **L. 2007:** (5) to (9) added, p. 828, § 2, effective July 1. **L. 2013:** Entire section repealed, (HB 13-1081), ch. 303, p. 1600, § 1, effective May 28.

**22-1-111. Failure to teach temperance. (Repealed)**

**Source: L. 1887:** p. 379, § 2. **R.S. 08:** § 6012. **C.L.** § 8501. **CSA:** C. 146, § 299. **CRS 53:** § 123-21-11. **C.R.S. 1963:** § 123-21-10. **L. 82:** Entire section amended, p. 254, § 11, effective May 3. **L. 85:** Entire section repealed, p. 718, § 2, effective July 1.

**22-1-112. School year - national holidays.** The school year shall begin on the first day of July and end on the thirtieth day of June. The term "national holidays" in this title shall be construed to mean Thanksgiving day, Christmas day, New Year's day, the third Monday in January, observed as the birthday of Dr. Martin Luther King, Jr., Washington-Lincoln day, Memorial day, Labor day, Independence day, and Veterans' day.

**Source: G.L.** § 2524. **G.S.** § 3074. **L. 1887:** p. 401, § 38. **R.S. 08:** § 6013. **C.L.** § 8502. **L. 25:** p. 455, § 1. **CSA:** C. 146, § 300. **CRS 53:** § 123-21-12. **L. 61:** p. 681, § 1. **C.R.S. 1963:** § 123-21-12. **L. 84:** Entire section amended, p. 670, § 5, effective January 1, 1986.

**22-1-113. School census - oath of parent. (Repealed)**

**Source: L. 19:** p. 575, § 1. **L. 21:** p. 696, § 1. **C.L.** § 8503. **CSA:** C. 146, § 301. **CRS 53:** § 123-21-13. **C.R.S. 1963:** § 123-21-13. **L. 2006:** Entire section repealed, p. 594, § 2, effective August 7.

**22-1-114. Statements from private schools.** Whenever requested by the board of education of the school district in which a private school is located, if not more often than once per month, the person or corporation in charge and control of any school other than a public school shall certify in writing, and, if so requested, upon forms or blanks furnished by the said school district for that purpose, a statement containing the name, age, place of residence, and number of days of attendance at school during the preceding month or since the preceding report of all children of school age who then are or since the preceding report have been attending any such school.

**Source: L. 21:** p. 697, § 2. **C.L.** § 8504. **CSA:** C. 146, § 302. **CRS 53:** § 123-21-14. **C.R.S. 1963:** § 123-21-14.

**22-1-115. School census - school age.** A school census is a census embracing all persons between the ages of five and twenty-one years. School age is any age over five and under twenty-one years; but any child attaining school age during the school year may be admitted to school subject to the requirements for admission fixed by the school board of the district in which he or she applies for enrollment.

**Source: G.L.** § 2525. **G.S.** § 3075. **R.S. 08:** § 6014. **C.L.** § 8505. **CSA:** C. 146, § 303. **CRS 53:** § 123-21-15. **L. 61:** p. 682, § 1. **C.R.S. 1963:** § 123-21-15. **L. 2005:** Entire section amended, p. 69, § 3, effective March 25.

**22-1-116. School children - sight and hearing tests.** The sight and hearing of all children in the kindergarten, first, second, third, fifth, seventh, and ninth grades, or children in comparable age groups referred for testing, shall be tested during the school year by the teacher, principal, or other qualified person authorized by the school district. Each school in the district shall make a record of all sight and hearing tests given during the school year and record the individual results of each test on each child's records. The parents or guardian shall be informed when a deficiency is found. The provisions of this section shall not apply to any child whose parent or guardian objects on religious or personal grounds.

**Source: L. 09:** p. 490, § 1. **C.L.** § 8506. **CSA:** C. 146, § 304. **CRS 53:** § 123-21-16. **C.R.S. 1963:** § 123-21-16. **L. 81:** Entire section amended, p. 1052, § 1, effective May 18.

**22-1-117. Secret fraternities forbidden.** It is unlawful for any pupil who is registered in and attending any high school, district, primary, or graded school which is partially or wholly maintained by public funds to join or become a member of any secret fraternity, sorority, or society wholly or partially formed from the membership of pupils attending any such schools or to belong to or to take part in the organization or formation of any fraternity, sorority, or society, except such societies or associations as shall be sanctioned by the board of directors of the school districts wherein such schools are maintained.

**Source: L. 13:** p. 575, § 1. **C.L.** § 8509. **CSA:** C. 146, § 306. **CRS 53:** § 123-21-18. **C.R.S. 1963:** § 123-21-18.

**22-1-118. School board to enforce.** The boards of directors of all school districts shall enforce the provisions of section 22-1-117, and shall have full power to make, adopt, and modify all rules and regulations which in their judgment and discretion may be necessary for the proper governing of such schools and for the enforcing of all the provisions of section 22-1-117.

**Source: L. 13:** p. 575, § 2. **C.L.** § 8510. **CSA:** C. 146, § 307. **CRS 53:** § 123-21-19. **C.R.S. 1963:** § 123-21-19.

**22-1-119. Students - dispensing of drugs to - liability.** Any school employee who dispenses any drug, as such term is defined in section 12-280-103 (16), to a student in accordance with written instructions from a parent or legal guardian shall not be liable for damages in any civil action or subject to prosecution in any criminal proceedings for an adverse drug reaction suffered by the student as a result of dispensing such drug.

**Source: L. 81:** Entire section added, p. 706, § 25, effective July 1. **L. 2012:** Entire section amended, (HB 12-1311), ch. 281, p. 1625, § 64, effective July 1. **L. 2019:** Entire section amended, (HB 19-1172), ch. 136, p. 1682, § 115, effective October 1.

**22-1-119.1. Policy for employee and agent possession and administration of opiate antagonists - definitions.** (1) A school district board of education of a public school, the state charter school institute for an institute charter school, or the governing board of a nonpublic school may adopt and implement a policy whereby:

(a) A school under its jurisdiction may acquire and maintain a stock supply of opiate antagonists; and

(b) An employee or agent of the school may, after receiving appropriate training, administer an opiate antagonist on school grounds to assist an individual who is at risk of experiencing an opiate-related drug overdose event. The training provided pursuant to this subsection (1)(b) must include risk factors for overdose, recognizing an overdose, calling emergency medical services, rescue breathing, and administering an opiate antagonist.

(2) An employee or agent of a school acting in accordance with a policy adopted pursuant to this section is not subject to civil liability or criminal prosecution, as specified in sections 13-21-108.7 (3) and 18-1-712 (2), respectively.

(3) As used in this section:

(a) "Opiate antagonist" means naloxone hydrochloride or any similarly acting drug that is not a controlled substance and that is approved by the federal food and drug administration for the treatment of a drug overdose.

(b) "Opiate-related drug overdose event" means an acute condition, including a decreased level of consciousness or respiratory depression, that:

(I) Results from the consumption or use of a controlled substance or another substance with which a controlled substance was combined;

(II) A layperson would reasonably believe to be caused by an opiate-related drug overdose event; and

(III) Requires medical assistance.

**Source: L. 2019:** Entire section added, (SB 19-227), ch. 273, p. 2575, § 1, effective May 23.

**22-1-119.3. Policy for student possession and administration of prescription medication - rules - definition.** (1) A school district board of education may adopt and implement a policy whereby, except as described in subsection (3) of this section, a student enrolled in a school of the school district may possess and self-administer on school grounds, upon a school bus, or at any school-sponsored event any medication that is prescribed by a licensed health care practitioner to be used by the student.

(2) (a) If a school district board of education adopts and implements a policy described by subsection (1) of this section, a parent or legal guardian of a student who is enrolled in a school of the school district and for whom medication is prescribed by a licensed health care practitioner shall notify the school's administration of the student's medical needs and of the fact that the student may be in possession of his or her prescribed medications as described in subsection (1) of this section. The notification, when appropriate, shall include the treatment plan that has been devised for the student by a licensed health care practitioner.

(b) If a school's administration receives notice from a student's parent or legal guardian that the student may be in possession of his or her prescribed medications, the school's administration shall ensure that such notice is provided to the student's teachers and the school nurse or other person who is designated to provide health services to students at the school.

(c) Nothing in this section shall be construed to limit the ability of a public school to require a parent or legal guardian of a student who has medication prescribed for a life-threatening condition to provide to the school a sufficient supply of the medication to be stored at the school to be administered to the student in the event of a health emergency.

(3) (a) A policy adopted by a school district board of education pursuant to subsection (1) of this section shall include, but need not be limited to:

(I) A process by which a school may restrict a student from possessing and self-administering on school grounds, on a school bus, or at a school-sponsored event a medication that is prescribed by a licensed health care practitioner to be used by the student. The process shall require the school administration to make a determination as to whether a student's possession or self-administration of the medication poses a significant risk of harm to the student or to other students.

(II) A requirement that if a student has medication prescribed for a life-threatening condition, a sufficient supply of the medication is provided to the school by the student's parent or legal guardian, stored safely at the school, and kept readily available to be administered to the student in a timely fashion in the event of a health emergency.

(b) A student who possesses a prescribed medication on school grounds, upon a school bus, or at a school-sponsored event in accordance with a policy adopted by a school district pursuant to this section may possess only enough of his or her prescribed medication to render a sufficient dosage to the student to adequately treat the student's condition for a single day or for the duration of the event, whichever is appropriate; except that this provision shall not apply to a student who requires and possesses an insulin pump or other medical device that delivers

dosages of prescribed medication to the student over a period of time that exceeds a single day or the duration of the event.

(c) A student shall not possess or self-administer medical marijuana on school grounds, upon a school bus, or at any school-sponsored event, except as provided for in paragraph (d) of this subsection (3).

(d) (I) (A) A primary caregiver may possess, and administer to a student who holds a valid recommendation for medical marijuana, medical marijuana in a nonsmokeable form upon the grounds of the preschool or primary or secondary school in which the student is enrolled, or upon a school bus or at a school-sponsored event. The primary caregiver shall not administer the nonsmokeable medical marijuana in a manner that creates disruption to the educational environment or causes exposure to other students.

(B) After the primary caregiver administers the medical marijuana in a nonsmokeable form, the primary caregiver shall remove any remaining medical marijuana in a nonsmokeable form from the grounds of the preschool or primary or secondary school, the school bus, or school-sponsored event.

(II) Nothing in this section requires the school district staff to administer medical marijuana.

(III) A school district board of education or charter school may adopt policies regarding who may act as a primary caregiver pursuant to this paragraph (d) and the reasonable parameters of the administration and use of medical marijuana in a nonsmokeable form upon the grounds of the preschool or primary or secondary school in which the student is enrolled, or upon a school bus or at a school-sponsored event.

(IV) This paragraph (d) does not apply to a school district or charter school if:

(A) The school district or charter school loses federal funding as a result of implementing this paragraph (d);

(B) The school district or charter school can reasonably demonstrate that it lost federal funding as a result of implementing this paragraph (d); and

(C) The school district or charter school posts on its website in a conspicuous place a statement regarding its decision not to comply with this paragraph (d).

(V) Student possession, use, distribution, or sale or being under the influence of a cannabinoid product inconsistent with this paragraph (d) is not permitted.

(VI) This paragraph (d) shall be known as "Jack's Law".

(d.5) (I) Medical marijuana in a nonsmokeable form shall not be administered at a school pursuant to this subsection (3)(d.5) unless a written plan for the administration of medical marijuana in a nonsmokeable form is agreed to and signed by the school principal or his or her designee and a parent or legal guardian.

(II) Prior to the administration of medical marijuana in a nonsmokeable form at school, the student's parent or legal guardian shall complete and submit to the school the documentation required by rule of the state board of education, including but not limited to:

(A) A written medical marijuana recommendation that includes the signature of one of the recommending physicians and the purpose, recommended dosage, frequency, and length of time between dosages of the medical marijuana in a nonsmokeable form to be administered; and

(B) A written statement from the student's parent or legal guardian releasing the school, and employees and volunteers of the school, from liability, except in cases of willful or wanton conduct or disregard of the criteria of the treatment plan.

(III) (A) Subject to the requirements specified in subsections (3)(d.5)(I) and (3)(d.5)(II) of this section, school personnel may possess, and administer to a student who holds a valid recommendation for medical marijuana, medical marijuana in a nonsmokeable form upon the grounds of the preschool or primary or secondary school in which the student is enrolled, or upon a school bus or at a school-sponsored event. The school personnel shall not administer the nonsmokeable medical marijuana in a manner that creates disruption to the educational environment or causes exposure to other students. If a student who is subject to the provisions of this subsection (3)(d.5) takes a school trip outside of the state of Colorado or participates in a school activity outside of the state of Colorado, the provisions of this subsection (3)(d.5) do not apply for the time during which the student is engaged in the trip or activity outside of the state of Colorado.

(B) Nothing in this subsection (3)(d.5) requires any school personnel to administer medical marijuana. Administration of medical marijuana in a nonsmokeable form is at the discretion of the parent or legal guardian, the school principal or his or her designee, or the designated school personnel.

(C) It is an exception from the state's criminal laws for school personnel to possess and administer medical marijuana in a nonsmokeable form in compliance with this subsection (3)(d.5) to a student who holds a valid recommendation for medical marijuana, except as otherwise provided in section 18-18-406.3.

(IV) A school may adopt policies regarding who may act as school personnel pursuant to this subsection (3)(d.5) and the reasonable parameters of the administration and use of medical marijuana in a nonsmokeable form upon the grounds of the preschool or primary or secondary school in which the student is enrolled, or upon a school bus or at a school-sponsored event.

(V) This subsection (3)(d.5) does not apply to a school if:

(A) The school loses federal funding as a result of implementing this subsection (3)(d.5);

(B) The school can reasonably demonstrate that it lost federal funding as a result of implementing this subsection (3)(d.5); and

(C) The school posts on its website in a conspicuous place a statement regarding its decision not to comply with this subsection (3)(d.5).

(VI) Student possession, use, distribution, or sale, or a student being under the influence, of a cannabinoid product inconsistent with this subsection (3)(d.5) is not permitted.

(VII) The student's parent, guardian, or designee shall deliver the student's medical marijuana in a nonsmokeable form, in a container that contains clearly labeled instructions or the plan for administration must clearly specify instructions for the dosing, timing, and delivery route instructions from one of the student's recommending physicians, to the person designated by the school as the person who secures the medical marijuana before the student attends school for the school day. The person who secures the medical marijuana in a nonsmokeable form shall place the medical marijuana in a locked storage container. After the school personnel administers the medical marijuana in a nonsmokeable form, the school personnel shall place the medical marijuana in a locked medical marijuana storage container designated by the school. The person who secures the medical marijuana in a nonsmokeable form shall return any unused medical marijuana to the student's parent, guardian, or designee at the end of each school day. The student shall not handle the medical marijuana in a nonsmokeable form on the grounds of the school, school bus, or school-sponsored event.

(VIII) Neither this section nor any other state or federal law, including without limitation the "Individuals with Disabilities Education Act", 20 U.S.C. sec. 1400 et seq., as amended, and section 504 of the "Rehabilitation Act of 1973", 29 U.S.C. sec. 794, as amended, may be used to require a school or any employee or volunteer thereof to store medical marijuana on the grounds of a school, school bus, or school-sponsored event or to administer medical marijuana.

(IX) For purposes of this subsection (3)(d.5), "school personnel" means school personnel designated by agreement between the principal or his or her designee and a parent or legal guardian.

(e) Notwithstanding the provisions of section 22-33-106 (1)(d)(II), a school district or charter school may not discipline a student who holds a valid recommendation for medical marijuana solely because the student requires medical marijuana in a nonsmokeable form as a reasonable accommodation necessary for the child to attend school.

(f) A school district or charter school may not deny eligibility to attend school to a student who holds a valid recommendation for medical marijuana solely because the student requires medical marijuana in a nonsmokeable form as a reasonable accommodation necessary for the child to attend school.

(4) The state board of education may promulgate rules for the implementation of this section.

(5) A school district board of education that adopts a policy pursuant to subsection (1) of this section shall be exempt from rules promulgated by the state board of education pursuant to the "Colorado Schoolchildren's Asthma, Food Allergy, and Anaphylaxis Health Management Act", section 22-1-119.5.

**Source: L. 2011:** Entire section added, (SB 11-012), ch. 62, p. 161, § 2, effective March 25. **L. 2015:** (3)(c) amended, (SB 15-014), ch. 199, p. 688, § 9, effective May 18. **L. 2016:** (3)(c) amended and (3)(d), (3)(e), and (3)(f) added, (HB 16-1373), ch. 232, p. 935, § 1, effective June 6. **L. 2018:** (3)(d.5) added, (HB 18-1286), ch. 365, p. 2187, § 1, effective June 4.

**Cross references:** For the legislative declaration in SB 15-014, see section 1 of chapter 199, Session Laws of Colorado 2015.

**22-1-119.5. Asthma, food allergy, and anaphylaxis health management - self-administered medication - staff-administered medication - rules - definitions.** (1) This section shall be known and may be cited as the "Colorado Schoolchildren's Asthma, Food Allergy, and Anaphylaxis Health Management Act".

(2) (a) A student with asthma, a food allergy, other severe allergies, or a related, life-threatening condition may possess and self-administer medication to treat the student's asthma, food or other allergy, anaphylaxis, or other related, life-threatening condition if the student has a treatment plan approved pursuant to this subsection (2) or the student's school district board of education has adopted a policy for student possession and administration of prescription medication pursuant to section 22-1-119.3.

(b) A public school shall, and a nonpublic school is encouraged to, approve a treatment plan for a student enrolled in the school to possess and self-administer medication for asthma, a food allergy, or anaphylaxis if all of the following conditions are met:

(I) A health care practitioner has prescribed medication for use by the student during school hours, at school-sponsored activities, and while in transit to or from school or school-sponsored activities and has instructed the student in the correct and responsible use of the medication.

(II) The student demonstrates to the health care practitioner or the health care practitioner's designee and the school nurse or a school administrator the skill level necessary to use the medication and any device that is necessary to administer the medication as prescribed.

(III) The school nurse or a school administrator collaborates with the student's health care practitioner to formulate a written treatment plan for managing asthma, food allergy, or anaphylaxis episodes of the student and for medication use by the student during school hours, at school-sponsored activities, and while in transit to or from school or school-sponsored activities.

(IV) The student's parent or legal guardian completes and submits to the public or nonpublic school the documentation required by rule of the state board of education, including but not limited to:

(A) A written medical authorization that includes the signature of the health care practitioner for the medication prescribed; the name, purpose, prescribed dosage, frequency, and length of time between dosages of the medications to be self-administered; and confirmation from the health care practitioner that the student has been instructed and is capable of self-administration of the prescribed medications;

(B) A written statement from the student's parent or legal guardian releasing the school, school district, any associated entity, and employees and volunteers of the school, school district, and associated entity from liability, except in cases of willful or wanton conduct or disregard of the criteria of the treatment plan; and

(C) A written contract between the school nurse or a school administrator, the student, and the student's parent or legal guardian assigning levels of responsibility to the parent or legal guardian, student, and school employees.

(c) A treatment plan shall be effective only for the school year in which it is approved. The public school shall approve a new treatment plan for each school year so long as the plan meets the conditions specified in paragraph (b) of this subsection (2). The parent or legal guardian shall submit a new treatment plan annually or more often if changes occur to the student's health or prescribed treatment.

(3) A student with a treatment plan approved pursuant to subsection (2) of this section or whose school district board of education has adopted a policy for student possession and administration of prescription medication pursuant to section 22-1-119.3 may possess and self-administer his or her medication while in school, while at school-sponsored activities, and while in transit to or from school or school-sponsored activities.

(4) With the approval of the parent or legal guardian of a student with a treatment plan approved pursuant to subsection (2) of this section, a school may maintain additional asthma, food or other allergy, or anaphylaxis medication to be kept at the school in a location to which the student has immediate access in the event of an asthma, food or other allergy, or anaphylaxis emergency.

(5) Immediately after using an epinephrine auto-injector during school hours, a student shall report to the school nurse, to the designee of the school nurse, or to some adult at the school to enable the school nurse, nurse's designee, or other adult to provide the appropriate follow-up care, which shall include making a 911 emergency call.

(5.5) (a) As used in this subsection (5.5) and in subsection (6) of this section, unless the context otherwise requires:

(I) "Administer" or "administration" means to give a dose of medicine to a student who has asthma or a food or other allergy or who is experiencing anaphylaxis, including the use of an epinephrine auto-injector, an asthma inhaler, or oral medication.

(II) "Designated school personnel" means:

(A) An employee in a school who has been trained on the administration of epinephrine auto-injectors consistent with the rules on administration of epinephrine auto-injectors and to whom a school nurse has delegated the nursing task of administering epinephrine auto-injectors to students; or

(B) An employee in a school who has been trained on the administration of epinephrine auto-injectors consistent with the rules on administration of epinephrine auto-injectors and to whom a nurse has delegated the nursing task of administering epinephrine auto-injectors to students or has been trained by a medical professional licensed under article 240 of title 12 or part 1 of article 255 of title 12 and to whom the licensee has delegated the administration of epinephrine auto-injectors under the authority of that person's license.

(III) "Governing authority of a school" means a school district board of education of a public school, the state charter school institute for an institute charter school, or the governing board of a nonpublic school.

(IV) "Prescription" means any order issued in writing, dated and signed by a physician licensed pursuant to article 240 of title 12, a physician assistant licensed in accordance with section 12-240-113, or an advanced practice nurse with prescriptive authority in accordance with section 12-255-112.

(V) "School" means any public or nonpublic school.

(b) A governing authority of a school may adopt and implement a policy whereby schools under its jurisdiction may acquire and maintain a stock supply of epinephrine auto-injectors.

(c) A governing authority of a school may adopt a policy for schools within its jurisdiction to authorize the school nurse or other designated school personnel to administer an epinephrine auto-injector to any student that the school nurse or designated school personnel in good faith believes is experiencing anaphylaxis, in accordance with standing orders and protocols from a licensed physician, physician assistant, or advanced practice nurse with prescriptive authority, regardless of whether the student has a prescription for an epinephrine auto-injector.

(d) A governing authority of a school may enter into arrangements with manufacturers of epinephrine auto-injectors or third-party suppliers of epinephrine auto-injectors to obtain epinephrine auto-injectors at fair-market or reduced prices or for free.

(e) The governing authority of a public school that decides to maintain a supply of epinephrine auto-injectors as described in this subsection (5.5) shall:

(I) Implement a plan based on the rules developed pursuant to subsection (8) of this section for the management of students with life-threatening allergies enrolled in schools under its jurisdiction; and

(II) Make such plan available on such governing authority's website or the website of each school under the governing authority's jurisdiction, or if such websites do not exist, make

such plan available to parents and other interested persons through other practical means as determined by such governing authority.

(f) To qualify for the protections in subsection (6) of this section, the governing authority of a nonpublic school that decides to maintain a supply of epinephrine auto-injectors as described in this subsection (5.5) must implement a plan based on the rules adopted by the state board of education as described in subsection (8) of this section.

(g) The department of education shall develop and publish an annual report compiling, summarizing, and analyzing all incident reports submitted to the department pursuant to paragraph (e) of subsection (8) of this section.

(6) Unless the damages were caused by willful or wanton conduct or disregard of the criteria of an approved treatment plan, if the provisions of this section are met, a school, school district, school district director, or school or school district employee not otherwise provided for under section 13-21-108, C.R.S., shall not be liable in a suit for damages as a result of an act or omission related to:

(a) A student's own use of the student's epinephrine auto-injector or any other medication contained in an approved treatment plan; or

(b) The good-faith administration of an epinephrine auto-injector in accordance with a policy and standing orders and protocols on the administration of epinephrine auto-injectors as described in paragraph (c) of subsection (5.5) of this section and pursuant to a plan adopted pursuant to paragraph (e) or (f) of subsection (5.5) of this section.

(7) Nothing in this section shall be interpreted to create a cause of action or increase or diminish the liability of any person.

(8) The state board of education, with assistance from the department of public health and environment, shall promulgate and revise, as necessary, rules for treatment plans for the management of students with life-threatening allergies pursuant to this section. The state board of education shall adopt rules on or before December 31, 2013, to include, but not be limited to:

(a) Education and training for school nurses and designated school personnel on the management of students with life-threatening allergies, including training related to the administration of an epinephrine auto-injector. In developing the rules on education and training, the state board shall solicit input from an organization that represents school nurses.

(b) Procedures for responding to life-threatening allergic reactions;

(c) A process for the development of individualized health care and allergy action plans for every student with a known life-threatening allergy, including the self-administration of medications pursuant to subsection (2) of this section;

(d) Protocols to prevent exposure to allergens;

(e) Requirements for each school to submit, on a form developed by the department of education, a report of each incident at the school or a related-school event involving a severe allergic reaction or the administration of an epinephrine auto-injector or both;

(f) Requirements for school nurses in schools that have adopted a policy allowing for the administration of epinephrine auto-injectors pursuant to subsection (5.5) of this section to report to the department whether the school nurse has trained and designated any school personnel to administer epinephrine auto-injectors and, if so, the number of employees in the school or school district that have been trained and designated to administer epinephrine auto-injectors;

(g) Detailed standards for training programs that must be completed by school nurses and designated school personnel in order to administer an epinephrine auto-injector in

accordance with subsection (5.5) of this section. Training may be conducted online and, at a minimum, shall cover:

(I) Techniques on how to recognize symptoms of severe allergic reactions, including anaphylaxis;

(II) Standards and procedures for the storage and administration of an epinephrine auto-injector; and

(III) Emergency follow-up procedures after administering an epinephrine auto-injector.

(9) The department of public health and environment is authorized to audit school records for the determination of asthma and severe allergy rates within the schools and to determine the proportion of those students with asthma and severe allergies in the schools that have treatment plans allowing for self-administration of asthma and severe allergy medications. The audit shall define the extent of asthma and severe allergies among students and determine the effect of this section on the well-being of children with asthma and severe allergies in schools. The audit shall be conducted in conformance with the requirements of the "Family Educational Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232g.

**Source: L. 2005:** Entire section added, p. 257, § 2, effective April 14. **L. 2009:** (1), (2)(a), (2)(b), and (4) amended, (SB 09-226), ch. 245, p. 1106, § 7, effective August 5. **L. 2011:** (2)(a) and (3) amended, (SB 11-012), ch. 62, p. 161, § 1, effective March 25. **L. 2013:** (5.5) added and (6) and (8) amended, (HB 13-1171), ch. 348, p. 2022, § 1, effective May 28. **L. 2019:** (5.5)(a)(II)(B) and (5.5)(a)(IV) amended, (HB 19-1172), ch. 136, p. 1682, § 116, effective October 1. **L. 2020:** (5.5)(a)(II)(B) amended, (HB 20-1183), ch. 157, p. 700, § 52, effective July 1.

**Cross references:** For the legislative declaration contained in the 2005 act enacting this section, see section 1 of chapter 71, Session Laws of Colorado 2005. For the legislative declaration contained in the 2009 act amending subsections (1), (2)(a), (2)(b), and (4), see section 1 of chapter 245, Session Laws of Colorado 2009.

**22-1-120. Rights of free expression for public school students.** (1) The general assembly declares that students of the public schools have the right to exercise freedom of speech and of the press, and no expression contained in a student publication, whether printed, broadcast, or online, and whether or not such publication is school-sponsored, is subject to prior restraint except for the types of expression described in subsection (3) of this section. An advisor may encourage expression consistent with high standards of English and journalism.

(2) If a publication written substantially by students is made generally available throughout a public school, it shall be a public forum for students of such school.

(3) Nothing in this section shall be interpreted to authorize the publication or distribution in any media by students of the following:

(a) Expression that is obscene;

(b) Expression that is libelous, slanderous, or defamatory under state law;

(c) Expression that is false as to any person who is not a public figure or involved in a matter of public concern; or

(d) Expression that creates a clear and present danger of the commission of unlawful acts, the violation of lawful school regulations, or the material and substantial disruption of the

orderly operation of the school or that violates the rights of others to privacy or that threatens violence to property or persons.

(4) The board of education of each school district shall adopt a written publications code, which shall be consistent with the terms of this section, and shall include reasonable provisions for the time, place, and manner of conducting free expression within the school district's jurisdiction. The publications code shall be distributed, posted, or otherwise made available to all students and teachers at the beginning of each school year.

(5) (a) Student editors of school-sponsored student publications shall be responsible for determining the news, opinion, and advertising content of their publications subject to the limitations of this section. It shall be the responsibility of the publications advisor of school-sponsored student publications within each school to supervise the production of such publications and to teach and encourage free and responsible expression and professional standards for English and journalism.

(b) For the purposes of this section, "publications advisor" means a person whose duties include the supervision of school-sponsored student publications.

(6) If participation in a school-sponsored publication is part of a school class or activity for which grades or school credits are given, the provisions of this section shall not be interpreted to interfere with the authority of the publications advisor for such school-sponsored publication to establish or limit writing assignments for the students working with the publication and to otherwise direct and control the learning experience that the publication is intended to provide.

(7) No expression made by students in the exercise of freedom of speech or freedom of the press shall be deemed to be an expression of school policy, and no school district or employee, or parent, or legal guardian, or official of such school district shall be held liable in any civil or criminal action for any expression made or published by students.

(8) Nothing in this section shall be construed to limit the promulgation or enforcement of lawful school regulations designed to control gangs. For the purposes of this section, the definition of "gang" shall be the definition found in section 19-1-103 (52), C.R.S.

(9) A public school employee must not be dismissed, suspended, disciplined, reassigned, transferred, or otherwise retaliated against solely for acting to protect a student engaged in the conduct authorized pursuant to this section or for refusing to infringe upon conduct that is protected by this section or the first amendment to the United States constitution.

**Source: L. 90:** Entire section added, p. 1042, § 1, effective June 7. **L. 98:** (8) amended, p. 823, § 30, effective August 5. **L. 2000:** (3) amended, p. 1971, § 13, effective June 2. **L. 2006:** (4) amended, p. 595, § 3, effective August 7. **L. 2020:** (1) amended and (9) added, (HB 20-1062), ch. 79, p. 321, § 1, effective September 14.

**22-1-121. Nonpublic schools - employment of personnel - notification by department of education.** (1) Prior to the employment of any person by a nonpublic school in this state, the governing board of such school may make an inquiry concerning such person to the department of education for the purpose of determining:

(a) Whether such person has been convicted of, has pled nolo contendere to, or has received a deferred sentence or deferred prosecution for:

(I) A felony; or

(II) A misdemeanor crime involving unlawful sexual behavior or unlawful behavior involving children;

(b) Whether such person has been dismissed by, or has resigned from, a school district as a result of an allegation of unlawful behavior involving a child, including unlawful sexual behavior, which was supported by a preponderance of the evidence according to information provided to the department by a school district pursuant to section 22-32-109.7 and confirmed by the department pursuant to the provisions of section 22-2-119 (1)(b);

(c) If a holder of a license or authorization pursuant to the provisions of article 60.5 of this title, whether such person's certificate, letter of authorization, authorization, or license has ever been annulled, suspended, or revoked pursuant to the provisions of section 22-60-110 (2)(b) as said section existed prior to July 1, 1999, or pursuant to article 60.5 of this title following a conviction, a plea of nolo contendere, or a deferred sentence for a crime involving unlawful sexual behavior or unlawful behavior involving children.

(1.5) During the time that a person is employed by a nonpublic school in this state, the governing board of such school may make an inquiry concerning such person to the department of education for the purposes described in subsection (1) of this section.

(1.7) (a) To facilitate the inquiry permitted by subsection (1) or (1.5) of this section, the governing board of a participating nonpublic school shall require an applicant or employee to submit to the governing board of the school a complete set of his or her fingerprints taken by a qualified law enforcement agency, an authorized employee, or any third party approved by the Colorado bureau of investigation. At the request of a nonpublic school, a law enforcement agency that has fingerprinting equipment that meets the federal bureau of investigation image quality standards shall take the fingerprints of an applicant or employee pursuant to this section if an approved third-party vendor is not operating within twenty miles of the nonpublic school within the law enforcement agency's jurisdiction. A school employee may use any fingerprinting equipment that meets the federal bureau of investigation image quality standards. If an approved third party takes the person's fingerprints, the fingerprints may be electronically captured using Colorado bureau of investigation-approved livescan equipment. Third-party vendors shall not keep the applicant's or employee's information for more than thirty days unless requested to do so by the applicant or employee. The governing board shall forward the set of fingerprints together with a check to cover the direct and indirect costs of conducting a fingerprint-based criminal history record check of the applicant or employee to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing records of the Colorado bureau of investigation and the federal bureau of investigation. The department is the authorized agency to receive and disseminate information regarding the result of any national criminal history record check. Any such national check must be handled in accordance with Pub.L. 92-544, as amended. The department shall notify the governing board whether a fingerprint-based criminal history record check has identified any conviction, plea of nolo contendere, deferred sentence, or deferred prosecution described in subsection (1) of this section.

(a.5) When the results of a fingerprint-based criminal history record check of an applicant or employee performed pursuant to this section reveal a record of arrest without a disposition, the governing board shall require that applicant or employee to submit to a name-based criminal history record check, as defined in section 22-2-119.3 (6)(d).

(b) All costs arising from a fingerprint-based criminal history record check performed by the Colorado bureau of investigation and the federal bureau of investigation pursuant to the provisions of this section or a name-based criminal history record check performed pursuant to this section must be borne by the nonpublic school. Such costs may be passed on to the employee or the prospective employee.

(c) (Deleted by amendment, L. 2006, p. 926, § 6, effective July 1, 2006.)

(2) Any information received by the governing board of a nonpublic school pursuant to subsection (1) of this section shall be confidential information and not subject to the provisions of part 2 of article 72 of title 24, C.R.S. Any person who releases information obtained pursuant to the provisions of said subsection (1) or who makes an unauthorized request for information from the department shall be subject to the penalties set forth in section 24-72-206, C.R.S.; except that any person who releases information received from the department of education concerning information contained in the records and reports of child abuse or neglect maintained by the state department of human services shall be deemed to have violated section 19-1-307 (4), C.R.S.

**Source: L. 93:** Entire section added, p. 611, § 2, effective April 30; (1)(b) amended, p. 634, § 3, effective July 1. **L. 99:** (1)(a) amended and (1.5) and (1.7) added, p. 1101, § 2, effective July 1. **L. 2000:** (1)(c) amended, p. 1848, § 38, effective August 2. **L. 2002:** (1.7) amended, p. 974, § 8, effective June 1. **L. 2003:** (2) amended, p. 1408, § 14, effective January 1, 2004. **L. 2006:** (1.7)(a) and (1.7)(c) amended, p. 926, § 6, effective July 1. **L. 2017:** (1.7)(a) amended, (SB 17-189), ch. 149, p. 501, § 8, effective August 9. **L. 2019:** (1.7)(a) amended, (HB 19-1186), ch. 94, p. 344, § 2, effective April 10; (1.7)(a.5) added and (1.7)(b) amended, (HB 19-1166), ch. 125, p. 545, § 21, effective April 18.

**Cross references:** For the legislative declaration contained in the 2003 act amending subsection (2), see section 1 of chapter 196, Session Laws of Colorado 2003. For the legislative declaration in HB SB 19-1186, see section 1 of chapter 94, Session Laws of Colorado 2019.

**22-1-122. Transportation token program - legislative declaration - eligibility - fund.** (1) (a) It is the intent of the general assembly in enacting this section to improve opportunities for students to gain the knowledge and skills necessary for a successful experience in postsecondary education or as members of the work force. The general assembly finds that a student should not be compelled by the lack of transportation to remain in a school that is required to implement a priority improvement or turnaround plan pursuant to section 22-11-405 or 22-11-406, respectively, or is subject to restructuring pursuant to section 22-11-210. It is therefore in the best interests of the citizens of the state to make transportation tokens available to eligible students to enable them to attend a public school that is not required to implement a priority improvement or turnaround plan pursuant to section 22-11-405 or 22-11-406, respectively, and that the school district has identified as an available choice.

(b) It is further the intent of the general assembly that the department of education pursue all other sources of moneys for the transportation token program created in this section, including but not limited to federal grants.

(2) As used in this section, unless the context otherwise requires:

(a) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(b) "Eligible student" means a student:

(I) Who is enrolled in a public school in any of the first through eighth grades;

(II) Who is eligible for free or reduced-cost lunch pursuant to the "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq.;

(III) (A) Who is enrolled in a neighborhood school that is required to implement a priority improvement or turnaround plan pursuant to section 22-11-405 or 22-11-406, respectively, or is subject to restructuring pursuant to section 22-11-210; or

(B) Who has been in attendance elsewhere in the public school system or who is entering first grade and whose parent or legal guardian has been notified that the student has been assigned to a school that is required to implement a priority improvement or turnaround plan pursuant to section 22-11-405 or 22-11-406, respectively, or is subject to restructuring pursuant to section 22-11-210; and

(IV) Who, while enrolled in the neighborhood school that is required to implement a priority improvement or turnaround plan pursuant to section 22-11-405 or 22-11-406, respectively, or is subject to restructuring pursuant to section 22-11-210, met the attendance policies of the school district of the neighborhood school, adopted pursuant to section 22-33-104 (4).

(c) "Neighborhood school" means a public school to which the school district provides transportation for the student or which is located so close to the residence of the student that the school district does not provide transportation for the student.

(c.5) "Pupil enrollment count day" has the same meaning as set forth in section 22-54-103 (10.5).

(d) "State board" means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

(3) (a) There is hereby created in the department the transportation token program, referred to in this section as the "program", to assist a parent or legal guardian of an eligible student in transporting the student to a public school, other than a neighborhood public school, which other school is not required to implement a priority improvement or turnaround plan pursuant to section 22-11-405 or 22-11-406, respectively, and which other school has been identified by the school district as an available choice. Pursuant to rules adopted by the state board, the parent or legal guardian of an eligible student may apply to the program to receive a transportation token for use in transporting the student to the nearest of said public schools that is not a neighborhood school.

(b) An eligible student shall continue receiving transportation tokens pursuant to this section so long as he or she continues to meet the requirements specified for an eligible student in paragraph (b) of subsection (2) of this section; except that, after the first year in which an eligible student receives transportation tokens, the requirement specified in subparagraph (III) of paragraph (b) of subsection (2) of this section shall no longer apply. An eligible student shall no longer receive transportation tokens pursuant to this section if he or she moves to another residence, the neighborhood school for which was required to implement a performance or improvement plan pursuant to section 22-11-403 or 22-11-404, respectively, during the school year preceding the year in which the student initially enrolls; except that the eligible student may receive transportation tokens in school years following initial enrollment in the new

neighborhood school if he or she again meets the requirements specified for an eligible student in paragraph (b) of subsection (2) of this section.

(4) The state board shall determine a monetary value for the transportation token issued at each public school that is required to implement a priority improvement or turnaround plan pursuant to section 22-11-405 or 22-11-406, respectively, or is subject to restructuring pursuant to section 22-11-210. The monetary value may cover a portion of the transportation costs. The transportation token may take the form of, but is not limited to, subsidized tokens, passes, or fares for buses, taxis, or other forms of transportation approved by the state board. In determining the value of a transportation token, the state board shall take into account the various transportation options available to the eligible student and the distance to be traveled by the eligible student to attend a public school outside of the student's neighborhood. The transportation token used by an eligible student shall be redeemable by a transportation provider through the department.

(5) The state board shall adopt rules governing the program, including but not limited to:

(a) A procedure for parents and legal guardians of eligible students to apply to the department for transportation tokens;

(b) A procedure to establish the value of the transportation tokens issued at each public school; and

(c) A procedure for transportation providers to receive reimbursement for transportation tokens received in providing transportation to eligible students.

(6) (a) The department shall ensure that for each eligible student the school district of the neighborhood school shall:

(I) Timely notify the eligible student's parent or legal guardian of all options available pursuant to this section as soon as the neighborhood school is required to implement a priority improvement or turnaround plan pursuant to section 22-11-405 or 22-11-406, respectively, or is subject to restructuring pursuant to section 22-11-210; and

(II) Offer each eligible student's parent or legal guardian an opportunity to enroll the student in another public school within the district that is not required to implement a priority improvement or turnaround plan pursuant to section 22-11-405 or 22-11-406, respectively, and that the school district has identified as an available choice.

(b) So long as an eligible student is enrolled before the pupil enrollment count day, the parent or legal guardian of an eligible student may choose to enroll the eligible student in and transport the eligible student to a public school in another school district that has available space. Such school district shall enroll the eligible student and include the eligible student in the district's pupil enrollment for purposes of the "Public School Finance Act of 1994".

(c) The public school in which an eligible student enrolls shall certify to the state board the attendance of the eligible student.

(7) There is hereby created in the state treasury the transportation token fund, referred to in this subsection (7) as the "fund". The fund shall consist of all moneys appropriated to the fund by the general assembly and all other gifts, grants, donations, and other moneys obtained by the department to provide transportation assistance to parents and legal guardians of eligible students. Moneys in the fund shall be annually appropriated by the general assembly to the department to provide transportation assistance to parents and legal guardians of eligible students pursuant to this section. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain in the fund and shall not be credited or

transferred to the general fund. However, in accordance with section 24-36-114, C.R.S., any interest derived from the deposit and investment of moneys in the fund shall be credited to the general fund.

**Source: L. 2000:** Entire section added, p. 357, § 9, effective April 10. **L. 2001:** (1)(a), (2)(b)(III), (2)(b)(IV), (3)(b), (4), and (6)(a)(I) amended, p. 1490, § 12, effective June 8. **L. 2009:** (1)(a), (2)(b)(III), (2)(b)(IV), (3), (4), and (6)(a) amended, (SB 09-163), ch. 293, p. 1526, § 6, effective May 21. **L. 2012:** (2)(c.5) added and (6)(b) amended, (HB 12-1090), ch. 44, p. 149, § 1, effective March 22.

**Cross references:** For the "Public School Finance Act of 1994", see article 54 of this title.

**22-1-123. Protection of student data - parental or legal guardian consent for surveys.** (1) As used in this section, "education records" and "directory information" shall have the same meanings as those terms are defined in the federal "Family Educational Rights and Privacy Act of 1974", as amended, 20 U.S.C. sec. 1232g and "education records" shall include an individualized education program.

(2) A school district shall comply with the provisions of 20 U.S.C. sec. 1232g (a) and 34 CFR 99 if a parent or legal guardian of a student either requests the education records of the student or requests an amendment or other change to the education records after reviewing them.

(3) A school district shall not release the education records of a student to any person, agency, or organization without the prior written consent of the parent or legal guardian of the student except as otherwise permitted in 20 U.S.C. sec. 1232g (b).

(4) A school district shall not release directory information to any person, agency, or organization without first complying with the provisions of 20 U.S.C. sec. 1232g (a)(5)(B) related to allowing a parent or legal guardian to prohibit such release without prior consent.

(5) (a) A school district shall comply with 20 U.S.C. sec. 1232h. A school or school district employee who requires participation in a survey, assessment, analysis, or evaluation in a public school's curriculum or other official school activity shall obtain the written consent of a student's parent or legal guardian before giving the student any survey, assessment, analysis, or evaluation intended to reveal information, whether the information is personally identifiable or not, concerning the student or the student's parent's or legal guardian's:

(I) Political affiliations;

(II) Mental and psychological conditions potentially embarrassing to the student or the student's family;

(III) Sexual behavior and attitudes;

(IV) Illegal, anti-social, self-incriminating, or demeaning behavior;

(V) Critical appraisals of individuals with whom a student has close family relationships;

(VI) Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and members of the clergy;

(VII) Income, except as required by law;

(VIII) Social security number; or

(IX) Religious practices, affiliations, or beliefs.

(b) The requirement of written consent pursuant to this subsection (5) applies throughout a public school's curriculum and other school activities; except that the requirement of written consent does not apply to a student's participation in an assessment administered pursuant to part 10 of article 7 of this title. In implementing this subsection (5), the school or school district and employees shall ensure that their first responsibility is to students and their parents and shall allow only minimal use of students' academic time by institutions, agencies, or organizations outside the school or school district to gather information from students.

(c) Written consent pursuant to this subsection (5) is valid only if the school district has given a parent or legal guardian written notice of the survey, assessment, analysis, or evaluation, has made a copy of the document available for viewing at convenient locations and times, and has given the parent or legal guardian at least two weeks, after receipt of the written notice, to obtain written information concerning:

(I) Records or information that may be examined and requested in the survey, analysis, or evaluation;

(II) The means by which the records or information shall be examined reviewed, or disseminated;

(III) The means by which the information is to be obtained;

(IV) The purposes for which the records or information is needed;

(V) The entities or persons, regardless of affiliation, who will have access to the information; and

(VI) A method by which a parent or legal guardian of a student can grant or deny permission to access or examine the records or information.

(d) Nothing in this subsection (5) shall be construed to prevent a public school employee from reporting known or suspected child abuse or neglect pursuant to section 19-3-304, C.R.S.

(e) Nothing in this subsection (5) shall be construed to prevent a student who is working under the supervision of a journalism teacher or sponsor from preparing or participating in a survey, analysis, or evaluation without obtaining the written consent of such student's parent or legal guardian as long as such participation without parental consent is not otherwise prohibited by federal law.

(f) Nothing in this subsection (5) shall be construed to limit the ability of a health professional who is acting as an agent of the school district from evaluating an individual child.

(g) Nothing in this subsection (5) limits the ability of a school district to administer a suicide assessment or threat assessment.

(6) If a school district sends a form to a parent or legal guardian requesting written consent for the school district to release personally identifiable information concerning that parent's or legal guardian's child in education records other than directory information, such consent shall be valid under this section only if the form contains notice to the parent or legal guardian regarding:

(a) The specific records to be released;

(b) The specific reasons for such release;

(c) The specific identity of any person, agency, or organization requesting such information and the intended uses of the information;

(d) The method or manner by which the records will be released; and

(e) The right to review or to receive a copy of the relevant records to be released.

(7) (a) Consent for release of information pursuant to this section shall be valid only for the specific instance for which it was given.

(b) A general consent for a student to participate in any course or part of a course, in a school activity, in any special education program, or in any other school program does not constitute written consent pursuant to this section.

(c) Consent forms obtained pursuant to this section shall be retained by the school district.

(8) Any right accorded to a parent or legal guardian pursuant to this section shall transfer to the relevant student when that student attains the age of eighteen years.

(9) A school district shall, at the beginning of each academic year, provide to a parent or legal guardian of each student in the school district written notice of the rights contained in this section.

(10) The provisions of this section shall apply to any public school in the state, regardless of whether the public school receives any federal funds.

(11) The state board of education shall adopt such rules as may be necessary to implement this section.

(12) If an individual licensed, certified, endorsed, or authorized by the state board is found by the state board to have knowingly and intentionally violated the provisions of this section, the department of education may suspend or revoke such individual's license, master certificate, endorsement, or authorization for a period not less than ninety days.

(13) Nothing in this section shall be construed to prevent a school or a school district from releasing education records to the extent authorized by 20 U.S.C. sec. 1232g (b) and any other applicable federal law.

**Source: L. 2000:** Entire section added, p. 1096, § 1, effective August 2. **L. 2003:** (1) amended, p. 1806, § 1, effective August 6. **L. 2004:** (12) amended, p. 1283, § 11, effective May 28. **L. 2012:** (5)(a), (5)(b), and (5)(c) amended and (5)(g) added, (SB 12-036), ch. 273, p. 1443, § 1, effective August 8. **L. 2015:** (5)(b) amended, (HB 15-1323), ch. 204, p. 719, § 18, effective May 20.

**22-1-124. Sex offender information.** At the beginning of each school year, each public school in the state shall provide to the parents of children attending the school a statement identifying where and the procedures by which members of the community may obtain the law enforcement agency information collected pursuant to section 16-22-110 (6), C.R.S., concerning registered sex offenders. In addition, a school may post the statement on a website.

**Source: L. 2003:** Entire section added, p. 632, § 1, effective March 18.

**22-1-125. Automated external defibrillators in public schools. (Repealed)**

**Source: L. 2005:** Entire section added, p. 383, § 1, effective August 8. **L. 2008:** (5) amended, p. 804, § 5, effective May 14. **L. 2009:** (5) amended, (SB 09-010), ch. 52, p. 187, § 2, effective March 25. **L. 2019:** Entire section repealed, (HB 19-1183), ch. 251, p. 2431, § 3, effective August 2.

**22-1-125.5. Requirement for certification of public school athletic coaches in cardiopulmonary resuscitation - use of automated external defibrillators - definitions.** (1) As used in this section, unless the context otherwise requires:

(a) "Currently certified in CPR" means that the person has completed training in cardiopulmonary resuscitation from a nationally recognized evidence-based certification program within the preceding two years.

(b) "Local education provider" means a school district, a charter school authorized by a school district pursuant to part 1 of article 30.5 of this title, a charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title, or a board of cooperative services created and operating pursuant to article 5 of this title that operates one or more public schools.

(c) "State board of education" means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

(2) No later than January 1, 2015, coaches of athletic programs employed by local education providers must be currently certified in CPR and must have received instruction in the effective use of an automated external defibrillator. The state board shall promulgate rules concerning the coaching staff positions that are included in this requirement.

(3) Nothing in this section abrogates or limits:

(a) The protections applicable to:

(I) Any person or entity that renders emergency assistance through the use of an automated external defibrillator pursuant to section 13-21-108.1 and article 53 of title 25; or

(II) Volunteers and board members pursuant to sections 13-21-115.7 and 13-21-116, C.R.S.; or

(b) The limits or protections applicable to public entities and public employees pursuant to the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S.

**Source: L. 2014:** Entire section added, (HB 14-1276), ch. 215, p. 807, § 3, effective August 6. **L. 2019:** (3)(a)(I) amended, (HB 19-1183), ch. 251, p. 2430, § 2, effective August 2.

**Cross references:** For the legislative declaration in HB 14-1276, see section 1 of chapter 215, Session Laws of Colorado 2014.

**22-1-126. Safe2tell program.** As described in section 24-31-606, C.R.S., there is established the safe2tell program with the primary purpose of providing students and the community with the means to relay information anonymously concerning unsafe, potentially harmful, dangerous, violent, or criminal activities, or the threat of these activities, to appropriate law enforcement and public safety agencies and school officials.

**Source: L. 2007:** Entire section added, p. 685, § 2, effective May 3. **L. 2012:** Entire section amended, (SB 12-079), ch. 58, p. 213, § 5, effective March 24. **L. 2014:** Entire section amended, (SB 14-002), ch. 241, p. 892, § 3, effective August 6.

**22-1-127. Incentives for school enrollment or attendance - prohibited - exceptions - definitions.** (1) As used in this section, unless the context otherwise requires:

(a) "Item of value" means an item, cash, or an instrument or device that can be used to obtain cash, credit, property, services, or any other thing of value, which item, cash, or instrument or device exceeds twenty dollars in value.

(b) "Local education provider" means:

(I) A school district, other than a local college district, organized and existing pursuant to law;

(II) A board of cooperative services created and operating pursuant to article 5 of this title that operates one or more public schools;

(III) A public school of a school district, including but not limited to a charter school authorized by a school district pursuant to part 1 of article 30.5 of this title;

(IV) An institute charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title; and

(V) The state charter school institute established in section 22-30.5-503.

(c) "Parent" means the biological or adoptive mother or father or stepmother or stepfather of a child or any other person having legal or physical custody of a child.

(2) A local education provider shall not offer or provide to a school-aged child or the child's parent an item of value prior to, upon, or after enrolling in or attending an educational program operated by the local education provider unless:

(a) The local education provider makes the item of value available to the child continuously or at regular intervals throughout the school year and ceases providing the item of value if the child leaves the education program prior to the end of the school year;

(b) The local education provider awards the item of value at the end of the school year or upon matriculation in recognition of student performance; or

(c) The local education provider pays the item of value to the school-aged child or to his or her parent in exchange for services rendered by the child or by the child's parent at the request of the local education provider. For purposes of this paragraph (c), "services rendered" does not include school attendance or enrollment.

**Source: L. 2009:** Entire section added, (HB 09-1125), ch. 113, p. 477, § 1, effective April 16.

**22-1-128. Comprehensive human sexuality education - legislative declaration - definitions - guidelines and content standards.** (1) (a) The general assembly hereby finds and declares that:

(I) Colorado youth have a right to receive medically and scientifically accurate information to empower them to make informed decisions that promote their individual physical and mental health and well-being;

(II) This right applies to all youth, regardless of geographic location, ethnic or racial background, family income, physical or intellectual ability, sexual orientation, or gender expression;

(III) Parents, caregivers, community organizations, and other trusted adults serve as an essential part of the education process and may rely on health, education, and other professionals to provide evidence-based information that empowers youth to make decisions that are consistent with their own values and life goals;

(IV) The information, education, and skills that Colorado youth receive during their formative years provide the foundation for responsible decision-making about personal behaviors and important life decisions throughout the rest of their lives;

(V) It is important for youth to understand the consequences of the inconsistent or improper use of sexual abstinence, birth control, or condoms. All comprehensive human sexuality education must stress the importance of the correct and consistent use of sexual abstinence, birth control, and condoms to prevent pregnancy and sexually transmitted infections;

(VI) The decisions an individual makes regarding his or her sexual and reproductive health impact the public health and welfare of the community in which the individual lives;

(VII) When compared to the national average, Colorado has a lower rate of teen births and a lower rate of certain sexually transmitted infections, according to the centers for disease control and prevention and the Colorado department of public health and environment. In spite of this data, Colorado youth still face many barriers in obtaining the medically accurate information and resources they need to make informed and responsible decisions and lead healthy lives.

(VIII) According to the centers for disease control and prevention, evidence-based, medically accurate, age-appropriate, culturally sensitive, and comprehensive sexuality education programs have been proven to help youth delay the onset of sexual activity, decrease the frequency of sexual activity, reduce the number of sexual partners, and increase condom and contraceptive use;

(IX) Sexual violence and teen dating violence is a pervasive and serious public health issue, placing teen victims at increased risk for adolescent pregnancy, sexually transmitted infections, low academic performance, truancy, dropout, and other harmful behaviors;

(X) According to the centers for disease control and prevention, these changes in behavior help prevent unintended pregnancy and the spread of sexually transmitted infections;

(XI) The Colorado general assembly passed House Bill 07-1292, enacted in 2007, to establish content standards for the provision of human sexuality courses taught in public schools throughout the state;

(XII) The Colorado general assembly passed the "Public Health Reauthorization Act", Senate Bill 08-194, enacted in 2008, to create a statewide public health improvement plan to eliminate geographic-based and other disparities in the accessibility and availability of services through the state's public health agencies;

(XIII) The Colorado general assembly passed the "Preschool to Postsecondary Education Alignment Act", Senate Bill 08-212, enacted in 2008, which states that all school district standards must meet or exceed established state standards, and that school districts must adopt curriculum and assessments that are consistent with these standards; and

(XIV) In 2009, the Colorado state board of education adopted academic content standards for comprehensive health education that support youth in making informed and responsible decisions about their health and in having access to the tools they need to live healthy lives.

(b) The general assembly further finds and declares that:

(I) There is a need to continue and expand efforts to ensure that all young people in Colorado have access to evidence-based, medically accurate, culturally sensitive, and age-appropriate comprehensive sexuality education, information, and resources to guide them in making informed decisions about their health and relationships. Additionally, schools need to

promote healthy relationships through age-appropriate, culturally sensitive, and comprehensive human sexuality education, including providing information and resources for early intervention and response strategies to teen dating violence.

(II) The state of Colorado and eligible state agencies and other organizations must pursue funding and other federal support to implement comprehensive human sexuality education programs;

(III) The provisions of sexual and reproductive health education that incorporate comprehensive, evidence-based, culturally sensitive, and age-appropriate standards can result in youth delaying sexual activity until they are ready, avoiding unwanted consequences of sexual behavior, learning medically accurate information about their health, and promoting positive youth-friendly messages concerning growth, development, body image, gender roles, and all aspects related to healthy, safe relationships and sexual behavior; and

(IV) Broad-based community partnerships are essential when developing policies and implementing programs that affect the sexual and reproductive health of Colorado's youth.

(2) As used in this section, unless the context otherwise requires:

(a) "Age-appropriate" means topics, messages, and teaching methods suitable to a particular age or age group, based on developing cognitive, emotional, and behavioral capacity typical for the age or age group.

(b) "Comprehensive human sexuality education" means medically accurate information about all methods to prevent unintended pregnancy and sexually transmitted infections, including HIV, and the link between human papillomavirus and cancer, and other types of cancer involving the human reproductive systems, including prostate, testicular, ovarian, and uterine cancer. Methods must include information about the correct and consistent use of abstinence, contraception, condoms, other barrier methods, and other prevention measures. Additional contents of comprehensive human sexuality education must include:

(I) Encouraging family communication about sexuality;

(II) Focusing on the development of safe relationships, including the prevention of sexual violence in dating and teaching young people how to recognize and respond safely and effectively in situations where sexual or physical violence may be occurring or where there may be a risk for these behaviors to occur; and

(III) Teaching young people how alcohol and drug use can affect responsible decision-making.

(b.5) "Consent" means the affirmative, unambiguous, voluntary, continuous, knowing agreement between all participants in each physical act within the course of a sexual encounter or interpersonal relationship.

(c) "Culturally sensitive" means the integration of knowledge about individuals and groups of people into specific standards, requirements, policies, practices, and attitudes used to increase the quality of services. "Culturally sensitive" includes resources, references, and information that are meaningful to the experiences and needs of communities of color; immigrant communities; lesbian, gay, bisexual, and transgender communities; people who are intersex; people with physical or intellectual disabilities; people who have experienced sexual victimization; and others whose experiences have traditionally been left out of sexual health education, programs, and policies.

(d) "Evidence-based program" means a program that:

(I) Was evaluated using a rigorous research design, including:

(A) Measuring knowledge, attitude, and behavior;

(B) Having an adequate sample size;

(C) Using sound research methods and processes;

(D) Replicating in different locations and finding similar evaluation results; and

(E) Publishing results in a peer-reviewed journal;

(II) Research has shown to be effective in changing at least one of the following behaviors that contribute to early pregnancy and sexually transmitted infections, including HIV:

(A) Delaying sexual initiation;

(B) Reducing the frequency of sexual intercourse;

(C) Reducing the number of sexual partners; or

(D) Increasing the use of condoms and other contraceptives.

(d.3) "Gender stereotype" means a generalized view or preconception about what attributes, characteristics, or roles are, or ought to be, taught, possessed by, or performed by women and men.

(d.5) "Healthy relationship" means an interpersonal relationship that is free of physical, sexual, and emotional abuse, coercion, and violence.

(d.7) "Human sexuality instruction" or "instruction" means an oral, written, or digital lesson, lecture, or presentation given by school staff or nonschool staff that teaches about abstinence or sexual activity in the context of student health or healthy relationships. Instruction does not include student speech.

(d.9) "Medically accurate" means verified or supported by research conducted in compliance with scientific methods and published in peer-reviewed journals, where appropriate, and recognized as accurate, objective, and unbiased by the American Public Health Association, the American Academy of Pediatrics, or the American College of Obstetricians and Gynecologists.

(e) "Positive youth development" means an approach that emphasizes the many positive attributes of young people and focuses on developing inherent strengths and assets to promote health. Positive youth development is culturally sensitive, inclusive of all youth, collaborative, and strength-based.

(f) "Sexual abstinence" means not engaging in oral, vaginal, or anal intercourse or genital skin-to-skin contact.

(3) Except as otherwise provided in subsection (6) of this section, a school district, board of cooperative services, charter school, or institute charter school that offers a planned curriculum that includes comprehensive human sexuality education shall provide to the parent or guardian of each student, prior to commencing the planned curriculum:

(a) Written notification of the ability to excuse a student, without penalty or additional assignment, from that portion of the planned curriculum that includes comprehensive human sexuality education, upon the written request of the student's parent or guardian; and

(b) A detailed, substantive outline of the topics and materials to be presented in that portion of the planned curriculum related to comprehensive human sexuality education.

(4) Nothing in this section shall be construed to require an act or procedure in addition to the signature of the parent or guardian to excuse a student from a planned curriculum related to comprehensive human sexuality education.

(5) Each school district board of education, board of cooperative services, charter school, or institute charter school is encouraged to disseminate policies or instructions to the

public schools of the school district, or board of cooperative services, or appropriate staff of the charter school or institute charter school to ensure the implementation of the provisions of this section in a manner that will not draw undue attention to, nor cause undue embarrassment for, students excused from a planned curriculum related to comprehensive human sexuality education.

(6) Human sexuality instruction is not required. However, if a school district, board of cooperative services, charter school, or institute charter school offers human sexuality instruction, the instruction must be comprehensive and meet the comprehensive human sexuality education content requirements. These requirements must:

(a) Encourage parental involvement and family communication;

(b) Include medically accurate information about methods to prevent unintended pregnancy and sexually transmitted infections, including HIV/AIDS, and the link between human papillomavirus and cancer. Methods taught shall include information about the correct and consistent use of abstinence, contraception, including all FDA approved forms of contraception, condoms, and other barrier methods and must be taught in a cohesive, integrated, objective manner so that youth learn the full scope of preventive methods available to them and are empowered to decide for themselves which preventive methods are best suited for their individual needs, beliefs, and values.

(c) Promote the development of healthy relationships by providing human sexuality instruction on:

(I) How to communicate consent, recognize communication of consent, recognize withdrawal of consent, and understand age of consent as it relates to section 18-3-402;

(II) How to avoid making unwanted verbal, physical, and sexual advances;

(III) How to avoid making assumptions about a person's supposed sexual intentions based on that person's appearance or sexual history; and

(IV) How to avoid pursuing a sexual encounter with a person or persuading a person to participate in a sexual encounter when that person has not provided consent or has withdrawn consent;

(d) Include discussions and information on how to recognize and respond safely and effectively in situations where sexual or physical violence may be occurring or where there may be a risk for these behaviors to occur;

(e) Include discussion of how alcohol and drug use impairs responsible and healthy decision-making;

(f) Be comprehensive, age-appropriate, culturally sensitive, inclusive of a positive youth development framework, and medically accurate;

(g) Provide instruction about the health benefits and potential side effects of using contraceptives and barrier methods to prevent pregnancy, including instruction regarding emergency contraception and the availability of contraceptive methods;

(h) For school districts that have established a character education program pursuant to section 22-29-103, promote the guidelines of behavior established in the character education program;

(i) Not emphasize sexual abstinence as the primary or sole acceptable preventive method available to students. A school district, board of cooperative services, charter school, or institute charter school shall not engage the instructional services of an organization or individual that is a direct or indirect recipient of money from the federal government pursuant to 42 U.S.C. sec. 710,

as amended, because the guidelines of 42 U.S.C. sec. 710 are inconsistent with the provisions of this section.

(j) Provide age-appropriate information concerning sections 18-6-401 (9) and 19-3-304.5, or any successor laws, referred to generally as "safe haven laws", relating to the safe abandonment of a child to a firefighter at a fire station or to a staff member at a hospital or a community clinic emergency center within the first seventy-two hours of the child's life.

(6.5) Comprehensive human sexuality education does not require instruction on pregnancy outcome options. However, if a school district, board of cooperative services, charter school, or institute charter school opts to provide instruction on pregnancy outcome options, the instruction must cover all pregnancy outcome options, including but not limited to adoption, abortion, parenting, and information concerning sections 18-6-401 (9) and 19-3-304.5, or any successor laws, referred to generally as "safe haven laws". Instruction on pregnancy outcome options must be provided in an objective, unbiased manner and must not endorse or favor one or more pregnancy outcome options.

(7) (a) Nothing in subsection (6) or (6.5) of this section shall be interpreted to prohibit discussion of health, moral, ethical, or religious values as they pertain to comprehensive human sexuality, healthy relationships, or family formation. Such discussion is encouraged.

(b) However, human sexuality instruction must not explicitly or implicitly:

(I) Use shame-based or stigmatizing language or instructional tools;

(II) Employ gender stereotypes; or

(III) Exclude the health needs of intersex individuals or lesbian, gay, bisexual, or transgender individuals.

(8) Public schools, school districts, boards of cooperative services, charter schools, and institute charter schools are encouraged to involve teachers, school nurses, parents, and community members in the development of the requirements for comprehensive human sexuality curriculum required by subsection (6) of this section and to integrate available community resources into programs related to comprehensive human sexuality education.

(9) A school district, board of cooperative services, charter school, or institute charter school that has received, prior to July 1, 2013, direct or indirect funding from the federal government for the provision of an abstinence education program pursuant to 42 U.S.C. sec. 710 is not required to adopt requirements for comprehensive human sexuality curriculum for the provision of such instruction as described in this section for the year or years for which the school district, board of cooperative services, charter school, or institute charter school received such funding. On July 1, 2013, or thereafter, a school district, board of cooperative services, charter school, or institute charter school shall not use any direct or indirect funding from the federal government for the provision of an abstinence education program pursuant to 42 U.S.C. sec. 710. A school district, board of cooperative services, charter school, or institute charter school may use federal moneys for human sexuality education, as long as the human sexuality program of the school district board of cooperative services, charter school, or institute charter school meets the comprehensive human sexuality education model set forth in this section.

(10) Nothing in this section shall require amending any content standards related to comprehensive human sexuality education developed by the department and adopted by the state board prior to July 1, 2013.

(11) The provisions of this section shall not apply to students in kindergarten through third grade.

(12) A school district, board of cooperative services, charter school, or institute charter school may seek grant money pursuant to article 44 of title 25 to implement the comprehensive human sexuality education content requirements set forth in this section. However, compliance with this section is not contingent upon receipt of grant money pursuant to article 44 of title 25, nor is it contingent on receipt of any other state or federal funds, or public or private gifts, grants, or donations.

**Source: L. 2013:** Entire section added, (HB 13-1081), ch. 303, p. 1600, § 2, effective May 28. **L. 2016:** (1)(a)(IX) and IP(2)(b) amended, (SB 16-146), ch. 230, p. 919, § 15, effective July 1. **L. 2019:** (2)(b.5), (2)(d.3), (2)(d.5), (2)(d.7), (2)(d.9), (6)(i), (6)(j), (6.5), and (12) added and (2)(c), IP(6), (6)(b), (6)(c), (6)(f), (7), and (11) amended, (HB 19-1032), ch. 408, p. 3596, § 2, effective May 31.

**Cross references:** For the legislative declaration in HB 19-1032, see section 1 of chapter 408, Session Laws of Colorado 2019.

**22-1-129. Instruction in cardiopulmonary resuscitation and the use of automated external defibrillators - grants - definitions - rules - repeal.** (1) As used in this section, unless the context otherwise requires:

(a) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(b) Repealed.

(c) "Local education provider" means a school district, a charter school authorized by a school district pursuant to part 1 of article 30.5 of this title, a charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title, or a board of cooperative services created and operating pursuant to article 5 of this title that operates one or more public schools.

(d) "Psychomotor skills development" means the use of hands-on practice that supports cognitive learning.

(e) "State board" means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

(2) On and after September 1, 2014, each local education provider may apply for a grant or grants to provide instruction to students in any of grades nine through twelve and school staff in any of grades nine through twelve in cardiopulmonary resuscitation and the use of an automated external defibrillator. The instruction funded pursuant to this section must include a nationally recognized, psychomotor-skills-based instructional program that reflects current, national, evidence-based, emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator. The department shall administer the grant program pursuant to state board rules adopted pursuant to subsection (3) of this section.

(3) The state board shall promulgate rules concerning the grants awarded pursuant to this section, which rules must include, at a minimum:

(a) The process by which a local education provider may apply for and receive grant moneys pursuant to this section, including application requirements and deadlines;

(b) The number and amount of each grant and whether grants moneys will be awarded in the order applications are received or through some other method;

(c) The process for achieving a balanced distribution of grant moneys to applicants including rural, urban, and suburban local education providers; and

(d) Procedures for monitoring a local education provider's compliance with the provisions of this section and specifically that moneys awarded pursuant to this section are used for reasonable costs associated with psychomotor-skills-based cardiopulmonary resuscitation training and training on the use of automated external defibrillators, including but not limited to training materials and the temporary employment of cardiopulmonary resuscitation instructors or other trainers qualified to teach skills-based cardiopulmonary resuscitation training.

(4) Notwithstanding any other provision of this section to the contrary, the department shall not award grants pursuant to this section unless the department determines that it has received sufficient money through appropriations or gifts, grants, and donations to implement the program.

(5) The department may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section; except that the department may not accept a gift, grant, or donation that is subject to conditions that are inconsistent with this section or any other law of the state. Nothing in this section requires the department to solicit money for purposes of implementing this section.

(6) (a) Notwithstanding any provision of this section to the contrary, on July 1, 2020, the state treasurer shall transfer all unexpended and unencumbered state money in the school cardiopulmonary resuscitation and automated external defibrillator training fund to the state education fund created in section 17 (4) of article IX of the state constitution.

(b) This subsection (6) is repealed, effective July 1, 2021.

**Source: L. 2014:** Entire section added, (HB 14-1276), ch. 215, p. 805, § 2, effective August 6. **L. 2020:** (1)(b) repealed; (4) and (5) amended; and (6) added, (HB 20-1418), ch. 197, p. 946, § 21, effective June 30.

**Cross references:** For the legislative declaration in HB 14-1276, see section 1 of chapter 215, Session Laws of Colorado 2014. For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

**22-1-130. Notice to parents of alleged criminal conduct by school employees - legislative declaration - definitions.** (1) (a) The general assembly finds that:

(I) It is the right and responsibility of parents to guide the education and upbringing of their children;

(II) An essential role of parents in ensuring the safety and quality of their children's education is to remain active, engaged, and fully informed about what is occurring in their children's classrooms and within the school environment;

(III) Ensuring the safety of school children is one of the primary responsibilities of state and local government, law enforcement, and school communities;

(IV) In order to ensure a safe school environment that is conducive to learning, students and parents must be assured that criminal behavior that is harmful to children is reported and dealt with appropriately and in a manner that is transparent to parents and the school community; and

(V) Parents are understandably concerned when law enforcement agencies make accusations about school employees at their children's schools.

(b) Therefore, the general assembly declares that it is appropriate to require a public school to notify parents of school children when a school employee is charged with certain crimes that may put children at risk.

(2) As used in this section, unless the context otherwise requires:

(a) "Employee" means an employee of a local education provider whose employment requires or required the employee to be in contact with students or whose work area gives or gave the employee access to students. "Employee" includes a former employee if the employee was employed by the local education provider at any time within twelve months before an offense is charged. If a school district, district charter school, or institute charter school has contracted with a private entity to operate an online school, the employee of the private entity is deemed to be an employee of the school district, district charter school, or institute charter school for purposes of this section.

(b) "Local education provider" means a school district, a board of cooperative services, a charter school collaborative, a charter school authorized by a school district pursuant to part 1 of article 30.5 of this title 22, and a charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title 22.

(c) "Parent" means the biological or adoptive parent or the legal guardian or legal custodian of a student enrolled in a local education provider at the time notification is made pursuant to this section.

(3) (a) Pursuant to section 22-2-119 (4)(b), local education providers routinely receive reports from the Colorado bureau of investigation relating to employees who have previously been subject to a background check. If a local education provider receives a report from the Colorado bureau of investigation that includes information that an employee has been arrested for an offense described in subsection (3)(b) of this section, the local education provider shall monitor the criminal proceedings to determine whether the employee is charged with an offense described in subsection (3)(b) of this section and whether a preliminary hearing has been held if the charge is eligible for a preliminary hearing.

(b) The local education provider shall notify parents, as provided in subsection (4) of this section, if an employee is charged, as that term is defined in section 16-1-104 (6), with:

(I) Felony child abuse, as specified in section 18-6-401;

(II) A crime of violence, as defined in section 18-1.3-406, not including assault in the second degree unless the victim is a child;

(III) A felony offense involving unlawful sexual behavior, as defined in section 16-22-102 (9);

(IV) A felony, where it is alleged that the underlying factual basis of which includes an act of domestic violence, as defined in section 18-6-800.3;

(V) Felony indecent exposure, as described in section 18-7-302; or

(VI) A felony drug offense described in part 4 of article 18 of title 18 that is a level 1 or level 2 drug felony.

(4) (a) Within two school days after the preliminary hearing is held or is waived or deemed waived by the employee, or within two school days after the date on which the employee is charged, if the charged offense is not eligible for a preliminary hearing, the local education provider shall provide notice to parents pursuant to subsection (5) of this section.

(b) If the local education provider has already provided notice to parents that substantially conforms with the notice requirements set forth in subsection (5) of this section, the local education provider need not provide additional notice pursuant to the provisions of this section.

(c) The local education provider must provide notice to the parents of a student:

(I) Enrolled in the public school in which the employee is employed or was employed at the time of the alleged offense; or

(II) With whom the local education provider has reason to believe the employee may have had contact as part of his or her employment with the local education provider.

(d) The local education provider shall provide the required notice to parents in the same manner by which the local education provider notifies parents of important school business, which may include e-mail notification or other electronic communication sent directly to parents or by first-class mail. Within two school days after the local education provider confirms the disposition of the charge, the local education provider shall provide notice to parents of the disposition of the charge using the same notification method used in the original notice to parents.

(e) Notwithstanding the provisions of subsection (4)(a) of this section to the contrary, if a delay in parent notification is requested by the appropriate law enforcement agency, the local education provider shall delay notification to parents until the request is withdrawn.

(f) A local education provider shall notify parents pursuant to this section regardless of whether the actions giving rise to the charge occurred while the employee was on duty.

(g) The board or governing body of the local education provider shall establish policies to comply with the provisions of this section when school is not in session.

(5) (a) The local education provider's notification to parents of a charge brought against an employee must include the following:

(I) The name of the employee;

(II) The employee's position;

(III) Whether the employee continues to be employed by the local education provider;

(IV) The length of employment with the local education provider;

(V) The alleged offense as set forth in the charging document, including the violation of statute or code; and

(VI) A statement that, under state and federal law, a person is presumed innocent until proven guilty.

(b) A local education provider may provide additional information to parents regarding the underlying facts or circumstances relating to the charge but shall not disclose the identity of the alleged victim.

(6) Each local education provider shall incorporate the notification requirements set forth in this section as part of a safe school plan required pursuant to section 22-32-109.1, as applicable.

**Source: L. 2018:** Entire section added, (HB 18-1269), ch. 268, p. 1650, § 1, effective August 15.

**ARTICLE 2**

PART 1

DEPARTMENT OF EDUCATION - COMMISSIONER

**Editor's note:** This part 1 was numbered as article 1 of chapter 123, C.R.S. 1963. The substantive provisions of this part 1 were repealed and reenacted in 1964, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 1 prior to 1964, consult the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

**22-2-101. Short title.** This part 1 shall be known and may be cited as the "State Department of Education Act of 1964".

**Source: L. 64:** R&RE, p. 528, § 1. **C.R.S. 1963:** § 123-1-1.

**22-2-102. Definitions.** As used in this part 1, unless the context otherwise requires:

(1) "Commissioner of education" or "commissioner" means the office of the commissioner of education created and existing pursuant to section 1 of article IX of the state constitution.

(2) "Department of education" or "department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(3) "Nonpublic school" means a school organized and maintained by a recognized religious or independent association performing an academic function.

(4) "Public school" means a school maintained and operated by a school district.

(4.5) "Pupil enrollment count day" has the same meaning as set forth in section 22-54-103 (10.5).

(5) "State board of education" or "state board" means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

**Source: L. 64:** R&RE, p. 528, § 1. **C.R.S. 1963:** § 123-1-2. **L. 75:** (4) amended, p. 786, § 3, effective July 1. **L. 2012:** (4.5) added, (HB 12-1090), ch. 44, p. 149, § 2, effective March 22.

**22-2-103. Department of education.** (1) The department of education shall include the following:

(a) The state board of education;

(b) The commissioner of education, assistant commissioners of education, and other officers and employees of the department;

(c) The state library, created in section 24-90-104, C.R.S.;

(d) The Colorado school for the deaf and the blind, as provided for in article 80 of this title;

(e) The state charter school institute established in section 22-30.5-503;

(f) The division of online learning established in section 22-30.7-103;

(g) The facility schools unit created in section 22-2-403;

(h) The facility schools board created in section 22-2-404;

(i) The Colorado state advisory council for parent involvement in education created in section 22-7-303;

(j) The office of dropout prevention and student re-engagement created in section 22-14-103; and

(k) The concurrent enrollment advisory board created in section 22-35-107.

**Source: L. 64:** R&RE, pp. 109, 529, §§ 3, 1. **C.R.S. 1963:** § 123-1-3. **L. 68:** p. 94, § 41. **L. 2008:** (1)(g) and (1)(h) added, p. 1382, § 3, effective May 27; entire section amended, p. 1894, § 68, effective August 5. **L. 2009:** (1)(g) and (1)(h) amended and (1)(j) added, (HB 09-1243), ch. 290, p. 1424, § 6, effective May 21; (1)(g) and (1)(h) amended and (1)(k) added, (HB 09-1319), ch. 286, p. 1317, § 3, effective May 21; (1)(g) and (1)(h) amended and (1)(i) added, (SB 09-090), ch. 291, p. 1444, § 19, effective August 5.

**Editor's note:** (1) Amendments to this section by House Bill 08-1204 and House Bill 08-1412 were harmonized.

(2) Amendments to subsections (1)(g) and (1)(h) by House Bill 09-1243, House Bill 09-1319, and Senate Bill 09-090 were harmonized.

**22-2-104. Offices and positions - nature.** (1) As a matter of legislative determination, the offices of commissioner of education, assistant commissioners of education, and all positions of employment classified by the board as director, consultant, supervisor, or instructor are declared to be educational in nature and administrators of the department and not under the state personnel system in accordance with section 13 (2)(a)(VII) of article XII of the state constitution. The board may authorize the commissioner, as its designee, to classify positions of employment pursuant to this section.

(2) Any employee holding a position that was exempt from the state personnel system prior to January 1, 2017, may remain exempt from the state personnel system so long as the employee continues to hold that position.

(3) The board or the commissioner, as the designee of the board, shall determine which positions in the department meet the criteria set forth in subsection (1) of this section; except that a position shall not be determined to be exempt while it is held by an employee in the state personnel system.

(4) No later than December 31, 2017, and no later than December 31 of each year thereafter, the commissioner shall submit a report to the state personnel director, in the form prescribed by the director, listing all positions in the department that are exempt from the state personnel system in accordance with this section.

**Source: L. 64:** R&RE, p. 529, § 1. **C.R.S. 1963:** § 123-1-4. **L. 2017:** Entire section amended, (HB 17-1359), ch. 295, p. 1625, § 1, effective June 2.

**Cross references:** For exemption of the commissioner from state personnel system, see § 1 of article IX of the state constitution; for exemption of faculty and administrators in educational institutions and departments not reformatory or charitable in character, see § 13 (2) of article XII of the state constitution.

**22-2-105. State board of education - composition.** (1) The state board of education shall consist of one member elected from each congressional district in the state and, if the total number of congressional districts of the state is an even number, one member elected from the state at large. The members of the state board of education serving on April 30, 1982, shall continue to serve the terms for which they were elected. At the general election held in 1982, one member shall be elected from the second congressional district for a six-year term, one member shall be elected from the fourth congressional district for a six-year term, one member shall be elected from the fifth congressional district for a four-year term, and one member shall be elected from the state at large for a six-year term, all such terms commencing on the second Tuesday in January 1983. At the general election held in 1984, one member shall be elected from the first congressional district for a six-year term, and one member shall be elected from the third congressional district for a six-year term, all such terms commencing on the second Tuesday in January 1985. At the general election held in 1986, one member shall be elected from the fifth congressional district for a six-year term, and one member shall be elected from the sixth congressional district for a six-year term, all such terms commencing on the second Tuesday in January 1987. At the general election held in 2002, one member shall be elected from the seventh congressional district for a six-year term commencing on the second Tuesday in January 2003.

(2) The member of the state board from each congressional district of the state shall be nominated and elected by the registered electors of such district in the same manner as members of the house of representatives of the congress of the United States are nominated and elected. Each member from a congressional district shall be a registered elector of such district. If the total number of congressional districts of the state is an even number, the additional member of the board shall be nominated and elected at large in the same manner as state officers are nominated and elected. If the total number of congressional districts changes to an odd number during the term of the member elected at large, such member shall be permitted to continue serving on the state board until the expiration of his or her term.

(3) Except as provided in subsection (1) of this section, members shall be elected for terms of six years. They shall serve without compensation but shall be reimbursed for any necessary expenses incurred by them in the performance of their duties as members.

(3.5) Any member of the state board who was elected to office as a resident of a designated congressional district, and who no longer resides in such congressional district solely because of a change made to the boundaries of such district subsequent to the 2000 federal decennial census, is eligible to hold office for the remainder of the term for which the member was elected, notwithstanding such nonresidency.

(4) The state board shall elect from its own membership a chairman and a vice-chairman who shall hold office for terms of two years. The commissioner shall act as secretary to the state board. The state board shall meet at least quarterly and at such other times as may be necessary, upon call of the chairman or the commissioner or by a majority of its members.

(5) If the total number of congressional districts changes to an odd number during the term of the member elected at large, a vacancy of such member's seat shall not be filled by the state board.

(6) For any board member elected on or after May 22, 2008, during his or her term of office, a member of the state board shall not be a member of the general assembly; an officer, employee, or board member of a school district or charter school in the state; an officer,

employee, or board member of the state charter school institute or the institute board; or an employee of the state board or the department of education.

**Source: L. 64:** R&RE, p. 529, § 1. **C.R.S. 1963:** § 123-1-5. **L. 72:** p. 552, § 18. **L. 81:** (1) amended, p. 295, § 17, effective June 19. **L. 82:** (1) R&RE and (3) amended, pp. 352, 353, §§ 8, 9, effective April 30. **L. 87:** (2) amended, p. 305, § 21, effective July 1. **L. 99:** (5) amended, p. 142, § 1, effective August 4. **L. 2002:** (5) repealed, p. 536, § 1, effective July 1; (1), (2), and (5) amended and (3.5) added, p. 944, § 5, effective August 7. **L. 2007:** (6) added, p. 737, § 8, effective May 9. **L. 2008:** (6) amended, p. 1206, § 13, effective May 22.

**Editor's note:** Amendments to subsection (5) by House Bill 02-1403 and House Bill 02-1245 were harmonized.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsection (6), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-2-105.5. State board of education - definitions - vacancies - procedure for filling.** (1) As used in this section:

(a) "Party congressional central committee" means the committee established pursuant to section 1-3-103 (3), C.R.S.

(b) "State central committee" means the committee established pursuant to section 1-3-103 (2), C.R.S.

(2) Any vacancy occurring on the state board that may occur by reason of death, removal, or resignation from office, or removal from the district from which elected, or when a board member is elected, qualified, and takes office for another state office, shall be filled as provided in this section. Any member selected to fill a vacancy pursuant to this section shall serve until the next regular election providing such appointee is subject to the qualifications set forth by law.

(3) (a) Any vacancy occurring on the state board, other than a vacancy in a seat filled by a member elected from the state at large, shall be filled by the vacancy committee of the party congressional central committee of the same political party as the vacating board member for the congressional district represented by the vacating board member. If no vacancy committee of the party congressional central committee exists, the party congressional central committee shall perform the functions of the vacancy committee.

(b) If the vacating board member was affiliated with a minor political party, then the vacancy shall be filled by the vacancy committee designated in the constitution or bylaws of the minor political party.

(c) If the vacating member was unaffiliated with a political party, then the vacancy shall be filled by the vacancy committee designated on the vacating board member's petition for nomination pursuant to section 1-4-802 (1)(e), C.R.S.

(4) (a) The vacancy committee identified in subsection (3) of this section, by a majority vote of its members present and voting at a meeting called for that purpose, shall select a person who possesses the qualifications for a member of the state board and who is affiliated with the same political party or minor political party, if any, of the vacating board member, as shown on the registration books of the county clerk and recorder.

(b) At least six days prior to the meeting at which the vacancy committee selects a person to fill the vacancy, the chairperson of the party congressional central committee that selected the members of the vacancy committee shall mail to each member of the vacancy committee a written notice announcing the time and location of the vacancy committee meeting. Mailing of the notice is effective when the notice is properly addressed and deposited in the United States mail, with first-class postage prepaid. The vacancy committee may not select a person to fill the vacancy at any meeting for which notice is not provided pursuant to this paragraph (b).

(c) No meeting shall be held until a quorum is present consisting of not less than one-half of the voting membership of the vacancy committee. No member of the vacancy committee may vote by proxy.

(d) The vacancy committee shall certify the selection to the secretary of state within thirty days after the date the vacancy occurs. If the vacancy committee fails to certify a selection within thirty days in accordance with the provisions of this paragraph (d), the governor, within thirty-five days after the vacancy occurs, shall fill the vacancy by appointing a person having the qualifications set forth in paragraph (a) of this subsection (4). The name of the person appointed by the governor shall be certified to the secretary of state. The person selected or appointed pursuant to this subsection (4), after having qualified and taken the oath of office, shall immediately assume the duties of office.

(5) (a) In the event of a vacancy in the seat held by the state board member elected from the state at large, within five days after the state board receives notice of the vacancy, or within five days after the effective date of the resignation, whichever is later, the secretary of the state board shall refer the vacancy to the state central committee of the same political party as the vacating state board member. The state central committee shall refer the matter to the state central committee executive committee selected pursuant to section 1-3-105 (2), C.R.S.

(b) If the vacating board member was affiliated with a minor political party, then the vacancy shall be filled by the vacancy committee designated in the constitution or bylaws of the minor political party.

(c) If the vacating member was unaffiliated with a political party, then the vacancy shall be filled by the vacancy committee designated on the vacating board member's petition for nomination pursuant to section 1-4-802 (1)(e), C.R.S.

(6) (a) A vacancy occurring in the seat held by the state board member elected from the state at large shall be filled in accordance with the procedures established in this subsection (6).

(b) Within thirty days after being notified by the secretary of the state board of the occurrence of a vacancy, the vacancy or executive committee identified in subsection (5) of this section shall meet and, by a majority vote of its members present and voting at a meeting called for that purpose, shall nominate no fewer than three and no more than five candidates who possess the qualifications for a member of the state board and who are affiliated with the same political party or minor political party, if any, as the vacating board member, as shown on the registration books of the county clerk and recorder. The names of the candidates nominated shall be forwarded to the secretary of the state board.

(c) The state board shall, within twenty calendar days after receiving the names from the vacancy or executive committee identified in subsection (5) of this section interview all of the nominated candidates; except that the vacating board member shall not participate in the interview process.

(d) After completion of the interviews, and at a date and time established by the state board, the state board shall hold an open meeting to vote on the selection of a nominee to fill the vacancy. The vacating board member shall not participate in the open meeting to vote on the selection of a nominee to fill the vacancy. Nominees for selection shall be limited to the nominees referred to the state board by the vacancy or executive committee identified in subsection (5) of this section. Selection of a nominee shall occur by a majority vote of the state board members present and voting at the meeting called for such purpose. No meeting shall be held until a quorum is present consisting of not less than one-half of the voting membership of the state board. No member of the state board may vote by proxy. The state board shall certify the selection to the secretary of state within ten days after the meeting called to make the selection. The person, after having qualified and taken the oath of office, shall immediately assume the duties of office.

(e) In the event that the state board, after reasonable efforts to elect by a majority vote a nominee to fill the vacancy, is unable to elect a nominee by a majority vote, the selection of one of the persons nominated pursuant to paragraph (b) of this subsection (6) shall be made by the highest elected state official of the same political party as the vacating board member, in the following order: Governor; president of the senate; speaker of the house of representatives; minority leader of the senate; minority leader of the house of representatives. The name of the nominee selected by the highest elected state official shall be certified to the secretary of state. The person, after having qualified and taken the oath of office, shall immediately assume the duties of office.

(7) If a vacancy on the state board is caused by the resignation of a member of the state board and the letter of resignation gives an effective date of resignation that is later than the date the letter of resignation is submitted, the vacancy committee identified in subsection (3) of this section or the vacancy or executive committee identified in subsection (5) of this section, whichever is applicable, may meet no more than twenty days prior to the effective date of the resignation for the purpose of nominating a person to fill the vacancy. The certification of the nominee of the vacancy or executive committee, whichever is applicable, to the secretary of state may not be made prior to the effective date of the resignation and, if the member of the state board withdraws the letter of resignation prior to the effective date of the resignation, the person nominated by the vacancy or executive committee, whichever is applicable, may not be certified to the secretary of state.

(8) If the vacancy is caused by the death of a member-elect of the state board who has been elected to office but who has not yet been sworn in, the vacancy committee identified in subsection (3) of this section or the vacancy or executive committee identified in subsection (5) of this section, whichever is applicable, shall meet within thirty days after the death of the state board member-elect to fill the vacancy. The certification of the nomination of the vacancy or executive committee, whichever is applicable, to the secretary of state may be made prior to the convening of the state board but shall not take effect until the effective date of the vacancy, which is the first day the state board convenes.

**Source: L. 2002:** Entire section added, p. 536, § 2, effective July 1. **L. 2008:** (4)(d), (6)(b), and (8) amended, p. 1747, § 3, effective August 5.

**22-2-106. State board - duties - rules.** (1) It is the duty of the state board:

(a) To exercise general supervision over the public schools of the state and the educational programs maintained and operated by all state governmental agencies for persons who have not completed the twelfth-grade level of instruction;

(a.5) To adopt, on or before May 15, 2013, a comprehensive set of guidelines for the establishment of high school graduation requirements to be used by each school district board of education in developing local high school graduation requirements. Each school district board of education retains the authority to develop its own unique high school graduation requirements, so long as those local high school graduation requirements meet or exceed any minimum standards or basic core competencies or skills identified in the comprehensive set of guidelines for high school graduation developed by the state board pursuant to this paragraph (a.5). In developing the guidelines for high school graduation, the state board shall utilize the recommendations of the state graduation guidelines development council established in section 22-7-414, as it existed prior to July 1, 2008, and shall:

(I) Take into account recommendations from the 2006 report of the Colorado education alignment council appointed by the governor pursuant to executive order B 009 05;

(II) Ensure that the state graduation guidelines are aligned with the description of postsecondary and workforce readiness, including but not limited to the minimum required English language competencies, adopted by the state board and the Colorado commission on higher education pursuant to section 22-7-1008 and with the preschool through elementary and secondary education standards adopted by the state board pursuant to section 22-7-1005;

(III) Work with the Colorado commission on higher education to ensure that the state board's guidelines for high school graduation adopted pursuant to this paragraph (a.5) and the postsecondary academic admission standards established pursuant to section 23-1-113, C.R.S., are aligned for students entering a four-year public postsecondary education institution on or after August 1, 2013;

(IV) Recognize and address the multiple and diverse pathways to diplomas offered by school districts in the state. The guidelines for high school graduation shall accommodate the differing and broad categories of student interests and economic needs, including but not limited to agriculture, architecture, arts, communications, business and management, construction technology, education, finance, government, health sciences, tourism, human services, information technology, law and public safety, manufacturing, marketing and sales, physical education, science and technology, and transportation. The guidelines for high school graduation adopted by the state board pursuant to this paragraph (a.5) shall ensure, at a minimum, that, while not identical, each pathway is equally rigorous.

(V) Utilize standards-based education, as described in part 10 of article 7 of this title, as the framework for the development of the guidelines for high school graduation and consider how high school graduation requirements can be articulated in a standards-based education system;

(VI) Recognize and acknowledge the importance of obtaining the core competency skills and standards to succeed in the twenty-first century, including but not limited to proficiency in math, science, and written and verbal communication skills;

(VI.5) Recognize and acknowledge the importance of education in performing arts, as defined in section 22-1-104.5 (1)(b), and visual arts, as defined in section 22-1-104.5 (1)(c), in strengthening student learning in other subjects and in supporting students' ability to succeed in the twenty-first century; and

(VII) Take into account the importance of pre-high school and postsecondary career planning that provides middle school and junior high school students and parents with awareness of the school district's high school graduation requirements, the multiple pathways a student can follow, and other pertinent information that will help prepare a student for a successful high school experience.

(b) To appoint a commissioner of education;

(b.5) To review and evaluate annually the job performance of the commissioner of education using procedures and criteria determined by the state board. The procedures and criteria shall include, at a minimum, consideration of the comments and opinions of school district superintendents and school board members regarding the commissioner's job performance. Notwithstanding section 24-1-136 (11)(a)(I), the state board shall report the results of its evaluation to the education committees of the house of representatives and senate, or any successor committees.

(c) To appraise and accredit the public schools and school districts in this state and the state charter school institute pursuant to the provisions of article 11 of this title, and to submit recommendations to the governor and general assembly for improvements in education;

(d) To approve the annual budget request for the department prior to submission;

(e) To order the distribution or apportionment of federal and state moneys granted or appropriated to the department for the use of the public schools of the state, except moneys granted or made available to another agency specifically designated;

(f) To review the annual report prepared by the commissioner and to transmit it to the governor in the form and manner prescribed by the heads of the principal departments pursuant to the provisions of section 24-1-136, C.R.S.;

(f.5) To comply with the requirements of section 24-1-136.5, C.R.S., concerning the preparation of operational master plans, facilities master plans, and facilities program plans, as if the state board were the executive director of the department;

(f.7) To provide such aggregate, nonidentifying information concerning student enrollment in every school district in the state that the department of human services may request pursuant to section 19-1-115.5, C.R.S.;

(f.9) Repealed.

(g) To perform any other duty which may be required by law;

(h) On or before January 15, 2012, to adopt by rule standards for charter schools and charter school authorizers based on the recommendations made by the charter school and charter authorizer standards review committee pursuant to section 22-30.5-104.5;

(i) To ensure that the rules promulgated by the state board and the policies and guidelines adopted by the department pursuant to this title impose the least possible administrative or financial burden on school districts, charter schools, or boards of cooperative services and, when appropriate to reduce potential administrative burden, to promulgate rules and instruct the department to adopt policies and guidelines that specifically apply to rural school districts, charter schools, and boards of cooperative services, as identified by the department.

(2) and (3) (Deleted by amendment, L. 2009, (SB 09-163), ch. 293, p. 1528, § 7, effective May 21, 2009.)

**Source: L. 64:** R&RE, p. 530, § 1. **C.R.S. 1963:** § 123-1-6. **L. 80:** (1)(c) amended and (2) and (3) added, p. 550, § 1, effective May 1. **L. 83:** (1)(f) amended, p. 832, § 33, effective July 1. **L. 93:** (2) amended, p. 1047, § 2, effective June 3. **L. 94:** (1)(f.5) added, p. 563, § 5, effective April 6. **L. 97:** (1)(f.7) added, p. 150, § 3, effective July 1; (2)(b) amended, p. 460, § 2, effective August 6. **L. 98:** (1)(c), (2), and (3) amended, p. 985, § 2, effective July 1. **L. 2001:** (3) amended, p. 1176, § 6, effective August 8. **L. 2007:** (1)(b.5) added, p. 170, § 3, effective March 22; (1)(a.5) added, p. 675, § 2, effective May 2; (1)(f.9) added, p. 1085, § 5, effective July 1. **L. 2008:** IP(1)(a.5) and (1)(a.5)(V) amended and (1)(a.5)(II) added, p. 768, § 2, effective May 14. **L. 2009:** (1)(c), (2), and (3) amended, (SB 09-163), ch. 293, p. 1528, § 7, effective May 21; IP(1)(a.5) amended, (SB 09-292), ch. 369, p. 1950, § 40, effective August 5. **L. 2010:** IP(1)(a.5), (1)(a.5)(III), and (1)(a.5)(VI) amended and (1)(a.5)(VI.5) added, (HB 10-1273), ch. 233, p. 1020, § 3, effective May 18; (1)(h) added, (HB 10-1412), ch. 248, p. 1108, § 2, effective May 21; IP(1)(a.5) amended, (HB 10-1013), ch. 399, p. 1907, § 20, effective June 10. **L. 2012:** IP(1)(a.5) amended, (HB 12-1240), ch. 258, p. 1308, § 1, effective June 4. **L. 2015:** IP(1)(a.5) and (1)(a.5)(V) amended, (HB 15-1323), ch. 204, p. 720, § 19, effective May 20. **L. 2016:** (1)(i) added, (HB 16-1440), ch. 316, p. 1277, § 4, effective August 10. **L. 2017:** (1)(b.5) amended, (HB 17-1267), ch. 242, p. 994, § 3, effective August 9.

**Editor's note:** Subsection (1)(f.9)(II) provided for the repeal of subsection (1)(f.9), effective July 2, 2008. (See L. 2007, p. 1085.)

**Cross references:** (1) For additional duties of the state board of education, see § 22-2-109; for duties concerning the collection of data on dropout rates, see § 22-2-114.1; for the duty to approve moneys for boards of cooperative services, see § 22-5-114; for duties concerning educational accountability, see article 7 of this title; for duties concerning the evaluation of performance of certificated personnel, see § 22-9-104; for duties concerning the education of exceptional children, see article 20 of this title; for the duty to supervise summer school programs under the "Migrant Children Educational Act", see § 22-23-106; for the duty to adopt rules and regulations concerning comprehensive health education programs, see § 22-25-104; for duties concerning the establishment of financial policies and procedures for school districts, see part 2 of article 44 of this title; for the duty to prescribe the minimum accounts to be maintained by school districts, see § 22-45-102; for duties concerning the reimbursement of transportation costs of school districts, see article 51 of this title; for duties concerning the second chance program for problem students, see article 52 of this title; for duties concerning school finance, see article 54 of this title.

(2) For the legislative declaration in the 2007 act adding subsection (1)(a.5), see section 1 of chapter 182, Session Laws of Colorado 2007. For the legislative declaration in the 2007 act adding subsection (1)(b.5), see section 1 of chapter 48, Session Laws of Colorado 2007. For the legislative declaration in the 2010 act amending the introductory portion to subsection (1)(a.5) and subsections (1)(a.5)(III) and (1)(a.5)(VI) and adding subsection (1)(a.5)(VI.5), see section 1 of chapter 233, Session Laws of Colorado 2010.

**22-2-106.5. State board - duties with regard to student data - memorandum of understanding.** Notwithstanding the provisions of section 22-2-111 (3)(a), the state board shall enter into a memorandum of understanding on or before September 1, 2006, with the Colorado

commission on higher education to adopt a policy to share student data. At a minimum, the policy shall ensure that the exchange of information is conducted in conformance with the requirements of the federal "Family Educational Rights and Privacy Act of 1974", as amended, 20 U.S.C. sec. 1232g, and all federal regulations and applicable guidelines adopted in accordance therewith. The policy shall additionally require the state board, upon request, to share student data with qualified researchers. For purposes of this section, qualified researchers shall include, but need not be limited to, institutions of higher education, school districts, and public policy research and advocacy organizations.

**Source: L. 2006:** Entire section added, p. 716, § 4, effective July 1.

**22-2-107. State board - power.** (1) The state board has the power:

(a) To perform all duties delegated to it by law;

(b) To employ personnel, subject to the provisions of section 13 of article XII of the state constitution, as may be necessary for the performance of powers and duties delegated to the state board, the commissioner, and the department;

(c) To promulgate and adopt policies, rules, and regulations concerning general supervision of the public schools, the department, and the educational programs maintained and operated by all state governmental agencies for persons who have not completed the twelfth-grade level of instruction;

(d) To approve within the appropriation made by the general assembly a salary schedule for personnel of the department who are not within the state personnel system;

(e) To create, maintain, and modify, from time to time, such administrative organization for personnel of the department as may be deemed necessary or beneficial;

(f) To provide consultative services to the public schools and boards of education of school districts;

(g) To appraise for the purpose of accreditation any nonpublic school, but only upon its request;

(g.5) Repealed.

(h) To accept gifts, grants, and donations of any nature for the use of the department or the public schools in accordance with conditions prescribed by the donor; but no gift, grant, or donation shall be accepted if the conditions attached thereto require the use or expenditure thereof in a manner contrary to law;

(i) To prepare, approve, and implement plans necessary as a prerequisite to the receipt of federal moneys or property under any act of congress for the use of the public schools of the state, except moneys granted or made available to another agency specifically designated;

(j) To require a school district to take a school census, from time to time, containing such items of information as determined by the state board, and to give reasonable notice to each school district before requiring the taking of a census;

(k) To appoint such advisory committees as may be beneficial to the improvement of education in the state;

(l) To cooperate with other agencies either within or without the state for the improvement of education;

(m) To cause to be prepared or corrected any report required by law to be filed by a school district at any time that a school district has failed to file such report when due or has

filed a grossly inaccurate or incomplete report and to cause such school district to pay the cost of such preparation or correction;

(n) To enter into reciprocal agreements for the exchange of information relative to the issuance, denial, or revocation of teacher licenses or certificates with the legally constituted licensing or certificating agencies in other states;

(o) To enter into contracts with the state board for community colleges and occupational education for the development and for the supervision of the administration and implementation of state plans for occupational education in the public elementary and secondary schools;

(p) Repealed.

(q) To promulgate rules and regulations to define the types and amounts of costs in excess of applicable revenues that a school district of residence of a child with a disability shall pay as tuition to educate that child elsewhere within Colorado at a facility, as defined by the department in its regulations, approved by the facility schools unit in the department pursuant to section 22-2-407, or at an administrative unit as defined in section 22-20-103 (1) other than the administrative unit of residence; however, a school district may pay a higher amount, as provided in section 22-20-109 (1);

(r) To take the actions necessary to comply with the requirements of section 24-1-136.5, C.R.S., concerning the preparation of operational master plans, facilities master plans, and facilities program plans;

(s) To approve programs by nonpublic, nonparochial schools to provide educational services to students pursuant to section 22-33-203, and to approve services to be provided to at-risk students pursuant to agreements entered into pursuant to section 22-33-204; and

(t) To render a decision on the appeal of the state charter school institute's approval or denial of an institute charter school application or the revocation or nonrenewal of an institute charter school contract pursuant to part 5 of article 30.5 of this title.

**Source: L. 64:** R&RE, p. 530, § 1. **C.R.S. 1963:** § 123-1-7. **L. 67:** p. 446, § 23. **L. 83:** (1)(p) and (1)(q) amended, p. 739, § 1, effective June 10. **L. 87:** (1)(q) amended, p. 826, § 1, effective May 16. **L. 93:** (1)(p) and (1)(q) amended, p. 1638, § 27, effective July 1. **L. 94:** (1)(r) added, p. 564, § 6, effective April 6. **L. 96:** (1)(g.5) added, p. 1798, § 16, effective June 4. **L. 2000:** (1)(s) added, p. 1972, § 14, effective June 2. **L. 2004:** (1)(g.5) amended, p. 1390, § 7, effective May 28; (1)(n) amended, p. 1283, § 12, effective May 28; (1)(g.5) amended, p. 1586, § 13, effective June 3; (1)(s) amended and (1)(t) added, p. 1617, § 2, effective July 1. **L. 2008:** (1)(p) amended, p. 1382, § 4, effective May 27. **L. 2009:** (1)(g.5) repealed, (SB 09-163), ch. 293, p. 1528, § 8, effective May 21; (1)(q) amended, (SB 09-292), ch. 369, p. 1951, § 41, effective August 5.

**Editor's note:** Subsection (1)(p)(II) provided for the repeal of subsection (1)(p), effective July 1, 2008. (See L. 2008, p. 1382.)

**22-2-108. Federal financial assistance.** (1) The state board of education is authorized to accept, use, and administer all moneys and properties granted or made available to the state or any agency thereof for an educational purpose, except those moneys and properties granted or made available for such purpose to another such agency specifically designated.

(2) If it is necessary to execute a formal agreement with a federal agency or officer as a condition precedent to receiving federal moneys or property pursuant to subsection (1) of this section, the state board is authorized to execute such an agreement, with the approval of the attorney general, provided such agreement shall not be inconsistent with law.

(3) The state treasurer is authorized to receive any moneys accepted pursuant to the provisions of subsection (1) of this section as official custodian thereof, and he shall disburse said moneys upon the order of the state board.

(4) By July 1, 2005, and by July 1 of each year thereafter, the state board shall submit a report to the education committees of the senate and house of representatives, or any successor committees, detailing the total amount of federal funds received by the state board in the prior fiscal year, accounting how the funds were used, specifying the federal law or regulation that governs the use of the federal funds, if any, and providing information regarding any flexibility the state board has in using the federal funds.

**Source: L. 64:** R&RE, p. 532, § 1. **C.R.S. 1963:** § 123-1-8. **L. 2005:** (4) added, p. 440, § 18, effective April 29.

**22-2-109. State board of education - additional duties - teacher standards - principal standards.** (1) The state board of education shall:

(a) Repealed.

(b) to (f) (Deleted by amendment, L. 99, p. 1186, § 2, effective June 1, 1999.)

(g) Adopt rules that prescribe performance-based standards of qualification, preparation, training, or experience that are required for the issuance of all licenses, master certificates, and authorizations, as provided for in article 60.5 of this title;

(h) Adopt rules that prescribe performance-based standards for endorsements deemed appropriate for each type of license or authorization;

(i) Utilize representatives from all levels of education in the development of performance-based standards of qualification, preparation, and experience for all licenses, master certificates, authorizations, and endorsements;

(j) Conduct or arrange for research pertinent or essential to implement the provisions of article 60.5 of this title, including but not limited to educator licensure and educator preparation programs in institutions of higher education;

(k) and (l) (Deleted by amendment, L. 99, p. 1186, § 2, effective June 1, 1999.)

(m) Repealed.

(n) and (o) (Deleted by amendment, L. 99, p. 1186, § 2, effective June 1, 1999.)

(p) Adopt rules to ensure that administrator programs of preparation meet the requirements concerning instruction in evaluating licensed personnel specified in section 22-9-108;

(q) Adopt rules that require the reporting between school districts of the enrollment of any students who have transferred to another school or school district within the state. Such rules shall improve the ability of school districts to accurately identify which students have in fact dropped out of school and which students have merely transferred to another school or school district. Such rules shall also set forth uniform standards for determining which school or school district shall count a dropout as part of its own dropout count.

(r) Repealed.

(2) (Deleted by amendment, L. 99, p. 1186, § 2, effective June 1, 1999.)

(3) On or before July 1, 2000, the state board of education by rule shall adopt performance-based teacher licensure standards, which at a minimum shall include a requirement that each candidate for an initial teacher license shall have and be able to demonstrate the following skills:

(a) The ability to align instructional objectives with adopted student learning standards;

(b) The ability to teach in a manner that addresses individual student needs and enables the student to improve his or her performance;

(c) Proficiency in measuring and monitoring each student's progress toward achieving learning standards;

(d) The ability to adjust instructional practices and methods when necessary to stimulate or enhance student progress;

(e) The ability to engage parents as learning partners to promote student learning;

(f) The ability to integrate technology into instruction at the grade level for which the teacher expects to be endorsed;

(g) The ability to assess student performance;

(h) The ability to demonstrate a high level of content area knowledge and professional competencies in the areas identified by rule of the state board pursuant to section 22-60.5-203.

(4) In adopting the performance-based teacher licensure standards pursuant to subsection (3) of this section, the state board shall also adopt rules specifying the methods by which a teacher candidate may demonstrate that he or she has achieved the specified skills and the manner in which such demonstrations may be documented for submission when the teacher candidate applies for licensure.

(5) (a) The state board shall review the content of educator preparation programs offered by institutions of higher education within the state. Such review must be designed to ensure that the content of each program is designed and implemented in a manner that will enable a candidate to meet the requirements specified by the state board pursuant to subsection (3) of this section and the requirements for licensure endorsement adopted by rule of the state board pursuant to section 22-60.5-106. The state board shall recommend to the Colorado commission on higher education that a program be placed on conditional approval, be placed on probation, or not be approved pursuant to section 23-1-121 if it determines that the program content does not meet the requirements specified in subsection (3) of this section or the endorsement requirements.

(b) Upon the request of a nonpublic institution that provides an educator preparation program, the state board shall review the content of the program to determine whether the program content is designed and implemented in a manner that will enable a candidate to meet the requirements specified by the state board of education pursuant to subsection (3) of this section, and the requirements for licensure endorsement adopted by rule of the state board pursuant to section 22-60.5-106. Upon completion of the review, the state board shall notify the Colorado commission on higher education concerning whether the program content meets said requirements.

(6) (a) On or before January 1, 2003, the state board of education by rule shall adopt performance-based principal licensure standards to guide the development of principal preparation programs offered by institutions of higher education. The state board of education shall develop said standards in collaboration with institutions of higher education that offer

principal preparation programs, superintendents and local boards of education, and the commission on higher education. The state board of education shall ensure that said standards are consistent with national standards for principal preparation. Said standards must include, but need not be limited to, the following:

(I) Strong leadership development that shall include but need not be limited to decision-making, communication, and human relations skills; and

(II) Instructional skills and knowledge and the use of data necessary to lead and organize a standards-based school that is characterized by student proficiency in literacy and the state content standards as described in section 22-7-1005.

(b) Repealed.

(7) (a) Beginning with the 2006-07 school year and annually thereafter, the state board shall direct the department to survey the superintendents of the school districts of the state who employ principals who hold a principal authorization or an initial principal license or who obtain a professional principal license without first holding an initial principal license and who are in their first three years of employment as a principal. The department shall base the survey questions on the performance-based principal licensure standards adopted by the state board pursuant to subsection (6) of this section. The department shall design the survey to solicit information by which to measure the quality and effectiveness of principal preparation programs and other alternative forms of principal preparation and to solicit information from superintendents concerning the principal licensure standards.

(b) Notwithstanding section 24-1-136 (11)(a)(I), the state board shall submit annually to the education committees of the house of representatives and the senate, or any successor committees, a written summary report of the results of the survey conducted pursuant to subsection (7)(a) of this section. In submitting the report, the state board shall ensure that the report for the current year and the preceding year's report, if one exists, are available to the education committees for consideration at the biennial joint meeting held pursuant to section 22-60.5-116.5. The state board shall also submit the report annually to the governor, the Colorado commission on higher education, and the institutions of higher education that operate principal preparation programs.

(c) The costs incurred by the department in implementing this subsection (7) shall be paid from moneys appropriated from the educator licensure cash fund created in section 22-60.5-112 (1).

**Source: L. 64:** R&RE, pp. 532, 533, § 1. **C.R.S. 1963:** §§ 123-1-9, 123-1-10. **L. 68:** p. 95, §§ 42-44. **L. 75:** (1) R & RE, p. 718, § 1, effective July 1, 1976. **L. 77:** (1)(a) repealed, p. 1087, § 6, effective July 1. **L. 79:** (1)(l) added, p. 772, § 1, effective June 19. **L. 89:** (1)(m) added, p. 952, § 2, effective July 1. **L. 91:** (1)(n) and (1)(o) added, p. 511, § 2, effective July 1, 1994. **L. 98:** (1)(b) and (1)(c) amended, p. 991, § 14, effective July 1; (1)(p) added, p. 285, § 2, effective July 1. **L. 99:** Entire section amended, p. 1186, § 2, effective June 1; (1)(q) added, p. 1057, § 2, effective June 1. **L. 2000:** (1)(p) amended, p. 1849, § 39, effective August 2. **L. 2001:** (1)(r) added, p. 169, § 2, effective August 8. **L. 2002:** (1)(p) amended and (6) added, p. 1352, § 2, effective June 7. **L. 2004:** (1)(g), (1)(i), and (1)(p) amended, p. 1284, § 13, effective May 28. **L. 2005:** IP(3) amended, p. 188, § 29, effective April 7. **L. 2006:** (7) added, p. 1238, § 1, effective May 26; (6)(b) repealed, p. 595, § 4, effective August 7. **L. 2011:** (1)(j), (5), and (7)(a) amended, (SB 11-245), ch. 201, p. 847, § 4, effective August 10. **L. 2012:** (1)(r) repealed, (HB

12-1240), ch. 258, p. 1309, § 3, effective June 4. **L. 2015:** IP (6)(a) and (6)(a)(II) amended, (HB 15-1323), ch. 204, p. 720, § 20, effective May 20. **L. 2017:** (7)(b) amended, (HB 17-1267), ch. 242, p. 993, § 1, effective August 9. **L. 2020:** (5)(a) amended, (SB 20-158), ch. 198, p. 976, § 10, effective June 30.

**Editor's note:** Subsection (1)(m) provided for the repeal of subsection (1)(m), effective June 30, 1994. (See L. 89, p. 952.)

**Cross references:** (1) For other duties of the state board, see § 22-2-106.

(2) For the legislative declaration in the 2011 act amending subsections (1)(j), (5), and (7)(a), see section 1 of chapter 201, Session Laws of Colorado 2011.

**22-2-110. Commissioner of education - oath - qualifications - tenure.** (1) The commissioner of education shall be the chief state school officer and executive officer of the department of education. He or she shall possess the professional qualifications described in subsection (4) of this section and such additional professional qualifications as may be deemed appropriate for the office by the state board.

(2) The commissioner shall be appointed by the state board, serve at the pleasure of the board, and receive such compensation as may be determined by the board.

(3) Before entering upon his or her duties, the commissioner shall subscribe to an oath of office, which oath shall be filed with the secretary of state.

(4) The person appointed to the office of commissioner of education by the state board pursuant to subsection (2) of this section shall, at a minimum, satisfy the following professional qualifications:

(a) The person shall have demonstrated personal and professional leadership success, preferably in the administration of public education; and

(b) The person shall possess an earned advanced degree, preferably in education or educational administration awarded from a regionally or nationally accredited college or university.

(5) Notwithstanding section 24-1-136 (11)(a)(I), the state board shall annually review and evaluate the job performance of the commissioner, as provided in section 22-2-106 (1)(b.5), and report the results of its evaluation to the public and the education committees of the house of representatives and senate, or any successor committees.

**Source: L. 64:** R&RE, p. 534, § 1. **C.R.S. 1963:** § 123-1-11. **L. 2007:** Entire section amended, p. 169, § 2, effective March 22. **L. 2017:** (5) amended, (HB 17-1267), ch. 242, p. 993, § 2, effective August 9.

**Cross references:** (1) For the constitutional oath of office, see § 8 of article XII of the state constitution.

(2) For the legislative declaration contained in the 2007 act amending this section, see section 1 of chapter 48, Session Laws of Colorado 2007.

**22-2-111. Commissioner of education - office - records - confidential nature.** (1) The commissioner shall have an office at the seat of the government where he shall keep an

official seal and all books and papers pertaining to the business affairs of his office. He shall be entitled to reimbursements for necessary travel and subsistence expenses, incurred either within or without the state, in accordance with regulations promulgated by the state controller.

(2) Copies of all papers, reports, and documents filed in his office, and his official acts, may be certified by him under seal, and when so certified shall be evidence of his official acts equally and in a like manner as the original paper, report, or document or testimony under oath.

(3) (a) Except when requested by the governor or a committee of the general assembly or pursuant to compliance with section 22-32-109.8 or 22-2-119, all papers filed in the department of education that contain personal information about applicants for employment, employees, or holders of educator licenses or authorizations or about pupils' test scores are classified as confidential in nature; however, each educator has the right to inspect and to have copies made at the educator's expense of all information pertaining to the educator on file in the department of education. The educator may challenge any such record by formal letter or other evidence, which shall be added to the state records. The state board may authorize any material to be added to or removed from an educator's official records in its custody. It is unlawful for any officer, employee, or other person to divulge, or to make known in any way, any such personal information without the written consent of said applicant, employee, educator, or pupil; but the information may be divulged or made known in the normal and proper course of administration of programs relating thereto without such written consent. Nothing in this subsection (3) shall be construed in a manner to prohibit the publication of statistics relative to the aforementioned information when so classified as to prevent the identification of educators or pupils involved in said statistics.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (3), on or before July 1, 2004, and on or before July 1 each year thereafter, the department shall provide to the department of higher education a list of the persons initially licensed as educators during the preceding twelve months and, for each such person who completed an approved program of preparation provided by a Colorado institution of higher education, the name of the institution that provided the approved program of preparation, and a list of the persons who have held an educator license for two years as of the reporting date.

**Source: L. 64:** R&RE, p. 534, § 1. **C.R.S. 1963:** § 123-1-12. **L. 2004:** (3) amended, p. 382, § 2, effective April 8; (3) amended, p. 1284, § 14, effective May 28. **L. 2008:** (3)(a) amended, p. 1665, § 5, effective May 29.

**Editor's note:** Amendments to subsection (3) by Senate Bill 04-062 and House Bill 04-1104 were harmonized.

**Cross references:** For provisions concerning school records under the "Open Records Act", see part 2 of article 72 of title 24.

**22-2-112. Commissioner - duties - report - legislative declaration - repeal.** (1) Subject to the supervision of the state board, the commissioner has the following duties:

(a) To advise the state board concerning the current operation and status of the public schools and upon other educational matters;

(b) To supply the state board with such information as it may require and to prepare for the board to transmit annually a report accounting to the governor and the house and senate committees on education for the efficient discharge of all responsibilities assigned by law or directive to the department, and to issue all publications of the department circulated in quantity outside the executive branch in accordance with the provisions of section 24-1-136, C.R.S.;

(c) To prepare and submit to the state board a budget for the department and to properly execute the approved budget in accordance with appropriations;

(d) To establish and maintain a system of personnel administration within the department;

(e) To cause all policies, rules, and regulations adopted by the state board to be duly executed;

(f) To serve as state librarian pursuant to section 24-90-104 (2), C.R.S.;

(g) To visit public schools and communities which most need his personal attendance for the purpose of stimulating and guiding public sentiment to education and diffusing by public addresses and personal communication with parents, school officers, and teachers a knowledge of existing defects of and a knowledge of desirable improvements in the government, finance, curriculum of, and instruction in the public schools;

(h) To establish and maintain adequate statistical, academic performance, safety environment, and financial records of school districts, including records required by article 11 of this title;

(i) To cause to be reprinted annually laws enacted by the general assembly concerning education, in accordance with the provisions of section 24-1-136, C.R.S., and to furnish copies thereof to interested persons. All publishing costs therefor shall be paid out of the state public school fund pursuant to section 22-54-114 (5).

(j) To perform other duties as may be delegated to him by law or by the state board;

(k) To submit to the governor and the general assembly, not later than the first day of September of each year, a report which shall discuss educational issues in Colorado and such other subjects as the commissioner may deem appropriate. The commissioner shall also submit such fiscal, instructional, academic progress, and other information as may be required by the state board to reflect the quality of education in the state. Statistical data by school district regarding drop-out rates, teacher-pupil ratios, number of courses offered, teacher turnover rates, and reading and achievement scores will be available upon request.

(l) To prepare a manual setting forth simplified election procedures for use by the election judges in the district. He shall notify the superintendent of each district that such a manual is available and that copies will be furnished upon request and free of charge. When the school election laws have changed, he shall revise the manual to comply with the then existing laws. Such revisions may be made by inserts to the manual.

(m) To supervise, manage, and control the Colorado school for the deaf and the blind at Colorado Springs;

(n) To enter into an interagency agreement with the department of health care policy and financing and to promulgate such rules and regulations as may be necessary under the agreement to enable school districts, boards of cooperative services, and state educational institutions to enter into contracts and to receive federal matching funds for moneys spent in providing student health services as provided in section 25.5-5-301 (6) or 25.5-5-318, C.R.S.;

(o) To comply with the duties set forth in article 11 of this title;

(p) To establish and maintain an educator identifier system to assign unique identifiers to educators employed in a school district or local education agency. Each educator's identifier must be unique. The identifier must not use any personal identifying information, such as social security numbers or contact information, except for alignment purposes in data processing. Any personal identifying information that is collected must be linked in a secure data location so data sets can be matched based on the personal identifying information when the identifier is not included.

(q) (I) To assist the state board in reviewing the content of educator preparation programs offered by institutions of higher education within the state. In so doing, the commissioner shall direct the department to collaborate with the department of higher education to prepare an annual report on the effectiveness of educator preparation programs.

(II) For purposes of this paragraph (q), the department shall use data collected from an educator in his or her first three years of placement as the educator of record.

(III) To the extent the relevant data is available at the time of the annual report, the report required pursuant to this subsection (1)(q) must include, but need not be limited to, the correlation between different educator preparation programs in the state, including alternative educator preparation programs, and student academic growth, educator placement, educator mobility and retention, and educator performance evaluation ratings.

(IV) The department shall work collaboratively with educator preparation programs and the department of higher education and make the report prepared pursuant to this paragraph (q) available to the public on its website no later than thirty days after its completion. The department shall share the information with educator preparation programs to inform curriculum and program improvements.

(r) Repealed.

(s) To facilitate employment first policies and practices by:

(I) Providing input and assistance to the employment first advisory partnership described in section 8-84-303, C.R.S., in carrying out its duties; and

(II) Presenting the reports and recommendations of the employment first advisory partnership to the department's legislative committee of reference pursuant to section 8-84-303 (7), C.R.S.

(t) To annually distribute to each school district and to the state charter school institute informational materials received from the department of personnel pursuant to section 24-5-102 relating to federal student loan repayment programs and student loan forgiveness programs.

(2) In accordance with section 22-2-107 (1)(c), the commissioner shall establish requirements enabling residents of this state who are seventeen years of age or older or who are sixteen years of age and satisfy the requirements of section 22-33-104.7 to successfully complete a high school equivalency examination, as defined in section 22-33-102 (8.5).

(3) Repealed.

(4) (a) The commissioner shall ensure that the department, subject to available appropriations, annually allocates money to school districts, district charter schools, and institute charter schools to reimburse them for the costs of administering developmental education placement or assessment tests pursuant to sections 22-32-109.5, 22-30.5-117, and 22-30.5-526, respectively, to students enrolled in grades nine through twelve. The department shall allocate money to offset the costs incurred in administering each of the test units only once per student while the student is enrolled in grades nine through twelve.

(b) The general assembly finds that, for purposes of section 17 of article IX of the state constitution, administering developmental education placement or assessment tests to students in grades nine through twelve is an accountable program to meet state academic standards and is a component of accountability reporting and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

(5) On and after August 10, 2016, the board of education of a school district that intends to seek voter approval of bonded indebtedness for the purpose of constructing a building that the school district may lease to a state institution of higher education or that intends to lease other school district property to a state institution of higher education, and that intends, in either situation, to receive in-kind services in lieu of part or all of the lease payments, must submit to the commissioner a letter of intent to lease property to a state institution of higher education. The commissioner shall approve the first three letters of intent that are submitted after August 10, 2016, and shall not approve subsequent submittals until July 1, 2021, at which point the commissioner may approve the first three letters of intent submitted after that date. A school district board of education may proceed with plans to lease property to a state institution of higher education or to seek voter approval of bonded indebtedness to construct a building for lease to a state institution of higher education only if the school district's letter of intent is approved by the commissioner. The provisions of this subsection (5) do not apply to a building lease between a school district and a state institution of higher education that exists as of August 10, 2016.

(6) If a school district fails to replace categorical program support funds as required in section 22-54-107, the commissioner shall withhold from any state money due to the school district for any reason the unpaid amount of categorical program support funds recoverable from the school district. The commissioner shall withhold the state money commencing in the budget year immediately following the budget year in which the school district fails to pay the recoverable amount. The commissioner shall assess and recover an interest fee on the unpaid amount, beginning July 1, at a rate that is equal to the earnings on the treasury pooled funds for the previous fiscal year; except that the commissioner may waive accrued interest upon recovery of the unpaid amount.

(7) (a) On or before September 15, 2020, the commissioner shall convene a stakeholder group to:

(I) Review the impact of the COVID-19 pandemic and the resulting disruption of the 2019-20 school year, including student transition to remote learning and the cancellation of the state assessments, accountability, accreditation, and educator evaluation systems for the 2019-20 school year;

(II) Discuss how the cancellation of state assessments will impact accountability, accreditation, and educator evaluations during the 2020-21 school year and whether future modifications are needed regarding the accountability, accreditation, and educator evaluation systems as a result of, and in response to, the COVID-19 pandemic and possible further disruptions; and

(III) Make recommendations regarding whether and how to proceed with state assessments, accountability, accreditation, and educator evaluations during the 2020-21 school year and how the systems can continue to effectively measure student achievement and growth and provide an accurate, credible, and comparable assessment of the quality of the public education system throughout the state following the COVID-19 pandemic.

(b) This subsection (7) is repealed, effective July 1, 2021.

**Source: L. 64:** R&RE, p. 535, § 1. **C.R.S. 1963:** § 123-1-13. **L. 69:** p. 1022, § 1. **L. 75:** (1)(l) added, p. 686, § 2, effective July 1. **L. 77:** (1)(m) added, p. 1090, § 1, effective July 1. **L. 79:** (1)(f) amended and (2) added, pp. 774, 992, §§ 1, 2, effective July 1. **L. 83:** (1)(b) and (1)(i) amended, p. 833, § 34, effective July 1. **L. 84:** (1)(k) R&RE, p. 580, § 1, effective April 5. **L. 96:** (1)(b) amended, p. 1234, § 70, effective August 7. **L. 97:** (1)(n) added, p. 1138, § 5, effective May 28. **L. 98:** (1)(o) added, p. 986, § 3, effective July 1. **L. 2000:** (1)(h) amended, p. 349, § 2, effective April 10. **L. 2006:** (1)(n) amended, p. 2005, § 62, effective July 1. **L. 2007:** (1)(i) amended, p. 625, § 1, effective April 26; (3) added, p. 1065, § 3, effective May 23. **L. 2009:** (1)(h) amended, (SB 09-163), ch. 293, p. 1528, § 9, effective May 21. **L. 2012:** (4) added, (HB 12-1345), ch. 188, p. 730, § 20, effective May 19. **L. 2013:** (1)(p) and (1)(q) added, (HB 13-1219), ch. 104, p. 356, § 1, effective August 7. **L. 2014:** (2) amended, (SB 14-058), ch. 102, p. 380, § 8, effective April 7; (1)(r) added, (HB 14-1202), ch. 361, p. 1700, § 2, effective June 6. **L. 2016:** (6) added, (HB 16-1422), ch. 351, p. 1431, § 4, effective June 10; (1)(s) added, (SB 16-077), ch. 360, p. 1506, § 6, effective July 1; (5) added, (SB 16-209), ch. 235, p. 950, § 3, effective August 10. **L. 2018:** (1)(q)(III) amended, (HB 18-1379), ch. 250, p. 1541, § 7, effective May 24. **L. 2019:** (4) amended, (HB 19-1206), ch. 133, p. 598, § 4, effective April 25; (1)(t) added, (SB 19-057), ch. 35, p. 113, § 2, effective August 2. **L. 2020:** (7) added, (HB 20-1418), ch. 197, p. 957, § 43, effective June 30.

**Editor's note:** (1) Subsection (3)(b) provided for the repeal of subsection (3), effective July 1, 2008. (See L. 2007, p. 1065.)

(2) Subsection (1)(r)(II) provided for the repeal of subsection (1)(r), effective July 1, 2015. (See L. 2014, p. 1700.)

**Cross references:** (1) For duties of the commissioner of education concerning information as to respect for the flag and instruction on the U.S. constitution, see §§ 22-1-106 and 22-1-109; for duties concerning the use of eye protective devices in schools, see § 22-3-104; for duties concerning special education, see article 20 of this title; for the duty to review comprehensive health education programs, see § 22-25-105; for duties concerning educational clinics for public school dropouts, see article 27 of this title; for duties relating to the organization of school districts, see article 30 of this title; for duties concerning the Colorado school for the deaf and the blind, see article 80 of this title.

(2) For the legislative declaration contained in the 1996 act amending subsection (1)(b), see section 1 of chapter 237, Session Laws of Colorado 1996. For the legislative declaration in the 2012 act adding subsection (4), see section 11 of chapter 188, Session Laws of Colorado 2012. For the legislative declaration in SB 16-077, see section 1 of chapter 360, Session Laws of Colorado 2016. For the legislative declaration in HB 19-1206, see section 1 of chapter 133, Session Laws of Colorado 2019. For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

**22-2-113. Commissioner - powers.** (1) Subject to the supervision of the state board, the commissioner has the following powers:

(a) To perform all duties which may be required by law;

(b) To issue instructions to school district officers and employees concerning the government of the public schools under their control;

(c) To prescribe forms and items to be included in reports submitted by school district officers and employees and other persons;

(d) To construe provisions of the school laws on questions submitted to him in writing by any school district officer or employee or other person. Said construction may be published in either memorandum form or in any periodical devoted to the interest of education with general distribution to the public schools.

(e) To cause to be prepared, printed, and distributed report forms, registers, curriculum and instructional guides, pamphlets, and other materials as may be beneficial to personnel and pupils of the public schools. All publishing costs therefor shall be paid out of the funds appropriated to the department on warrants of the controller covering vouchers approved by the commissioner. A reasonable fee may be charged for any such materials delivered to a person not in the service of a school district or enrolled as a pupil in the public schools thereof. All receipts from such fees shall be deposited to the credit of the general fund.

(f) To recover a penalty fee from current state payments to a school district, a board of cooperative services as defined in section 22-5-103 (2), or a group care facility or home as defined by the department in its regulations when a certification to the department of education by such district, board, facility, or home for the determination of state funding by the department is not supported by generally accepted accounting principles upon audit by the department. The penalty fee shall be determined by the commissioner, but in no event shall such fee be less than fifty dollars nor more than twenty thousand dollars per initial audit.

(g) (I) To recover an interest fee from current state payments to a school district, a board of cooperative services as defined in section 22-5-103 (2), or a group care facility or home as defined by the department in its rules when a certification to the department by such district, board, or facility, for the determination of state funding, results in an overpayment to the district, board, facility, or home by the state. The interest amount shall be computed on the amount of overpayment at a rate that is equal to the earnings on the treasury pooled funds for the previous fiscal year, beginning from the final settlement date of the audit. The interest fee shall be recovered in addition to the recovery of the amount of the overpayment.

(II) (A) Notwithstanding the provisions of subparagraph (I) of this paragraph (g), for audits that begin on or after July 1, 2007, if the department determines through an audit of a school district or a group care facility or home that an overpayment of state funding has been made to the district, facility, or home due to an error in information submitted to the department, the commissioner shall not recover an interest fee from the district, facility, or home in addition to the amount of the overpayment if the district, facility, or home repays the overpayment within the period specified in sub-subparagraph (B) of this subparagraph (II).

(B) The period during which the commissioner shall not recover an interest fee pursuant to sub-subparagraph (A) of this subparagraph (II) shall be a period that is equal to the number of years and any fraction of a year between the settlement date of the audit in which the overpayment to the school district or group care facility or home was determined and the settlement date of the immediately preceding audit of the district, facility, or home. The period shall begin on the final settlement date of the audit in which the overpayment to the district, facility, or home was determined.

(C) If a school district or group care facility or home is unable to repay the total amount of the overpayment within the period specified in sub-subparagraph (B) of this subparagraph (II), the district, facility, or home and the department may negotiate an extension of the repayment period for the remaining amount of the overpayment; except that the commissioner shall recover the interest fee described in subparagraph (I) of this paragraph (g) on the remaining amount of the overpayment beginning on the day immediately following the expiration of the period specified in sub-subparagraph (B) of this subparagraph (II). The interest fee shall be recovered in addition to the recovery of the remaining amount of the overpayment.

(III) Notwithstanding any provision of subparagraph (I) or (II) of this paragraph (g) to the contrary, for the 2008-09 budget year, the commissioner may accept as repayment from a school district that has received an overpayment items for use by the department, including but not limited to lifetime online curriculum licenses, in the same value as the amount of the overpayment owed by the school district.

(h) To cooperate with local boards of education, pursuant to section 18-18-407 (2)(b), C.R.S., and make recommendations regarding the uniform implementation and furnishing of notice of the provisions of section 18-18-407 (2)(b), C.R.S.;

(i) To issue emergency orders concerning a charter school pursuant to section 22-30.5-703; and

(j) Subject to available appropriations, to expend appropriations to correct an underpayment of state funding to a school district, board of cooperative services, as defined in section 22-5-103, the state charter school institute, or a group care facility or home when a certification to the department by the school district, board, institute, facility, or home, for the determination of state funding by the department, includes an error in the information submitted to the department.

**Source: L. 64:** R&RE, p. 536, § 1. **C.R.S. 1963:** § 123-1-14. **L. 87:** (1)(f) and (1)(g) added, p. 824, § 1, effective April 22. **L. 90:** (1)(h) added, p. 990, § 4, effective April 16. **L. 92:** (1)(h) amended, p. 392, § 23, effective July 1. **L. 2007:** (1)(g) amended, p. 737, § 9, effective May 9. **L. 2009:** (1)(g)(III) added, (SB 09-256), ch. 294, p. 1563, § 25, effective May 21. **L. 2010:** (1)(i) added, (HB 10-1345), ch. 245, p. 1087, § 1, effective May 21. **L. 2020:** (1)(i) amended and (1)(j) added, (HB 20-1418), ch. 197, p. 957, § 44, effective June 30.

**Cross references:** (1) For power of commissioner of education to waive reporting requirements, see § 22-2-116.

(2) For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

**22-2-113.5. Educational programs for pupils in foster homes or placed by child placement agencies - study - repeal. (Repealed)**

**Source: L. 96:** Entire section added, p. 1799, § 22, effective June 4.

**Editor's note:** Subsection (4) provided for the repeal of this section, effective July 1, 1997. (See L. 96, p. 1799.)

**22-2-113.8. Department of education - additional local revenues - distribution to schools - annual report.** (1) For the 2014-15 budget year and each budget year thereafter, each school district shall report the total amount of additional local property tax revenues the district is authorized to collect in addition to the district's total program mill levy, but not including amounts authorized pursuant to section 22-40-110, article 42 of this title, or article 43 of this title, and the amount of the additional local property tax revenues that the school district distributes directly to schools of the school district, stated as a dollar amount.

(2) The department shall annually compile a report of the information received pursuant to subsection (1) of this section concerning the collection of additional local property tax revenues by each school district and the distribution of the revenues to the schools of the school district, including the charter schools. In addition to the compiled information, the report must include a comparison of the amount of additional local property tax revenues received by the school district and the amount distributed to the schools of the district, including the charter schools, at the district level and aggregated statewide.

(3) (a) The department shall allow each school district and each district charter school to review the report before publication. A school district or a charter school may request that the department compile an addendum to the report that is specific to the requesting school district or charter school and that examines the overall level of funding distributed by the school district to the charter schools of the district, including:

(I) Capital construction and facilities funding;

(II) Funding for technology; and

(III) Any other funding that the school district distributes to the charter schools of the district.

(b) The department shall simultaneously publish on the department website the report and any addenda prepared for the report in response to a school district or charter school request.

**Source: L. 2014:** Entire section added, (HB 14-1292), ch. 243, p. 909, § 13, effective May 21.

**Cross references:** For the short title ("Student Success Act") in HB 14-1292, see section 1 of chapter 243, Session Laws of Colorado 2014.

**22-2-114. Department of education - special programs. (Repealed)**

**Source: L. 85:** Entire section added, p. 720, § 1, effective July 1.

**Editor's note:** Subsection (5) provided for the repeal of this section, effective July 1, 1987. (See L. 85, p. 720.)

**22-2-114.1. Dropout rates - collection of data on grades seven through twelve.** (1) The general assembly hereby declares that the dropout rate indicates a waste of economic and human potential. Therefore a correct assessment of the number of students who fail to complete high school in the typical length of time is necessary in order to fully recognize and correct the problem.

(2) The state board of education shall develop and implement in cooperation with local boards of education a model student accounting method and data collection system on dropouts in grades seven through twelve, with results to be reported to the general assembly by January 1, 1988.

(2.5) to (3) (Deleted by amendment, L. 2010, (HB 10-1171), ch. 401, p. 1933, § 1, effective August 11, 2010.)

**Source: L. 86:** Entire section added, p. 799, § 1, effective April 3. **L. 93:** (3)(a) amended, p. 379, § 1, effective April 12. **L. 94:** Entire section amended and (2.7) added, pp. 615, 616, §§ 1, 2, effective July 1. **L. 99:** (3) amended, p. 1057, § 1, effective June 1. **L. 2007:** (3)(a) amended, p. 1087, § 10, effective July 1. **L. 2010:** Entire section amended, (HB 10-1171), ch. 401, p. 1933, § 1, effective August 11.

**22-2-115. Early childhood education program - study - report to general assembly. (Repealed)**

**Source: L. 85:** Entire section added, p. 726, § 1, effective July 1.

**Editor's note:** Subsection (2) provided for the repeal of this section, effective July 1, 1986. (See L. 85, p. 726.)

**22-2-116. Additional power - waiver of reporting requirements - review of reporting requirements.** (1) The commissioner may waive any requirements imposed by this title as to the reporting of data to the department or the state board by any school district which is eligible to receive the minimum amount of state moneys under the provisions of article 54 of this title, if the commissioner finds that any benefits from receiving such reports are outweighed by the district's increased administrative costs of reporting in light of its minimum share of state moneys.

(2) Repealed.

**Source: L. 88:** Entire section added, p. 809, § 3, effective January 1, 1989. **L. 94:** Entire section amended, p. 810, § 18, effective April 27. **L. 2005:** Entire section amended, p. 998, § 1, effective June 2. **L. 2007:** (2) repealed, p. 1064, § 2, effective May 23.

**22-2-116.5. Department of education - student-level course completion data.** Beginning with the 2014-2015 school year, the department shall annually collect student-level course completion data, consistent with state and federal privacy laws, from each local education agency in the state. The department shall establish a definition of course completion that may be consistently understood and applied and that must be periodically revised as appropriate. In developing the definition, the department shall work with interested parties to consider issues, including but not limited to whether students should be included in the database if they have enrolled in a course after a specified date or dropped a course before a specified date and whether course completion must be determined based on the receipt of particular grades or other criteria.

**Source: L. 2013:** Entire section added, (HB 13-1219), ch. 104, p. 357, § 3, effective August 7.

**22-2-117. Additional power - state board - waiver of requirements - rules.** (1) (a) Upon application of the board of education of any school district, the state board, except as prohibited in paragraph (b) of this subsection (1), may waive any of the requirements imposed by this title or by rule promulgated by the state board. The state board shall grant the waiver if it determines that it would enhance educational opportunity and quality within the school district and that the costs to the school district of complying with the requirements for which the waiver is requested significantly limit educational opportunity within the school district. Any school district board of education that applies for a waiver pursuant to this section shall specify in such application the manner in which it shall comply with the intent of the waived rules or statutes and shall be accountable to the state board for such compliance.

(b) The state board shall not waive any of the requirements specified in any of the following statutory provisions:

(I) The "Public School Finance Act of 1994", article 54 of this title;

(II) The "Exceptional Children's Educational Act", article 20 of this title;

(III) Any provision of part 5 of article 11 of this title pertaining to the data necessary for performance reports;

(IV) Any provision of this title 22 that relates to fingerprinting and criminal history record checks of educators and school personnel;

(V) The "Children's Internet Protection Act", article 87 of this title 22;

(VI) The requirement to post on the internet the statutes for which waivers are granted as provided in section 22-44-305;

(VII) Any provisions of section 22-1-130 relating to notification to parents of alleged criminal conduct by school district employees;

(VIII) Section 22-33-106.1 concerning suspension and expulsion of students in preschool through second grade;

(IX) Any provisions of section 22-1-128 relating to comprehensive human sexuality education content requirements; or

(X) Any provision of section 22-30.5-104 (3), 22-30.5-507 (3), 22-32-109 (1)(ll), 22-32-110 (1)(k), 22-38-104 (1)(d), or 22-63-206 (1) relating to discrimination based on hair texture, hair type, or a protective hairstyle that is commonly or historically associated with race.

(c) A principal of a public school may initiate a request for a waiver pursuant to this section and shall submit such request to the superintendent and the board of education of the school district in which the public school is located. Such waiver, if granted, shall be limited in application to the public school, unless otherwise designated by the school district. The school district may choose either to adopt such request and apply to the state board for a waiver pursuant to this section or not adopt such request.

(d) In addition to any requirements for a waiver application that are specified in this subsection (1), any application submitted by a school district that has a funded pupil count, as defined in section 22-54-103 (7), of three thousand or more pupils shall demonstrate that such application has the consent of a majority of the appropriate accountability committee, a majority of the affected licensed administrators, and a majority of the teachers of the affected school or district.

(1.5) Notwithstanding any provision of this section or any other provision of law, the state board shall not waive requirements contained in article 11 of this title or sections 22-7-1006.3, 22-32-105, 22-32-109 (1)(bb)(I) and (2), 22-32-109.1 (2)(a), 22-32-146, and 22-33-104 (4).

(2) Prior to submitting an application for a waiver as provided in subsection (1) of this section, a school district board of education, in a public meeting including a public hearing, shall adopt a resolution stating the board's intent to apply for a waiver and specifying the statutes and rules for which the board will request waivers. The school district board of education shall post notice of such public meeting in three public places within the district for a period of not less than thirty calendar days prior to such meeting, giving the time and location of such meeting and a description of the waiver request, and, if a newspaper is published within the county, shall publish such notice once each week for at least four weeks prior to the meeting in such newspaper. At least sixty days prior to such public meeting and hearing, the school district board of education shall meet with the school district accountability committee to consult with the committee concerning the intent to seek the waiver.

(3) (a) Any waiver made pursuant to the provisions of this section shall continue until such time as:

(I) The school district board of education that holds the waiver by resolution requests revocation of the waiver; or

(II) The state board receives evidence that constitutes good and just cause for revocation of the waiver, as determined by the state board.

(b) The state board may revoke a waiver granted pursuant to this section only by action taken in a public meeting and hearing.

(4) The provisions of this section shall not apply to any waiver requested by a charter school pursuant to sections 22-30.5-104 (6) and 22-30.5-105 (3). Waiver requests by a charter school shall be governed by the provisions of said sections.

(5) The state board shall promulgate such rules as are necessary to implement the provisions of this section regarding the waiver application process.

(6) Notwithstanding any provision of this section to the contrary, a school district that has been granted by the state board exclusive authority to charter schools within its geographic boundaries pursuant to section 22-30.5-504 shall not be required to demonstrate that it has obtained the consent of a majority of the appropriate accountability committee, a majority of the affected licensed administrators, and a majority of the teachers of the affected school or district in order to apply for a waiver of any of the requirements imposed by this title or by rule promulgated by the state board; except that such consent shall be required for an application for a waiver from any provisions of article 9 or articles 60.5 to 64 of this title.

**Source: L. 89:** Entire section added, p. 946, § 1, effective April 17. **L. 93:** (4) amended, p. 1061, § 2, effective June 3. **L. 94:** (2) amended, p. 1380, § 5, effective May 25. **L. 96:** (3) repealed, p. 1233, § 66, effective August 7. **L. 97:** (1) amended, p. 460, § 3, effective August 6. **L. 98:** (4) repealed, p. 317, § 1, effective April 17. **L. 2000:** (1) amended and (1.5) added, pp. 369, 349, §§ 20, 3, effective April 10; entire section R&RE, p. 522, § 1, effective August 2; (1)(b) amended, p. 375, § 33, effective August 2. **L. 2001:** (1.5) amended, p. 1271, § 23, effective June 5; (1)(b)(III) amended, p. 1498, § 20, effective June 8. **L. 2003:** (1)(b) amended, p. 2515, § 3, effective June 5; (1)(b)(V) added, p. 2477, § 32, effective August 15. **L. 2004:** (6)

added, p. 1617, § 3, effective July 1. **L. 2009:** (1)(b)(III) and (1.5) amended, (SB 09-163), ch. 293, p. 1529, § 10, effective May 21. **L. 2012:** (1.5) amended, (HB 12-1345), ch. 188, p. 747, § 34, effective May 19. **L. 2015:** (1.5) amended, (HB 15-1323), ch. 204, p. 721, § 21, effective May 20. **L. 2017:** (1)(b)(IV) and (1)(b)(V) amended and (1)(b)(VI) added, (HB 17-1375), ch. 287, p. 1596, § 6, effective June 2. **L. 2018:** (1)(b)(V) and (1)(b)(VI) amended and (1)(b)(VII) added, (HB 18-1269), ch. 268, p. 1653, § 2, effective August 15. **L. 2019:** (1)(b)(VI) and (1)(b)(VII) amended and (1)(b)(IX) added, (HB 19-1032), ch. 408, p. 3603, § 7, effective May 31; (1)(b)(VI) and (1)(b)(VII) amended and (1)(b)(VIII) added, (HB 19-1194), ch. 160, p. 1887, § 3, effective July 1, 2020. **L. 2020:** (1)(b)(VIII) and (1)(b)(IX) amended and (1)(b)(X) added, (HB 20-1048), ch. 8, p. 15, § 3, effective September 14.

**Editor's note:** (1) Amendments to subsection (1) in Senate Bill 00-186 were superseded by House Bill 00-1040.

(2) Subsection (1)(b)(V) was originally numbered as (1)(b)(IV) in Senate Bill 03-326, but has been renumbered on revision for ease of location.

(3) Section 13(2) of chapter 8 (HB 20-1048), Session Laws of Colorado 2020, provides that the act changing this section applies to conduct occurring on or after September 14, 2020.

**Cross references:** (1) For the legislative declaration in HB 19-1032, see section 1 of chapter 408, Session Laws of Colorado 2019. For the legislative declaration in HB 19-1194, see section 1 of chapter 160, Session Laws of Colorado 2019.

(2) For the short title ("Creating a Respectful and Open World for Natural Hair Act of 2020" or the "CROWN Act of 2020") and the legislative declaration in HB 20-1048, see sections 1 and 2 of chapter 8, Session Laws of Colorado 2020.

**22-2-118. Department of education - study of school district administration and staffing patterns. (Repealed)**

**Source: L. 89:** Entire section added, p. 965, § 11, effective June 7.

**Editor's note:** Subsection (2) provided for the repeal of this section, effective February 15, 1990. (See L. 89, p. 965.)

**22-2-119. Department of education - inquiries concerning prospective employees - background investigation fee.** (1) When an inquiry is made by a board of education of a school district pursuant to the provisions of section 22-32-109.7 (1) or (1.5), by the governing board of a nonpublic school pursuant to the provisions of section 22-1-121, by the governing board of a charter school pursuant to the provisions of section 22-30.5-110.5, or by the governing board of an institute charter school pursuant to the provisions of section 22-30.5-511.5, concerning a prospective or current employee, the department shall provide the following information concerning such person:

(a) Whether according to the records of the department such person has been convicted of, has pled nolo contendere to, or has received a deferred sentence for:

(I) A felony; or

(II) A misdemeanor crime involving unlawful sexual behavior or unlawful behavior involving children; or

(III) A misdemeanor crime, the underlying factual basis of which has been found by the court on the record to involve domestic violence, as defined in section 18-6-800.3 (1), C.R.S.;

(b) (I) Whether such person has been dismissed by, or has resigned from, a school district as a result of an allegation of unlawful behavior involving a child, including unlawful sexual behavior, which was supported by a preponderance of the evidence according to information required to be provided to the department by the school district pursuant to the provisions of section 22-32-109.7 (3);

(II) The department of education shall not disclose to any prospective employer any information reported to the department from a school district pursuant to section 22-32-109.7 (3) unless and until the department confirms that the allegation resulted in a finding of a confirmed report of child abuse or neglect. The department shall request a check of the records and reports of child abuse or neglect maintained by the state department of human services pursuant to the provisions of section 19-1-307 (2)(l), C.R.S.

(III) If the department confirms that the allegation resulted in a finding of a confirmed report of child abuse or neglect and the report concerning such person is subsequently expunged pursuant to the provisions of section 19-3-313.5 (3)(f), C.R.S., such person may notify the department that the report has been expunged. If the department verifies that the report has been expunged, the department shall remove such information about the person from the files kept by the department.

(b.5) Whether the person's educator license or certification has ever been denied, suspended, revoked, or annulled in this state or in another state, including but not limited to any information gained as a result of an inquiry by the department to a national teacher information clearinghouse;

(c) If a holder of a license or authorization pursuant to the provisions of article 60.5 of this title, whether such person's certificate, letter of authorization, authorization, or license has ever been annulled, suspended, or revoked pursuant to the provisions of section 22-60-110 (2)(b) as said section existed prior to July 1, 1999, or pursuant to article 60.5 of this title following a conviction, a plea of nolo contendere, or a deferred sentence for a crime involving unlawful sexual behavior or unlawful behavior involving children.

(2) Except for authorized inquiries made by boards of education, governing boards of nonpublic schools, governing boards of charter schools, or governing boards of institute charter schools, the department shall consider information held by the department to be confidential information and not subject to the provisions of part 2 of article 72 of title 24, C.R.S. Any person who releases such information in violation of this subsection (2) shall be subject to the penalties set forth in section 24-72-206, C.R.S.; except that any person who releases information received by the department concerning information contained in the records and reports of child abuse or neglect maintained by the state department of human services shall be deemed to have violated section 19-1-307 (4), C.R.S.

(3) (a) When providing the information required in subsection (1) of this section, the department shall provide the information within the following timelines:

(I) For information that the department possesses at the time of the request, the department shall provide the information no later than ten business days following the receipt of the inquiry;

(II) For information that the department must obtain by a background check, the department shall provide the information no later than ten business days following the receipt of the information.

(b) If provisions of this subsection (3) increase the costs for the department and the department increases educator licensing fees to address the increased costs, the increase shall be no greater than necessary and shall be included in the department's annual budget request to the joint budget committee.

(4) (a) A school district shall verify the results of a fingerprint-based criminal history record check performed for the department on a school employee or applicant, and the Colorado bureau of investigation shall share the information from the initial fingerprint-based criminal history record check with the requesting entity.

(b) When the Colorado bureau of investigation provides the department with an update regarding a school employee who was previously subject to a fingerprint-based criminal history record check, the department shall provide that update to each school district and charter school in the state. Each school district and charter school shall cross-check its employee list with the provided update and take appropriate action, if necessary.

(5) The department may collect a background investigation fee in responding to inquiries pursuant to this section submitted regarding a person who does not hold an educator license issued pursuant to article 60.5 of this title. The state board, by rule, shall establish the amount of the background investigation fee to generate an amount of revenue that approximates the direct and indirect costs incurred by the department in responding to inquiries pursuant to this section regarding unlicensed persons. The department shall transmit the fees collected pursuant to this section to the state treasurer who shall credit the fees to the educator licensure cash fund, created pursuant to section 22-60.5-112.

**Source: L. 90:** Entire section added, p. 1028, § 17, effective July 1. **L. 93:** IP(1) amended, p. 611, § 1, effective April 30; (1)(b) amended, p. 634, § 2, effective July 1. **L. 96:** (1)(b)(II) amended, p. 1174, § 11, effective January 1, 1997. **L. 99:** IP(1) and (1)(a) amended, p. 1102, § 3, effective July 1. **L. 2000:** (1)(c) amended, p. 1849, § 40, effective August 2. **L. 2003:** IP(1)(a) and (1)(a)(II) amended and (1)(a)(III) added, p. 2515, § 4, effective June 5; (1)(b)(II), (1)(b)(III), and (2) amended, p. 1408, § 15, effective January 1, 2004. **L. 2008:** IP(1) and (2) amended and (1)(b.5) and (5) added, pp. 1659, 1660, §§ 1, 2, effective May 29; (3) and (4) added, p. 2224, § 1, effective June 5.

**Cross references:** For the legislative declaration contained in the 2003 act amending subsections (1)(b)(II), (1)(b)(III), and (2), see section 1 of chapter 196, Session Laws of Colorado 2003.

**22-2-119.3. Department of education - educator preparation program students - criminal history record check - fee - definitions.** (1) A student requesting a criminal history record check must submit to the Colorado bureau of investigation a complete set of his or her fingerprints taken by a qualified law enforcement agency, an authorized employee of the department and notarized, or any third party approved by the Colorado bureau of investigation. If an approved third party takes the person's fingerprints, the fingerprints may be electronically captured using Colorado bureau of investigation-approved livescan equipment. Third-party

vendors shall not keep the student information for more than thirty days unless requested to do so by the student. The student shall submit the fingerprints for the purpose of obtaining a fingerprint-based criminal history record check through the Colorado bureau of investigation and the federal bureau of investigation to determine whether the student has a criminal history. The student shall pay to the Colorado bureau of investigation the fee established by the bureau for conducting the criminal history record check. Upon completion of the criminal history record check, the bureau shall forward the results to the department.

(2) On a form provided by the department, the student shall:

(a) Certify, under penalty of perjury, either:

(I) That he or she has never been convicted of committing any felony or misdemeanor, but not including any misdemeanor traffic offense or traffic infraction; or

(II) That he or she has been convicted of committing any felony or misdemeanor, but not including any misdemeanor traffic offense or traffic infraction. Such certification shall specify such felony or misdemeanor for which convicted, the date of such conviction, and the court entering the judgment of conviction.

(b) Furnish the following information to the department:

(I) The educator preparation program in which the student is enrolled;

(II) The school districts or charter schools in which the student has been placed for field experiences; and

(III) Any other information required by the department to release the results of a criminal history record check pursuant to this section.

(3) When the results of a fingerprint-based criminal history record check of a student performed pursuant to this section reveals a record of arrest without a disposition, the department shall perform a name-based criminal history record check of that student.

(4) (a) Within seven days of receiving the results of a criminal history record check conducted pursuant to this section, the department shall provide the results of such criminal history record check, to the extent permitted by state or federal law or regulation, to the educator preparation program in which the student is enrolled and to any school district or charter school that has made an inquiry to the department concerning the results of a criminal history record check of a student who has been placed in the school district or charter school for field experiences.

(b) The student shall provide, on a form approved by the department, additional school districts or charter schools in which the student has been placed for field experiences.

(c) When the Colorado bureau of investigation provides the department with an update regarding a student who was previously subject to a fingerprint-based criminal history record check, the department shall provide that update to each education preparation program, school district, and charter school identified by the student as a school district or charter school in which the student has been placed for field experiences pursuant to this section.

(5) The department may establish and collect a fee that is based on the department's actual costs associated with administration of this section.

(6) For purposes of this section, unless the context otherwise requires:

(a) "Charter school" means a charter school authorized by a school district pursuant to part 1 of article 30.5 of this title 22 or a charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title 22.

(b) "Convicted" or "conviction" means a conviction by a jury verdict or by entry of a verdict or acceptance of a guilty plea by a court and also includes the forfeiture of any bail, bond, or other security deposited to secure the appearance by a person charged with having committed a felony or misdemeanor, the payment of a fine, a plea of nolo contendere, the imposition of a deferred or suspended sentence by the court, or an agreement for a deferred prosecution approved by the court.

(c) "Educator preparation program" means an approved educator preparation program as defined in section 23-1-121.

(d) "Name-based criminal history record check" means a background check performed using judicial department records that includes an individual's conviction and final disposition of case records.

(e) "Student" means a student enrolled in an educator preparation program who has been placed in a school district or charter school for a position that will provide field experiences to prepare the student to be a teacher or other school professional.

**Source: L. 2018:** Entire section added, (SB 18-229), ch. 232, p. 1449, § 1, effective August 8.

**22-2-119.5. Department of education - duty to report - convictions.** (1) Upon receiving a report from a court pursuant to section 13-1-130, C.R.S., that a person has been convicted of, pled guilty or nolo contendere to, or received a deferred sentence for an offense specified in subsection (2) of this section, the department shall immediately report such fact to the school district that is the current employer or the last known employer of the person.

(2) The provisions of this section shall apply to the following offenses:

(a) A felony;

(b) A misdemeanor offense specified in section 18-7-302 (2)(b), C.R.S., or part 4 of article 3, part 4 of article 6, or part 4 of article 7 of title 18, C.R.S., or any counterpart municipal law of this state;

(c) A misdemeanor, the underlying factual basis of which has been found by the court on the record to involve domestic violence, as defined in section 18-6-800.3 (1), C.R.S.

**Source: L. 2003:** Entire section added, p. 2515, § 5, effective June 5.

**22-2-120. Department of education - study of optimum school size and the feasibility of school district reorganization. (Repealed)**

**Source: L. 90:** Entire section added, p. 1085, § 48, effective May 31.

**Editor's note:** Subsection (2) provided for the repeal of this section, effective January 1, 1992. (See L. 90, p. 1085.)

**22-2-121. Department of education - funding for national academic award winners. (Repealed)**

**Source: L. 97:** Entire section added, p. 1058, § 1, effective May 27. **L. 2006:** Entire section repealed, p. 596, § 5, effective August 7.

**22-2-121.5. National academic contest fund - balance of moneys - transfer. (Repealed)**

**Source: L. 2011:** Entire section added, (SB 11-218), ch. 151, p. 525, § 1, effective May 5. **L. 2015:** Entire section repealed, (SB 15-264), ch. 259, p. 953, § 43, effective August 5.

**22-2-122. Grants to schools and school districts.** (1) (a) In preparing the application forms to be submitted by school districts or public schools when applying for grant moneys, except as otherwise required by statute, the department shall not require information from public schools or school districts which has been previously submitted to the department; except that this prohibition shall not apply to annual updates of information sought by the department.

(b) In preparing said application forms and in reviewing submitted applications, the department shall utilize a database of pertinent data previously received from, or otherwise obtained regarding, schools and school districts, so as to minimize the need to require schools and school districts to send duplicative information.

(2) Whenever, as part of a grant program, the department or a school or school district is required to prepare an evaluation of the effectiveness of the services provided using the grant moneys, the department shall compile the evaluations and make such evaluations readily available to all schools and school districts upon request. Any costs associated with the compilation and availability of such reports shall be paid from the amount appropriated to the department for costs incurred in administering such grant programs.

(3) (a) For each budget year, the department shall allocate to the boards of cooperative services established pursuant to article 5 of this title that provide a wide range of services described in section 22-5-118 to their member school districts, or school districts with student populations of less than four thousand students, an amount equal to one percent of the amount appropriated to all education grant programs for that fiscal year, or two hundred fifty thousand dollars, whichever is less. The amount allocated to the boards of cooperative services pursuant to this subsection (3) shall be taken from the amounts appropriated to all education grant programs. In the event the department allocates two hundred fifty thousand dollars, such amount shall be taken from each education grant program in the same proportion that the amount appropriated for that fiscal year to the education grant program bears to the total amount appropriated for that fiscal year to all education grant programs.

(b) The department shall proportionately divide the moneys allocated pursuant to this subsection (3) among the boards of cooperative services described in paragraph (a) of this subsection (3) on a per school district basis, based on the total number of school districts that have student populations of less than four thousand students and are members of boards of cooperative services that shall receive moneys pursuant to this subsection (3).

(c) The boards of cooperative services that receive moneys pursuant to this subsection (3) shall only use such moneys to assist member school districts and schools in applying for grants from education grant programs. One or more boards of cooperative services may use the moneys allocated pursuant to this subsection (3) jointly to provide services to member school districts from more than one board of cooperative services.

**Source: L. 2002:** Entire section added, p. 326, § 1, effective August 7. **L. 2003:** (1)(a), (2), (3)(a), and (3)(c) amended, p. 2140, § 44, effective May 22.

**22-2-123. Eligible facilities education task force - creation - membership - duties - repeal. (Repealed)**

**Source: L. 2002:** Entire section added, p. 907, § 2, effective July 1. **L. 2003:** (3) amended, p. 2006, § 81, effective May 22.

**Editor's note:** Subsection (7) provided for the repeal of this section, effective January 1, 2004. (See L. 2002, p. 907.)

**22-2-124. Family literacy education grant program - rules - repeal. (Repealed)**

**Source: L. 2002:** Entire section added, p. 814, § 2, effective May 30. **L. 2003:** (9) amended, p. 2166, § 1, effective June 3. **L. 2006:** (9)(b)(I) amended, p. 597, § 6, effective August 7; (2)(c)(I) amended, p. 1213, § 6, effective July 1, 2007. **L. 2007:** (7)(c) repealed, p. 756, § 3, effective May 10; (9)(a)(I) repealed, p. 1038, § 10, effective May 22; (9) amended, p. 1406, § 2, effective May 30. **L. 2012:** (2)(i)(XI) and (2)(i)(XII) amended, (HB 12-1120), ch. 27, p. 107, § 21, effective June 1. **L. 2014:** (10) added, (HB 14-1085), ch. 343, p. 1534, § 2, effective June 5.

**Editor's note:** Subsection (10) provided for the repeal of this section, effective July 1, 2014. (See L. 2014, p. 1534.)

**22-2-125. Loan program for capital improvements in growth school districts - use of public school fund.** (1) For purposes of this section:

(a) "Capital improvement" means:

(I) The acquisition or purchase of buildings or grounds;

(II) The enlargement, improvement, remodeling, repairing, or making of additions to any school building;

(III) The construction or erection of school buildings;

(IV) The equipping or furnishing of any school building, but only in conjunction with a construction project for a new building or for an addition to an existing building or in conjunction with a project for substantial remodeling, improvement, or repair of an existing building; or

(V) The improvement of school grounds.

(b) "Growth district" means any district whose supplemental pupil enrollment exceeded the district's pupil enrollment for the most recently completed budget year by a number greater than one percent of the district's pupil enrollment for that budget year or fifty pupils, whichever is less.

(2) As authorized under the provisions of section 3 of article IX of the state constitution, the state treasurer may make loans to growth districts for the purpose of funding capital improvements. The procedures for the making of loans shall be determined by the state treasurer subject to the following:

(a) No loan shall be authorized for any capital improvement that has not been approved by the state board in accordance with subsection (3) of this section.

(b) No loan shall be authorized in an amount other than the amount determined by the state board unless the state board approves the change in the loan amount; except that the state board shall not authorize an amount of a loan for any growth district that exceeds ten percent of the amount of the public school fund that the state treasurer has determined may be loaned out in accordance with subsection (5) of this section.

(c) No loan shall be authorized unless the debt is approved by the voters of the growth district.

(d) No loan shall be authorized unless the method for repayment of the loan is specified in the application. If the loan is to be repaid from a property tax mill levy, such levy must be approved at the same election that authorized the creation of the debt.

(e) The loan shall be made as soon as possible upon approval of the loan by the state board.

(3) (a) On and after January 1, 2003, a growth district may apply to the state board for a loan of public school fund moneys to be used by the growth district to pay for one or more capital improvements. The amount of the loan requested shall be an amount equal to the full cost of the capital improvement or a lesser amount that in combination with other financial resources of the growth district shall allow the capital improvement to be completed. The loan application shall be in a form prescribed by the state board and shall include:

(I) A description of the capital improvement for which a loan is sought and a statement of the reasons why the capital improvement is necessary;

(II) A timeline for completion of the capital improvement;

(III) A building permit for the capital improvement, if applicable;

(IV) A statement of the amount of the loan requested together with an estimate of the cost of the capital improvement prepared by a qualified builder or contractor. If the amount of the loan requested differs from the amount of the estimate of the cost of the capital improvement, the growth district shall also provide an explanation for the difference.

(V) A plan for repaying the loan, including a proposed repayment schedule;

(VI) A statement of the amount of moneys from other sources, if any, that the growth district intends to use to help defray the costs of the capital improvement; and

(VII) Any additional information that the state board may reasonably require, by rules promulgated in accordance with article 4 of title 24, C.R.S., to help it determine whether or not to approve the loan application.

(b) To ensure that a growth district applying for a loan can move forward with any capital improvements quickly or develop alternative financing strategies without undue delay, the state board shall approve or disapprove a loan application no later than forty-five days after the application is submitted. To ensure that loan applications can be processed efficiently, the state board may delegate the authority to approve loan applications to a designated employee of the department. The state board or its designee shall consider all of the information in an application before approving or disapproving the application and a growth district whose loan application is denied shall have no right to further review by the state board or its designee.

(4) The state board shall establish a repayment schedule that shall require the growth district to make monthly payments on the loan and fully repay all moneys borrowed within ten years after the date a loan is made available pursuant to subsection (2) of this section.

(5) The state treasurer shall determine the amount of the public school fund that may be loaned out pursuant to this section and the rate of interest to be charged on loans. The state treasurer shall charge interest on loans made at a rate designed to match the rate of interest derived from the deposit and investment of moneys in the public school fund. Payments of the principal of and interest on all loans shall be returned to the fund.

(6) The general assembly shall appropriate money from the general fund to restore moneys to the public school fund, together with interest, that are lost by reason of the failure of any school district to repay a loan made pursuant to this section.

**Source: L. 2002:** Entire section added, p. 1742, § 15, effective June 7.

**Editor's note:** This section was originally numbered as 22-2-122 in House Bill 02-1349 but has been renumbered on revision for ease of location.

**22-2-126. On-line education programs - study - report - repeal. (Repealed)**

**Source: L. 2002:** Entire section added, p. 1781, § 46, effective June 7.

**Editor's note:** Subsection (5) provided for the repeal of this section, effective January 1, 2003. (See L. 2002, p. 1781.)

**22-2-127. Financial literacy - resource bank - technical assistance.** (1) As used in this section, "financial literacy" means knowledge of personal finances that is sufficient to enable a person to manage savings, investment, and checking accounts, to design and maintain a household budget, to manage personal debt, to understand consumer credit and finance, to manage personal credit options, and to understand and select among short-term and long-term investment options.

(2) The state board shall create and maintain a resource bank of materials pertaining to financial literacy. At a minimum, the resource bank shall include national model standards for financial literacy, model programs of instruction for financial literacy, model financial literacy curricula, and model materials for professional educator development in teaching financial literacy. The resource bank shall also include a list of the available mathematics and economics textbooks that contain substantive provisions on personal finance, including personal budgeting, credit, debt management, and similar personal finance topics. The state board shall ensure that the materials included in the resource bank represent the best practices in the teaching of financial literacy. The materials in the resource bank shall be available to school districts not later than March 15, 2005.

(3) Upon the request of a school district or a charter school, the department shall provide technical assistance to the school district or charter school in designing a curriculum of financial literacy.

(4) The department shall implement the provisions of this section to the fullest degree possible within existing resources. The department shall contract with one or more entities for the implementation of this section.

(5) The general assembly hereby finds and declares that, for purposes of section 17 of article IX of the state constitution, creation of a resource bank of materials pertaining to financial

literacy is an important element of an accountable program to meet state academic standards and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

(6) The department is authorized to accept and expend any gifts, grants, or donations that may be available from any private or public sources for the implementation of this section. All private and public funds received through gifts, grants, or donations pursuant to this subsection (6) shall be transmitted to the state treasurer, who shall credit the same to the financial literacy cash fund, which fund is hereby created and referred to in this subsection (6) as the "fund". The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs associated with the implementation of this section. Any moneys in the fund not expended for the purposes of this section may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

**Source: L. 2004:** Entire section added, p. 1773, § 1, effective June 4. **L. 2011:** (6) amended, (SB 11-218), ch. 151, p. 525, § 2, effective May 5. **L. 2015:** (6) amended, (SB 15-264), ch. 259, p. 953, § 44, effective August 5.

**22-2-127.3. Holocaust and genocide studies - resource bank - technical assistance - definitions.** (1) As used in this section, unless the context otherwise requires:

(a) "Genocide" has the same meaning as set forth in section 22-1-104.7 (1)(a).

(b) "Holocaust" has the same meaning as set forth in section 22-1-104.7 (1)(b).

(c) "Holocaust and genocide studies" has the same meaning as set forth in section 22-1-104.7 (1)(c).

(2) (a) The department shall create and maintain a publicly available resource bank of materials pertaining to Holocaust and genocide courses and programs. At a minimum, the resource bank must include:

(I) Sample academic content standards for Holocaust and genocide studies;

(II) Sample programs of instruction for Holocaust and genocide studies;

(III) Samples of Holocaust and genocide studies learning resources, including first-person testimony;

(IV) Sample materials for professional educator development in teaching Holocaust and genocide studies; and

(V) Case studies on the Holocaust and genocides, including but not limited to the Armenian Genocide.

(b) The department shall ensure that the materials included in the resource bank represent the best practices in teaching Holocaust and genocide studies, and the department shall seek input from experts in the area of Holocaust and genocide studies in compiling the materials.

(c) The department shall ensure that the resource bank is available for access by school districts, charter schools, boards of cooperative services, and the public by July 1, 2021.

(3) To the extent such resources and tools are readily available to the department, the resource bank may also:

(a) Identify existing resources and tools that provide opportunities for experts in Holocaust and genocide studies to be paired with a teacher in the classroom to co-teach courses in Holocaust and genocide studies; and

(b) Include a listing of schools and school districts that are interested in finding experts who wish to volunteer to co-teach courses in Holocaust and genocide studies and a listing of experts who are interested in volunteering to co-teach such courses.

(4) The department may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section.

**Source: L. 2020:** Entire section added, (HB 20-1336), ch. 252, p. 1228, § 3, effective July 8.

**22-2-127.5. Computer science programs - resource bank.** (1) (a) The department shall create and maintain a publicly available resource bank of materials pertaining to computer science courses and programs. At a minimum, the resource bank must include sample academic content standards for computer science education, sample programs of instruction for computer science, samples of computer science learning resources, and sample materials for professional educator development in teaching computer science. The department shall ensure that the materials included in the resource bank represent the best practices in teaching computer science and shall seek input from experts in the area of computer science in creating and compiling the materials.

(b) The department shall ensure that the resource bank is available for access by school districts, charter schools, boards of cooperative services, and the public by July 1, 2018.

(c) The department shall implement the provisions of this section to the fullest degree possible within existing resources. The department may contract with one or more entities in implementing this section.

(2) A school district, charter school, or board of cooperative services may choose whether to provide classes in computer science and whether to use the materials in the resource bank to provide those classes.

(3) The resource bank may also identify existing resources and tools that provide opportunities for industry experts in computer science and technology to be paired with a teacher in the classroom to co-teach courses in computer science. The resource bank may also include a listing of schools and school districts that are interested in finding industry experts who wish to volunteer to co-teach computer science courses, and a listing of industry experts who are interested in volunteering to co-teach computer science courses.

(4) The department may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section. The department shall not create the resource bank pursuant to this section unless the department receives sufficient gifts, grants, or donations to implement this section.

**Source: L. 2017:** Entire section added, (HB 17-1184), ch. 145, p. 487, § 3, effective August 9.

**Cross references:** For the legislative declaration in HB 17-1184, see section 1 of chapter 145, Session Laws of Colorado 2017.

**22-2-127.7. Marijuana education materials - resource bank - technical assistance.** (1) (a) The department, with assistance from the department of public health and environment, shall create and maintain a resource bank of evidence-based, research-based, and promising program materials and curricula pertaining to marijuana, which materials and curricula may be used in elementary and secondary schools in the state. In creating the resource bank and curricula, the department, with the marijuana educational oversight committee established pursuant to section 24-20-112 (4), shall solicit input from persons both inside and outside of the marijuana industry. Subject to available appropriations, the department shall solicit requests for information and may contract for:

(I) The organization and enhancement of the resource bank, including materials on the prevention of marijuana use and education on medical and retail marijuana;

(II) The development of marijuana curricula for schools and providing such curricula to schools; and

(III) Training for educators and school staff concerning marijuana.

(b) The resource bank created pursuant to subsection (1)(a) of this section may be known as the "Jack Splitt Memorial Marijuana Resource Bank".

(2) On and after July 1, 2017, the department shall make material in the resource bank available without charge to school districts, charter schools, and boards of cooperative services. At the request of a school district, charter school, or board of cooperative services, the department shall provide technical assistance to the school district, charter school, or board of cooperative services in designing age-appropriate curricula pertaining to marijuana use.

(3) After the resource bank and curricula are available, school districts, charter schools, and boards of cooperative services are encouraged to report to the department on the effectiveness of the resource bank and curricula and to recommend changes to improve the resource bank or curricula. The department is encouraged to update the resource bank and curricula based on recommendations from school districts, charter schools, and boards of cooperative services.

**Source: L. 2017:** Entire section added, (SB 17-025), ch. 306, p. 1661, § 1, effective June 2.

**22-2-127.9. Mental health education literacy - resource bank - technical assistance.** (1) The department, with assistance from the office of suicide prevention created pursuant to section 25-1.5-101 (1)(w)(I), the Colorado youth advisory council created pursuant to section 2-2-1302, and the suicide prevention commission created pursuant to section 25-1.5-111, shall create and maintain a resource bank of evidence-based, research-based, and promising program materials and curricula pertaining to mental health, which materials and curricula may be used in elementary and secondary schools in the state. The resource bank and curricula must be youth-friendly, culturally sensitive, and available in both English and Spanish. In creating the resource bank and curricula, the department may provide internet links to resources and materials pertaining to mental health available from other entities that the department finds reliable. Additionally, the department shall solicit input from persons, including youth, within and outside of the mental health profession, including both community and school mental health professionals. Subject to available appropriations, the department shall solicit requests for information and may contract for:

(a) The organization and enhancement of the resource bank, including materials on the prevention of suicide and education on mental health;

(b) The development of mental health curricula for schools and providing such curricula to schools; and

(c) Training for educators and school staff concerning mental health.

(2) On and after July 1, 2020, the department shall make material in the resource bank available without charge to school districts, charter schools, institute charter schools, boards of cooperative services, professional educators, parents or guardians of youth, students, and community providers. At the request of a school district, charter school, institute charter school, or board of cooperative services, the department shall provide technical assistance to the school district, charter school, institute charter school, or board of cooperative services in designing age-appropriate curricula pertaining to mental health.

(3) The materials and resources available to students must be developed and updated with input from youth.

(4) School districts, charter schools, institute charter schools, and boards of cooperative services are encouraged to report to the department on the effectiveness of the resource bank and curricula and to recommend changes to improve the resource bank or curricula. The department is encouraged to update the resource bank and curricula based on recommendations from school districts, charter schools, institute charter schools, boards of cooperative services, professional educators, parents or guardians of youth, students, and community providers.

**Source: L. 2019:** Entire section added, (HB 19-1120), ch. 197, p. 2149, § 4, effective May 16.

**Cross references:** For the legislative declaration in HB 19-1120, see section 1 of chapter 197, Session Laws of Colorado 2019.

**22-2-128. Department of education - reciprocal agreements with adjacent states - report.** (1) The department shall, to the extent that each state that is adjacent to Colorado is agreeable, negotiate a reciprocal agreement with each such state to allow a child who is a resident of one state to attend a public school in the other state without paying tuition when the geographic conditions or distances are such that it would be impracticable for the child to attend the schools of his or her own state.

(2) On or before January 31, 2007, the department shall submit to the education committees of the house of representatives and the senate, or any successor committees, a report that includes but need not be limited to a list of the states that are adjacent to Colorado that have entered into a reciprocal agreement with Colorado pursuant to subsection (1) of this section.

**Source: L. 2006:** Entire section added, p. 662, § 5, effective April 28.

**22-2-129. Department of education - approved supplemental education services providers - list.** (1) As used in this section, unless the context otherwise requires, "supplemental education services" means tutoring services and other academic enrichment services required to be provided to eligible students pursuant to 20 U.S.C. sec. 6316 (e) and that are provided to students in addition to the standard curriculum of instruction provided during the school day.

(2) The department shall annually issue a request for proposals through which providers of supplemental education services may apply to the department to be included on the list of approved supplemental education services providers. The department shall review the applications and include on the list the applying providers that meet the criteria specified in subsection (3) of this section. The department shall annually post on its website the list of approved supplemental education services providers for use by school districts in selecting providers of supplemental education services to meet the requirements of 20 U.S.C. sec. 6316 (e).

(3) To be included on the list of approved providers of supplemental education services, a provider shall:

(a) Demonstrate that each tutor employed by the provider meets the requirements specified for paraprofessionals under 20 U.S.C. sec. 6319 (c);

(b) Ensure that all personnel employed by the provider who interact with students comply with the fingerprinting and criminal history record check requirements specified for educator licensees in section 22-60.5-103;

(c) In providing advertising and informational materials to parents and students, refrain from making any representations as to whether a school district shall pay all or any portion of the cost of the supplemental education services provided by the provider; and

(d) Comply with any additional requirements specified by the department in the annual request for proposals.

**Source: L. 2007:** Entire section added, p. 408, § 1, effective August 3.

**22-2-130. Supplemental online education grant program - legislative declaration - definitions - creation - eligibility - award - fund.** (1) The general assembly finds that:

(a) Online education courses that are supplemental to the education program provided by a school district, charter school, or BOCES are a valuable resource for schools because they allow a school district, charter school, or BOCES to provide a much richer, more varied curriculum of courses for students at all levels of achievement. Further, enrollment in such courses decreases the need for college remediation and helps prepare students to meet higher education admission guidelines.

(b) Although small or rural school districts, charter schools, and BOCES may have the greatest need for supplemental online education, these school districts, charter schools, and BOCES may face financial or technical barriers when attempting to provide supplemental online education courses to their students. Often these barriers are conquerable but out of reach for these school districts, charter schools, and BOCES.

(b.5) Educational programs provided for students in out-of-home placement or through day treatment facilities are generally small and have difficulty accessing resources or employing a large number of teachers. Supplemental online education courses are especially helpful and necessary for facility schools to enable them to provide a much wider variety of courses and to help their students meet graduation standards.

(c) It is therefore in the best interests of the state to help small or rural school districts, charter schools, BOCES, and facility schools provide supplemental online education courses to their students by allowing these school districts, charter schools, facility schools, and BOCES to apply for grants to help them overcome their financial and technical barriers.

(2) As used in this section, unless the context otherwise requires:

(a) "BOCES" means a board of cooperative services created pursuant to article 5 of this title, all member school districts of which are eligible school districts.

(b) "Eligible charter school" means:

(I) A charter school that is authorized by an eligible school district pursuant to part 1 of article 30.5 of this title and that does not operate an online program or as an online school; or

(II) An institute charter school that is authorized pursuant to part 5 of article 30.5 of this title, that enrolls fewer than three thousand students, as determined by the institute charter school's pupil enrollment certified by the state charter school institute on behalf of the institute charter school to the state board pursuant to section 22-30.5-513 (3)(a), and that does not operate an online program or as an online school.

(c) "Eligible school district" means a school district that does not export an online program or online school to students receiving the program at a location outside of the school district's geographic boundaries and that enrolls fewer than three thousand students, as determined by the school district's pupil enrollment certified to the state board pursuant to section 22-54-112.

(c.5) "Facility school" means an approved facility school as defined in section 22-2-402 (1).

(d) "Grant program" means the supplemental online education grant program created in subsection (3) of this section.

(e) "Provider" means an entity that sells supplemental online education courses that are taught by employees of the provider who are teachers licensed in Colorado pursuant to article 60.5 of this title.

(f) "Supplemental online education course" means an education course that is:

(I) Taught by a teacher who is licensed pursuant to article 60.5 of this title;

(II) Delivered via an internet format to one or more students at a location that is remote from the delivery point; and

(III) Purchased by an eligible school district, eligible charter school, BOCES, or facility school from a provider to augment the education program provided by the eligible school district, eligible charter school, BOCES, or facility school.

(3) There is hereby created the supplemental online education grant program to assist an eligible school district, an eligible charter school, a BOCES, or a facility school in providing supplemental online education courses to students. Subject to available appropriations, the state board shall award grants pursuant to this section to assist eligible school districts, eligible charter schools, BOCES, and facility schools in removing financial and technical barriers to providing supplemental online education courses. Grants awarded pursuant to this section shall be used for one or more of the following purposes:

(a) As additional reimbursement for the cost of purchasing supplemental online education courses; or

(b) To increase the eligible school district's, eligible charter school's, BOCES's, or facility school's ability to access supplemental online education courses by:

(I) Providing technical equipment or hiring technical specialists to audit and configure computer networks;

(II) Providing staff development and training for on-site personnel; or

(III) Providing financial assistance to help hire site coordinators or other personnel needed to facilitate online access.

(4) An eligible school district, an eligible charter school, a BOCES, or a facility school may apply to the department, in accordance with the procedures and time frames adopted by rule of the state board pursuant to subsection (5) of this section, to receive moneys through the grant program. The department shall administer the grant program as provided in this section.

(5) The state board shall promulgate rules specifying the procedures and time frames for applying for a grant, the form of the grant application, the information to be provided by the applicant, and any criteria for awarding grants that are in addition to those specified in paragraph (b) of subsection (6) of this section.

(6) (a) The department shall review each grant application received pursuant to this section and shall make recommendations to the state board concerning whether the grant should be awarded and the amount of the grant.

(b) In selecting grant recipients, the state board shall give priority to grant applications from eligible school districts, eligible charter schools, BOCES, or facility schools that have been financially or technologically unable to provide supplemental online education courses in the past and that demonstrate the greatest need for a grant to be able to begin providing supplemental online education courses. In addition, the state board shall consider:

(I) The degree to which students enrolled in the eligible school district or eligible charter school, or in a school operated by a BOCES or in a facility school require supplemental online education courses to be able to meet the higher education admission standards adopted by the Colorado commission on higher education; and

(II) Other revenue sources available to the eligible school district, eligible charter school, BOCES, or facility school to assist in overcoming the financial and technological barriers to providing supplemental online education programs.

(c) A grant awarded pursuant to this section shall not exceed five thousand dollars in a fiscal year. An eligible school district, an eligible charter school, a BOCES, or a facility school may receive grants in consecutive years.

(7) (a) The general assembly shall annually appropriate to the department of education, from federal mineral leasing revenues transferred to the state public school fund pursuant to section 34-63-102, C.R.S., and section 22-54-114 (1), an amount to be used for purposes of this section.

(b) The department may expend up to two percent of the moneys annually appropriated for the grant program to offset the direct and indirect costs incurred in implementing the grant program pursuant to this section.

(8) Repealed.

**Source: L. 2007:** Entire section added, p. 1096, § 2, effective May 23. **L. 2008:** (1)(b.5) and (2)(c.5) added and (1)(c), (2)(f)(III), (3), (4), (6)(b), and (6)(c) amended, pp. 1382, 1383, §§ 5, 6, effective May 27. **L. 2010:** (8) repealed, (HB 10-1037), ch. 43, p. 169, § 1, effective March 29. **L. 2012:** (2)(b) and (2)(c) amended, (HB 12-1240), ch. 258, p. 1313, § 21, effective June 4.

**22-2-131. Data technology system - comprehensive review - requirements - report - repeal. (Repealed)**

**Source: L. 2007:** Entire section added, p. 1056, § 2, effective July 1.

**Editor's note:** Subsection (6) provided for the repeal of this section, effective July 1, 2008. (See L. 2007, p. 1056.)

**22-2-132. Department of education - career and technical education authorization - rules.** (1) In accordance with the state plans for occupational education that the state board for community colleges and occupational education adopts pursuant to section 23-60-304, C.R.S., the department shall issue authorizations to teachers of occupational subjects, teacher-trainers, supervisors, directors, occupational counseling specialists, and others who have responsibilities in connection with occupational education at the secondary level. Before issuing an authorization pursuant to this section, the department shall determine that the person applying for the authorization meets the minimum qualifications that the state board for community colleges and occupational education establishes pursuant to section 23-60-304 (3)(a), C.R.S. A person who is required by law to obtain an educator license or authorization pursuant to article 60.5 of this title may obtain a career and technical education authorization pursuant to section 22-60.5-111 (9) rather than an authorization pursuant to this section.

(2) (Deleted by amendment, L. 2015.)

(3) The state board of education shall promulgate such rules as may be necessary to implement this section. At a minimum, the rules must establish the amount of and procedures for the department to collect a fee for issuing an authorization pursuant to this section and section 22-60.5-112.

**Source: L. 2008:** Entire section added, p. 909, § 1, effective May 20. **L. 2015:** Entire section amended, (HB 15-1170), ch. 224, p. 823, § 4, effective May 26.

**22-2-133. Assessment and identification of students with literacy challenges including dyslexia - training and technical assistance - collaboration with higher education - report.** (1) On or before August 1, 2008, as part of its responsibility for education standards and practice, the department may make available technical assistance and training concerning issues faced by students with literacy challenges, including dyslexia, to school districts, administrative units as defined in section 22-20-103 (1), residential treatment facilities, correctional facilities, and other local education agencies throughout the state. The provision of any technical assistance and training pursuant to this subsection (1) shall not preclude the department from using federal funds to implement such technical assistance and training. Any technical assistance and training provided shall include, but need not be limited to, the areas of awareness, assessment, identification, and evidence-based progress monitoring, and shall include scientifically based interventions to address the needs of students with literacy challenges, including dyslexia. Any technical assistance and training provided shall represent a tiered continuum of intensity for intervention consistent with the response to intervention model that school districts are required to implement no later than August 15, 2009, pursuant to rules adopted by the department.

(2) The department is encouraged to coordinate any technical assistance and training provided with current best practices and work occurring in teacher preparation programs at institutions of higher education. Where appropriate, the department is encouraged to provide

technical assistance and training to school districts, administrative units, residential treatment facilities, correctional facilities, and local education agencies in a coordinated effort with teacher preparation programs at institutions of higher education. The department and institutions of higher education are encouraged to work collaboratively to develop or affirm minimum standards for teacher preparation programs in the areas of literacy assessment and instructional skills, including dyslexia awareness, identification, and remediation for general and special education.

(3) On or before January 30, 2009, and on or before January 30 each year thereafter, the department shall report to the state board of education and to the education committees of the house of representatives and the senate, or any successor committees, concerning the activities and status of any technical assistance and training made available pursuant to this section.

(4) As used in this section, unless the context otherwise requires:

(a) "Literacy challenge" means a situation where a student is experiencing difficulty in reading in phonemic awareness, phonics, vocabulary, fluency, or comprehension.

(b) "Response to intervention" means a model for education developed pursuant to rules adopted pursuant to the "Exceptional Children's Educational Act", article 20 of this title, that promotes a well-integrated system connecting general, compensatory, gifted, and special education in providing high-quality, standards-based instruction and intervention that is matched to a student's academic, social-emotional, and behavioral needs.

**Source: L. 2008:** Entire section added, p. 1418, § 1, effective August 5. **L. 2011:** (2) amended, (SB 11-245), ch. 201, p. 848, § 5, effective August 10.

**Cross references:** For the legislative declaration in the 2011 act amending subsection (2), see section 1 of chapter 201, Session Laws of Colorado 2011.

**22-2-134. Unique student identifier - early childhood education - rules.** (1) On or before September 1, 2008, the commissioner, in cooperation with the executive director of the department of human services, shall convene a working group to review the issues pertaining to the assignment of a uniquely identifying student number to children who receive state-subsidized or federally subsidized early childhood education services, including but not limited to services provided through the child care development block grant and head start. In convening the working group, the commissioner and the executive director of the department of human services shall include representatives from the department of education and the department of human services and representatives of school districts and other interested stakeholders.

(2) The working group shall adopt protocols by which the department of education, the department of human services, school districts, charter schools, and the early childhood councils, as described in part 1 of article 6.5 of title 26, shall cooperate in assigning the uniquely identifying student numbers. The working group shall also consider methods by which to encourage and facilitate the assignment of uniquely identifying student numbers to students who are receiving early childhood education services that are not subsidized by state or federal funding.

(3) On or before February 1, 2009, the commissioner shall report to the head of the office of information technology the findings and protocols adopted by the working group. The head of the office of information technology shall incorporate the findings and protocols of the

working group into the report made to the governor and the state, veterans, and military affairs committees of the house of representatives and the senate, or any successor committees, pursuant to section 24-37.5-707, C.R.S.

(4) Following adoption of the protocols, the state board of education shall promulgate rules pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., as necessary for the assignment of uniquely identifying student numbers to students receiving early childhood education services. The state board shall collaborate with the state board of human services in promulgating rules as provided in this subsection (4) to ensure that they do not conflict with any rules promulgated by the state board of human services pursuant to section 26-6-121, C.R.S.

(5) The general assembly declares that, for purposes of article IX of the state constitution, cooperation in assigning unique student identifiers to students who receive state-subsidized or federally subsidized early childhood education services is an important element in implementing accountability reporting and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 2008:** Entire section added, p. 783, § 2, effective August 5. **L. 2014:** (5) added, (HB 14-1298), ch. 244, p. 924, § 9, effective May 21. **L. 2018:** (2) amended, (HB 18-1141), ch. 59, p. 601, § 2, effective August 8.

**Cross references:** For the legislative declaration in HB 18-1141, see section 1 of chapter 59, Session Laws of Colorado 2018.

**22-2-134.5. Early childhood education programs - quality rating system - report.** (1) The department of education, working with the department of human services, shall produce a jointly authored report concerning the status of implementing the quality rating and improvement system for school district and charter school early childhood education programs. The report must include, but need not be limited to:

(a) The timeline for implementing the quality rating and improvement system with regard to school district and charter school early childhood education programs; and

(b) The plan for coordinating the requirements of the quality rating improvement system with the other statutory requirements imposed on school districts and charter schools, including but not limited to requirements for educating children with disabilities as provided in article 20 of this title and federal law, requirements for implementing educator performance evaluations specified in article 9 of this title, and requirements that apply to the Colorado preschool program specified in article 28 of this title.

(2) The department of education shall submit the report described in subsection (1) of this section at the hearing of the joint education committee of the house of representatives and the senate, or any successor committee, that is held in November or December of 2014, as required in section 2-7-203, C.R.S.

**Source: L. 2014:** Entire section added, (HB 14-1298), ch. 244, p. 923, § 7, effective May 21.

**22-2-135. Food allergy and anaphylaxis management - rules.** (1) This section shall be known and may be cited as the "Colorado School Children's Food Allergy and Anaphylaxis Management Act".

(2) As used in this section, unless the context otherwise requires, "appropriate staff" means employees of a school whom the principal or equivalent executive in consultation with the school nurse of the school determines to be appropriate recipients of emergency anaphylaxis treatment training, which employees shall include, but need not be limited to, employees who are directly involved during the school day with a student who has a known food allergy.

(3) (a) On or before January 1, 2010, the state board of education, in consultation with the department of public health and environment, shall promulgate rules for the management of food allergies and anaphylaxis among students enrolled in the public schools of the state. The rules shall include, but need not be limited to, the following:

(I) Reasonable accommodations for communication between schools and emergency medical services, including instructions for emergency medical responders;

(II) Reasonable accommodations to reduce the risk of students' exposure to agents that may cause anaphylaxis, including but not limited to exposure that may occur in classrooms, cafeterias, and common areas and during extracurricular activities, field trips, school-sponsored programs occurring before and after regular school hours, and other school-sponsored programs;

(III) The provision of emergency anaphylaxis treatment training for appropriate staff to prepare them to respond appropriately in the event that a student suffers anaphylaxis as a result of an allergic reaction to food, which training shall include but need not be limited to training in the administration of self-injectable epinephrine; and

(IV) Procedures to ensure the availability of a student's self-injectable epinephrine to faculty and administrative staff of the school in the event that a student suffers anaphylaxis and requires emergency medical treatment.

(b) Prior to the beginning of each school year, each school district shall provide notice to a parent or legal guardian of each student enrolled in a school of the school district of the policy adopted by the school district pursuant to section 22-32-139. The notice shall include the standard form developed by the department of public health and environment pursuant to section 25-1.5-109, C.R.S., to allow the parent or legal guardian of a student with a known food allergy to provide the following information to the school's administration:

(I) Documentation regarding the diagnosis and history of the student's food allergy;

(II) Identification of all foods to which the student is known to be allergic;

(III) Identification of any medication that has been prescribed for the student for the treatment of a food allergy or anaphylaxis;

(IV) Any specific signs or symptoms that may indicate the student is having an allergic reaction to a food;

(V) Emergency treatment procedures to employ in the event that the student suffers an allergic reaction to food;

(VI) The names and telephone numbers of persons whom the administration of the student's school should contact in addition to emergency medical personnel in the event that the student suffers an allergic reaction to food; and

(VII) The name, telephone number, and signature of the student's primary health care provider.

(c) The notice required by paragraph (b) of this subsection (3) shall include language that encourages parents and legal guardians of students for whom medication has been prescribed for treatment of a food allergy or anaphylaxis to give to the school nurse or other administrator of the student's school a supply of the medication.

**Source: L. 2009:** Entire section added, (SB 09-226), ch. 245, p. 1103, § 2, effective August 5. **L. 2011:** (3)(c) amended, (SB 11-012), ch. 62, p. 163, § 3, effective March 25.

**Cross references:** For the legislative declaration contained in the 2009 act adding this section, see section 1 of chapter 245, Session Laws of Colorado 2009.

**22-2-136. Additional duty - state board - individual career and academic plans - standards - rules.** (1) On or before February 1, 2010, the state board shall promulgate rules pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., to establish standards for individual career and academic plans for students enrolled in the public schools in the state. An individual career and academic plan shall be designed to assist a student and his or her parent or legal guardian in exploring the postsecondary career and educational opportunities available to the student, aligning course work and curriculum, applying to postsecondary education institutions, securing financial aid, and ultimately entering the workforce.

(2) In establishing the standards for individual career and academic plans, the state board shall ensure, at a minimum, that:

(a) Each individual career and academic plan includes a career planning and guidance component and a portfolio that reflects, at a minimum:

(I) The student's efforts in exploring careers, including interest surveys that the student completes;

(II) The student's academic progress, including the courses taken, any remediation or credit recovery, and any concurrent enrollment credits earned;

(III) For school districts and charter schools that choose to administer the developmental education placement or assessment tests, the student's scores on the developmental education placement or assessment tests administered pursuant to section 22-30.5-117, 22-30.5-526, or 22-32-109.5 (4), any intervention plan created for the student pursuant to those sections, and the student's progress in meeting the intervention plan;

(IV) The student's progress in visual arts and performing arts courses;

(V) The student's experiences in contextual and service learning;

(VI) The student's college applications and resume, as they are prepared and submitted; and

(VII) The student's postsecondary studies as the student progresses;

(b) Each individual career and academic plan is accessible to educators, students, and parents; and

(c) Each public school, in assisting students and parents in creating and maintaining the individual career and academic plans, is in compliance with the requirements of the federal "Family Educational Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232g.

**Source: L. 2009:** Entire section added, (SB 09-256), ch. 294, p. 1557, § 17, effective May 21. **L. 2010:** (2)(a)(II.5) added, (HB 10-1273), ch. 233, p. 1021, § 4, effective May 18. **L.**

**2012:** (2)(a) amended, (HB 12-1345), ch. 188, p. 728, § 17, effective May 19. **L. 2019:** (2)(a)(III) amended, (HB 19-1206), ch. 133, p. 599, § 5, effective April 25.

**Cross references:** For the legislative declaration in the 2010 act adding subsection (2)(a)(II.5), see section 1 of chapter 233, Session Laws of Colorado 2010. For the legislative declaration in the 2012 act amending subsection (2)(a), see section 11 of chapter 188, Session Laws of Colorado 2012. For the legislative declaration in HB 19-1206, see section 1 of chapter 133, Session Laws of Colorado 2019.

**22-2-137. State schools - legislative declaration - feasibility study - authority to contract - funding.** (1) The general assembly finds that some states have created state and residential schools to provide educational programs and student support services for students who are at risk of academic failure. The general assembly further finds that early reports of results achieved by some of these schools indicate that this may be a promising approach to reducing the dropout rate, closing the achievement gaps, and helping to raise the level of academic achievement among students in the state. The general assembly therefore finds that it is appropriate for the commissioner to study the feasibility of creating one or more state schools in Colorado, which may include a residential component or a specific student population.

(2) Beginning in July 2009, the commissioner shall study the feasibility of operating one or more state schools to serve students who are in need of greater academic support and who may be at risk of academic failure. At a minimum, the feasibility study shall address and make recommendations concerning the following issues:

(a) The goals that a state school would be designed to achieve and a method for measuring the level of achievement of those goals. In addressing this issue, the commissioner shall provide an overview of the state and residential schools operating in other states, the goals that they are designed to achieve, and the degree to which they have achieved or are achieving those goals.

(b) The appropriate student population to be served by a state school and the manner of selecting students, the number of state schools that should be considered, and appropriate locations for state schools;

(c) The governance structure and funding for a state school, including the optimal level of per pupil funding, funding for capital construction needs, and potential public and private funding sources;

(d) The appropriate curriculum for a state school, including which grade levels a state school would serve, the length of the school day and school year for which a state school would operate, and whether a state school should include a focus on specific subject matter areas; and

(e) The types of student and family support services that a state school would provide, including the manner in which a state school would collaborate with state and local agencies in providing these services.

(3) On or before February 1, 2010, the department shall submit to the education committees of the house of representatives and the senate the feasibility study described in subsection (2) of this section for operating one or more state schools and any legislative recommendations the department may have pertaining to the creation of one or more state schools.

(4) (a) Following completion of the feasibility study, if the commissioner concludes that the creation and operation of state residential schools would be beneficial to the state, the commissioner may contract for the creation and operation of one or more state residential schools to provide educational services to students who are at risk of academic failure. Any state residential school operated pursuant to this section shall provide an educational program focused on mathematics and science.

(b) If the commissioner does not contract for state residential schools as authorized in paragraph (a) of this subsection (4), the commissioner may provide technical assistance to school districts and public schools to address the needs of students who are at risk of academic failure by improving the availability and quality of secondary-level mathematics and science curricula.

(5) (a) It is the intent of the general assembly that up to three million dollars be appropriated to the commissioner to expend for the implementation of subsection (4) of this section. The general assembly finds that, for purposes of section 17 of article IX of the state constitution, the creation of state residential schools and the provision of technical assistance to improve secondary-level mathematics and science curricula as provided in subsection (4) of this section are important elements of accountable programs to meet state academic standards, and the general assembly may therefore appropriate moneys from the state education fund created in section 17 (4) of article IX of the state constitution for the implementation of subsection (4) of this section.

(b) In addition to the funding provided pursuant to paragraph (a) of this subsection (5), if the commissioner contracts for the creation and operation of one or more state residential schools, the department shall provide funding for said schools by withholding moneys from the state share of total program funding payable to the district of residence of each student who enrolls in a state residential school. The amount withheld shall be equal to the amount of the school district's per pupil revenue for the applicable budget year multiplied by the number of students who reside in the school district and are enrolled in the state residential school as of the pupil enrollment count day of the applicable budget year. A student who enrolls in a state residential school shall be counted in the pupil enrollment of the student's school district of residence for purposes of this paragraph (b). The department shall adopt guidelines as necessary for the implementation of this paragraph (b).

(c) The commissioner is encouraged to apply federal moneys received pursuant to the federal "American Recovery and Reinvestment Act of 2009", Pub.L. 111-5, to the extent allowed to offset the costs incurred in implementing this section. The commissioner is authorized to seek and accept additional public or private gifts, grants, or donations for the implementation of this section.

**Source: L. 2009:** Entire section added, (SB 09-256), ch. 294, p. 1561, § 24, effective May 21. **L. 2012:** (5)(b) amended, (HB 12-1090), ch. 44, p. 150, § 3, effective March 22.

**22-2-138. State environmental education plan - fund created.** (1) Subject to the provisions of subsection (3) of this section, the department, in consultation with the department of natural resources, shall develop and the state board shall adopt a state plan for environmental education. At a minimum, the state plan for environmental education shall address strengthening the reach and coordination of environmental education in public schools and providing to educators professional development in environmental education. The department shall ensure

that the state plan for environmental education complies with any requirements imposed by federal law or by regulations adopted by the federal department of education.

(2) (a) The department is authorized to seek, accept, and expend public or private gifts, grants, or donations for the implementation of this section; except that the department may not accept a gift, grant, or donation for the implementation of this section that is subject to conditions that are inconsistent with this section or any other law of the state. The department shall transmit all private and public moneys received through gifts, grants, or donations to the state treasurer, who shall credit the same to the state environmental education fund, which fund is hereby created and referred to in this section as the "fund". The moneys in the fund are continuously appropriated to the department for the direct and indirect costs associated with implementing this section.

(b) Any moneys in the fund not expended for the purpose of this section may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

(3) The department shall implement the provisions of subsection (1) of this section only if the department receives public or private gifts, grants, or donations in an amount it deems sufficient to offset the costs incurred in creating and adopting the state plan for environmental education.

**Source: L. 2010:** Entire section added, (HB 10-1131), ch. 332, p. 1532, § 4, effective May 27.

**Cross references:** For the legislative declaration in the 2010 act adding this section, see section 1 of chapter 332, Session Laws of Colorado 2010.

**22-2-139. Memorandum of understanding - notification of risk - rules.** (1) On or before July 1, 2011, the state department of human services and the department of education shall enter into a memorandum of understanding concerning the enrollment of students in the public school system from a state-licensed day treatment facility, facility school, or hospital licensed or certified pursuant to section 25-3-101. The memorandum of understanding must include, but need not be limited to:

(a) A consistent and uniform approach to notification and appropriate and allowable data-sharing about students, including but not limited to medical, mental health, sociological, and scholastic achievement, within the limits of state and federal privacy and confidentiality law, between school districts, charter schools, institute charter schools, and county departments of human or social services for the purposes of collaboration in the placement of students pursuant to this section and section 22-20-108, better facilitation of the creation of transition plans for students, and ensuring the safety of the people in the school community;

(b) A plan for utilizing existing state and federal data and any existing information-sharing activities;

(c) A plan for determining accountability and collecting data concerning the implementation of the notifications and invitation required pursuant to this section and a mechanism by which school districts and the state charter school institute shall report the

aggregate data to the department of human services and department of education on or before February 15, 2012, and on or before February 15 each year thereafter. The data to report shall include, but need not be limited to:

(I) The number of placements occurring in a school year;

(II) The number of emergency placements occurring in a school year;

(III) The types of placements from which the students are transitioning;

(IV) The educational setting into which the student is being placed; and

(V) Demographic information of students, including but not limited to age, race, gender, and ethnicity;

(d) A process for determining information sharing and collaboration for placement of students pursuant to sections 22-20-108 and 26-1-138, C.R.S.;

(e) Recommendations for an approach to sharing data that conforms with the interdepartmental data protocol established pursuant to section 24-37.5-704, C.R.S., and that is in compliance with all state and federal laws, rules, and regulations concerning the privacy of information;

(f) Identification of training and professional development needs associated with implementing information sharing between responsible entities and funding sources that could be utilized for this purpose; and

(g) Consideration of recommendations made by existing working groups or projects that have been involved with information sharing or technology relating to information sharing among multiple entities as it relates to students transitioning back into public schools. A report of these recommendations shall be provided to the department of human services, the state board of human services, the department of education, and the state board of education prior to the final adoption of the memorandum of understanding.

(2) Beginning August 15, 2010, a state-licensed day treatment facility, facility school, or hospital licensed or certified pursuant to section 25-3-101, C.R.S., that is transferring a student to a public school shall notify the appropriate school district child welfare education liaison, designated pursuant to section 22-32-138 (2)(a), of the pending enrollment in a public school of a student who:

(a) Is transferring to a public school from a state-licensed day treatment facility licensed by the department of human services pursuant to section 26-6-104, C.R.S., facility school as defined in section 22-2-402 (1), or hospital, licensed or certified pursuant to section 25-3-101, C.R.S.; and

(b) Has been determined by the state-licensed day treatment facility, the facility school, the hospital licensed or certified pursuant to section 25-3-101, C.R.S., or the court to be a risk to himself or herself or the community within the twelve months prior to the proposed transfer.

(3) This section only applies to a hospital licensed or certified pursuant to section 25-3-301 that is providing inpatient acute care or psychiatric services for a student for more than ten days and if there is actual knowledge that the student will attend an identified public school within sixty days after discharge from the hospital. For purposes of this subsection (3), information shared with the state department of human services, county department of human or social services, or child education welfare liaison must be shared only for a student who has been deemed to be a risk to himself or herself or the community within the twelve months prior to discharge.

(4) The notification required in subsection (2) of this section must be made at least ten calendar days prior to the student's transition from the state-licensed day treatment facility, facility school, or hospital licensed or certified pursuant to section 25-3-101, and subsequent enrollment in a public school and must include an invitation to the child welfare education liaison, or his or her designee, to participate in the development of a transition plan for the student. The information provided to the child welfare education liaison must include, but need not be limited to, the transitioning student's educational records from the transferring educational facility and an outline of the student's transitional needs to be successful in the public school setting, which information would assist the school district in meeting the student's needs and ensuring a successful transition. If the transitioning student is in the custody of the state department of human services or a county department of human or social services, the state-licensed day treatment facility, facility school, or hospital licensed or certified pursuant to section 25-3-101 shall also provide the notification to the state department of human services.

(5) If a change of placement is required for the safety of the student or if a court, the state department of human services, or a county department of human or social services makes a placement change with fewer than ten calendar days notice, the responsible state or county department of human services or social services shall provide information to the child welfare education liaison, designated pursuant to section 22-32-138 (2)(a), of the receiving school district, charter school, or institute charter school within five calendar days following the student's placement. The information provided to the child welfare education liaison must include, but need not be limited to, the transitioning student's educational records from the transferring educational facility and an outline of the student's transitional needs to be successful in the public school setting, which information would assist the district in meeting the student's needs and ensuring a successful transition.

(6) The responsible county department of human or social services and the receiving school district, charter school, or institute charter school shall cooperate to ensure that an appropriate placement including educational services is made pursuant to this section and sections 19-1-115.5, 22-20-108, and 22-32-138, as applicable.

(7) Within the confidentiality and privacy limits of state and federal law, the responsible county department of human or social services or the school district, charter school, institute charter school, or facility school shall provide information about the student to assist the receiving entity in determining an appropriate educational placement for the student.

(8) Nothing in this section alters the rights and obligations of the department of education, the state department of human services, a county department of human or social services, or a school district, as such rights and obligations are set forth in this title 22; 20 U.S.C. sec. 1400 et seq.; 29 U.S.C. sec. 701 et seq.; 42 U.S.C. sec. 11431 et seq.; and 42 U.S.C. sec. 675, as amended by the federal "Fostering Connections to Success and Increasing Adoptions Act of 2008", Pub.L. 110-351.

(9) The state board of education may promulgate rules pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., concerning the implementation of this section, including but not limited to rules regarding notification and sharing of information as described in subsection (1) of this section.

**Source: L. 2010:** Entire section added, (HB 10-1274), ch. 271, p. 1245, § 2, effective May 25. **L. 2016:** (2)(a) amended, (SB 16-189), ch. 210, p. 761, § 33, effective June 6. **L. 2018:** IP(1), (1)(a), and (3) to (8) amended, (SB 18-092), ch. 38, p. 434, § 84, effective August 8.

**Cross references:** For the legislative declaration in the 2010 act adding this section, see section 1 of chapter 271, Session Laws of Colorado 2010. For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of Colorado 2018.

**22-2-140. Digital learning study - legislative declaration - definitions - notice of funding through gifts, grants, and donations - repeal. (Repealed)**

**Source: L. 2012:** Entire section added, (HB 12-1124), ch. 211, p. 909, § 1, effective May 24.

**Editor's note:** Subsection (7) provided for the repeal of this section, effective July 1, 2013. (See L. 2012, p. 909.)

**22-2-141. Early literacy assessment tool - request for proposals - software - hardware - training - distribution - legislative declaration.** (1) (a) By October 1, 2012, the department shall issue a request for proposals for the purchase of an early literacy assessment tool that teachers may use to obtain real-time assessments of the reading skill levels of students enrolled in kindergarten and first, second, and third grades and, based on the assessment results, generate intervention plans and materials.

(b) At a minimum, the request for proposals shall include the purchase of:

(I) Software that, at a minimum:

(A) Provides individualized assessments with immediate results;

(B) Stores and analyzes assessments results, recommends activities that are aligned with the assessment results, and assists in tracking student performance and identifying strategies to improve student performance;

(C) Provides student grouping recommendations based on the assessment scores and provides proposed lesson plans on a short-term cycle; and

(D) Assists in generating and populating individualized plans to improve students' reading skills; and

(II) Training in using the software for teachers or other personnel selected by each local education provider.

(c) The request for proposals shall include the purchase of a sufficient number of software licenses for each local education provider in the state to use the early literacy assessment tool in all of its kindergarten and first-, second-, and third-grade classes; except that the department may draft the contract to phase in the requirements of this paragraph (c) over multiple budget years based on available appropriations.

(2) The department shall select from among the responses received and enter into a contract for the purchase of software licenses and training no later than March 1, 2013. In negotiating the terms of the contract, the department shall include performance measures, which may include student outcomes, as conditions affecting the amounts payable under the contract.

(3) (a) As soon as practicable after entering into the contract, the department shall notify the local education providers and provide information explaining:

(I) The software licenses purchased;

(II) The availability of training in the use of the software including dates, times, and locations; and

(III) The procedures and timelines by which each local education provider may apply to receive the software licenses and training to implement the early literacy assessment tool.

(b) Based on the level of available appropriations, the department shall select the local education providers who will receive the early literacy assessment tool, including the training, from among those that apply. In selecting among the applicants, the department shall:

(I) Select local education providers from various regions of the state and of varying student population size;

(II) Give preference to local education providers with the highest percentages of kindergarten and first-, second-, and third-grade students who are below grade level expectations in reading; and

(III) Give preference to local education providers with the highest percentages of schools that are eligible to receive moneys under Title I of the federal "Elementary and Secondary Education Act of 1965", 20 U.S.C. sec. 6301 et seq.

(c) A local education provider that is selected to receive the early literacy assessment tool in one budget year is not required to reapply in subsequent budget years. The department shall, to the extent possible within available appropriations, annually increase the number of local education providers that receive the early literacy assessment tool.

(d) The department may choose to provide the early literacy assessment tool only to those schools of a selected school district that are eligible to receive moneys under Title I of the federal "Elementary and Secondary Education Act of 1965", 20 U.S.C. sec. 6301 et seq.

(4) During the 2014 regular legislative session and during the 2016 regular legislative session, the department shall submit to the governor's office, the joint budget committee, and the education committees of the house of representatives and the senate, or any successor committees, a report that includes, but need not be limited to, the following information:

(a) The percentage of students enrolled in kindergarten and first, second, and third grades throughout the state that are receiving services using the early literacy assessment tool;

(b) The local education providers that have received the early literacy assessment tool;

(c) The improvements, if any, in the reading skill levels of students who received or are receiving services using the early literacy assessment tool; and

(d) The amount of appropriations required to purchase an adequate number of software licenses to enable the local education providers in the state to use the early literacy assessment tool in all of the kindergarten and first-, second-, and third-grade classes in the state.

(5) As used in this section, "local education provider" means a school district; a charter school that enrolls students in kindergarten and first, second, and third grades; and a public school operated by a board of cooperative services that enrolls students in kindergarten and first, second, and third grades.

(6) The general assembly finds and declares that, for purposes of section 17 of article IX of the state constitution, purchasing an early literacy assessment tool as described in this section for the use of local education providers is an important element of accountable education reform

and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 2012:** Entire section added, (HB 12-1345), ch. 188, p. 719, § 7, effective May 19.

**22-2-142. (Reserved)**

**22-2-143. Discipline strategies pilot program - created - reporting - rules - definitions - legislative declaration - repeal. (Repealed)**

**Source: L. 2017:** Entire section added, (HB 17-1211), ch. 204, p. 755, § 1, effective May 18.

**Editor's note:** Subsection (8) provided for the repeal of this section, effective July 1, 2020. (See L. 2017, p. 755.)

**22-2-144. Bullying prevention and education policies - short title - study.** (1) The short title of this section is "Ashawnty's Law".

(2) (a) The department shall research approaches, policies, and practices related to bullying prevention and education used by education providers in other states. On or before July 1, 2019, after consideration of the research conducted pursuant to this subsection (2)(a), the department, in consultation with the school safety resource center created in section 24-33.5-1803, shall develop a model bullying prevention and education policy. The research and model policy described in this subsection (2)(a) must be updated every three years.

(b) On or before July 1, 2019, and every three years thereafter, the department shall publish the results of the research and model policy required by subsection (2)(a) of this section on its website as guidance for school districts, charter schools, and the charter school institute to consider when developing and implementing bullying prevention and education policies.

**Source: L. 2018:** Entire section added, (SB 18-151), ch. 140, p. 915, § 1, effective August 8.

**22-2-145. Media literacy - committee - report - strategic plan - definition - repeal.** (1) For purposes of this section, unless the context otherwise requires, "media literacy" means the:

(a) Ability to access, analyze, evaluate, create, and act through the various forms of media;

(b) Ability to analyze the reliability of information, claims, and sources presented in the various forms of media; and

(c) Practice of digital citizenship, including norms of appropriate and responsible behavior and discourse when engaging with media, and the prevention of cyberbullying.

(2) (a) There is created in the department of education the media literacy advisory committee, referred to in this section as the "committee". The committee shall create a report

containing recommendations and best practices for implementing media literacy into elementary and secondary education. The report must include, but is not limited to:

(I) Recommended revisions to state education standards for reading, writing, and civics, pursuant to section 22-7-1005 (2)(a), to implement media literacy in elementary and secondary education;

(II) Recommended materials and resources for teachers to adopt for media literacy instruction;

(III) Recommended legislation or rules to implement media literacy in elementary and secondary education;

(IV) Best practices for school districts to develop policies and procedures regarding media literacy;

(V) Strategies to support school districts implementing the best practices and recommendations developed by the committee; and

(VI) Recommended opportunities to recognize students and teachers who demonstrate excellence in media literacy.

(b) The commissioner of education shall appoint the following members to serve on the committee no later than July 15, 2019:

(I) One member who is an academic expert in media literacy;

(II) One member who is a teacher in a rural school district or a small rural school district, as defined in section 22-7-1211 (4), and holds an initial or professional teacher's license pursuant to article 60.5 of this title 22;

(III) One member who is a teacher in a school district that is not a rural school district or a small rural school district, as defined in section 22-7-1211 (4), and holds an initial or professional teacher's license pursuant to article 60.5 of this title 22;

(IV) One member who is a librarian and is a member of a professional association of librarians;

(V) One member who is a school administrator in a rural school district or a small rural school district, as defined in section 22-7-1211 (4), and is a member of a professional association of school administrators;

(VI) One member who is a school administrator in a school district that is not a rural school district or a small rural school district, as defined in section 22-7-1211 (4), and is a member of a professional association of school administrators;

(VII) One member who is a parent or legal guardian of a student who attends a public school and is a member of a parent organization;

(VIII) One member who is a student in a rural school district or a small rural school district, as defined in section 22-7-1211 (4);

(IX) One member who is a student in a school district that is not a rural school district or a small rural school district, as defined in section 22-7-1211 (4);

(X) One member who represents a nonprofit organization specializing in media literacy;

(XI) One member who represents a nonprofit organization specializing in journalism;

(XII) One member who is a professional print journalist and is a member of a professional association of journalists; and

(XIII) One member who is a professional broadcast journalist and is a member of a professional association of broadcasters.

(3) (a) On or before July 15, 2019, the commissioner of education shall hire a consultant to perform the research and coordination of the committee required to draft the report.

(b) The consultant shall consult with committee members to elicit recommendations for the report, as described in subsection (2)(a) of this section. The consultant is not required to conduct consultations in person and may conduct consultations through telephone, e-mail, or video conference.

(c) The consultant shall distribute his or her research and draft reports to committee members for feedback at least monthly and the latest draft report at least three days prior to the committee meeting described in subsection (3)(d) of this section.

(d) On or before November 1, 2019, the committee shall convene to discuss the draft report and finalize recommendations for the final report to be submitted pursuant to subsection (4) of this section.

(e) The consultant shall incorporate feedback and recommendations from the committee's meeting described in subsection (3)(d) of this section. The consultant shall distribute his or her draft report to committee members for final feedback to be received by the consultant no later than December 1, 2019.

(4) On or before January 1, 2020, the committee shall submit the written report of its findings, recommendations, and summaries of the committee's discussions and diverse opinions regarding the findings and recommendations contained in the final report to the education committees of the house of representatives and the senate, or any successor committees.

(5) This section is repealed, effective July 1, 2021.

**Source: L. 2019:** Entire section added, (HB 19-1110), ch. 412, p. 3624, § 1, effective June 3. **L. 2020:** (2)(b)(VI) and (2)(b)(IX) amended, (HB 20-1402), ch. 216, p. 1049, § 37, effective June 30.

## PART 2

## SCHOLASTIC ACHIEVEMENT

**22-2-201 to 22-2-203. (Repealed)**

**Source: L. 84:** Entire part repealed, p. 581, § 1, effective February 17.

**Editor's note:** This part 2 was numbered as article 27 of chapter 123 in C.R.S. 1963. For amendments to this part 2 prior to its repeal in 1984, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

## PART 3

## DATA REPORTING AND TECHNOLOGY

**22-2-301. Short title.** This part 3 shall be known and may be cited as the "Data Reporting and Technology Act".

**Source: L. 2007:** Entire part added, p. 1059, § 1, effective May 23.

**22-2-302. Legislative declaration.** (1) The general assembly hereby finds that:

(a) Pursuant to state statute and rules of the state board, school districts are required to submit extensive and duplicative data at different times throughout the year or to different divisions within the department of education;

(b) Reporting requirements are frequently placed in statute or rule and are not revisited after their initial adoption. Often, these requirements cease over time to have a relevant use or purpose but are still required to be reported to the department.

(c) School districts recognize the value of collecting and submitting data that will be used to track student achievement, to qualify for state funds, or to support accountability for student achievement or compliance measures but often find that the staff time required to prepare reports and submit required data under federal and state statutes and rules takes human and capital resources that could be better spent on providing student instruction;

(d) The department works to make data reporting productive and meaningful but faces its own internal challenges in terms of funding, adequate staffing levels, and the ability to overhaul antiquated data technology systems;

(e) The elementary and secondary education system in Colorado spends considerable amounts of money maintaining multiple, often out-of-date, computer systems for data collection and transmission. Due to the lack of a single statewide data system, data often cannot be accessed, even when acting in compliance with federal privacy restraints, by others within the department, school districts seeking comparisons with other districts for best practices, or researchers and foundations seeking to conduct research on the Colorado public school system and its students.

(2) It is therefore the intent of the general assembly in enacting this part 3 to achieve the following purposes:

(a) To improve the collection of data by streamlining the submission and reporting of data;

(b) To create shared goals and shared expectations for data collection and technology for elementary and secondary education in Colorado;

(c) To require school districts and public schools to submit data that is relevant to student achievement and will enhance and improve the manner in which school districts and public schools provide and evaluate student instruction;

(d) To explore the possibility of implementing a single statewide education data collection system with the purpose of reducing the manpower and cost of submitting required data to the department; and

(e) To deploy the single statewide education data collection system as a system of data exchange that is based on automatic file exchanges rather than manual processes requiring personnel to upload electronic files via messaging, web uploads, or other file transfer methods requiring human intervention.

**Source: L. 2007:** Entire part added, p. 1059, § 1, effective May 23.

**22-2-303. Definitions.** As used in this part 3, unless the context otherwise requires:

(1) "Commissioner" means the commissioner of education appointed pursuant to section 1 of article IX of the state constitution.

(2) "Current data technology system" means the data technology system or systems in use by the department as of May 23, 2007.

(3) "Data dictionary" means an essential component of data management adopted by the department pursuant to section 22-2-305 that defines all of the data elements the department collects from school districts and public schools and describes the methods by which the department collects the data through the single statewide data collection system.

(4) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(5) "EDAC" means the education data advisory committee created pursuant to section 22-2-304.

(6) "Public school" means a public school as provided in section 22-1-101, including a charter school authorized by a school district pursuant to part 1 of article 30.5 of this title or an institute charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title.

(7) "State board" means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

**Source: L. 2007:** Entire part added, p. 1060, § 1, effective May 23. **L. 2013:** (6) amended, (HB 13-1219), ch. 104, p. 357, § 2, effective August 7.

**22-2-304. Education data advisory committee - creation - duties - repeal.** (1) The state board shall designate at least five volunteer school districts and two volunteer boards of cooperative services and a volunteer charter school, that are representative of the state as to pupil size and population, to send representatives to form a voluntary committee, to be known as the education data advisory committee. The EDAC shall work with the department to review school district data reporting requirements and make recommendations as provided in this section.

(2) The EDAC shall:

(a) Review the statutory and regulatory data reporting requirements applicable to school districts and public schools and determine whether the benefits derived from the reports are outweighed by the increased administrative costs incurred by the school districts and public schools in preparing and submitting the reports;

(b) Identify those statutory and regulatory data reporting requirements that are duplicative or obsolete and may be combined, eliminated, or otherwise streamlined;

(c) Review each data reporting request made to school districts and public schools and notify school districts and public schools that the request is mandatory because it is required by statute or rule, is required to acquire a benefit because a statute or rule requires a school district or public school that chooses to seek or receive a specified governmental benefit to report the data, or is voluntary because it is not specifically required by a statute or rule;

(d) Review all proposed statutory and regulatory data reporting requirements, whether proposed in state or federal legislation or in rules, and, to the extent practicable prior to final adoption, inform the general assembly or the enacting state or federal agency of the estimated cost to the school districts and public schools of complying with the proposed statutory and regulatory data reporting requirements and make recommendations to the general assembly or to

the enacting state or federal agency concerning whether the proposed requirements are already included in existing law or regulation and whether the proposed requirements are necessary and appropriate;

(e) Advise the department on the impact of data practices and technology on school districts and public schools;

(f) Periodically review the rules for implementing the federal "Family Educational Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232g, and recommend to the state board an interpretation of said act that will facilitate the exchange and sharing of student information to the greatest extent possible in compliance with the federal regulations for implementing said act; and

(g) Review the processes and timing for collecting student demographic data and make recommendations to the state board for efficiently updating the data as necessary.

(3) (a) The EDAC shall annually, or more often if necessary, make recommendations to the state board and to the appropriate legislative committees of reference based on the subject matter of the recommendation for the repeal or amendment of statutory and regulatory data reporting requirements that the EDAC has identified as duplicative, obsolete, or inefficient.

(b) Repealed.

(4) The EDAC shall identify those reporting requirements that may be consolidated into a single report or a single submission for purposes of streamlining data submission for school districts and public schools.

(5) As used in this section, "statutory and regulatory data reporting requirements" includes all data reporting requirements that apply to school districts and public schools and that are imposed by federal or state statute or by rule of a federal or state agency, including but not limited to the data reporting requirements imposed by the department of human services, the department of public health and environment, and the department of health care policy and financing.

(6) (a) This section is repealed, effective July 1, 2022.

(b) Prior to such repeal, the EDAC shall be reviewed as provided in section 2-3-1203, C.R.S.

**Source: L. 2007:** Entire part added, p. 1061, § 1, effective May 23. **L. 2009:** Entire section amended, (HB 09-1214), ch. 198, p. 887, § 1, effective April 30. **L. 2010:** (2)(c), (2)(e), and (2)(f) amended and (2)(g) added, (HB 10-1171), ch. 401, p. 1934, § 4, effective August 11. **L. 2017:** (6)(a) amended, (SB 17-144), ch. 110, p. 397, § 2, effective April 6.

**Editor's note:** Subsection (3)(b)(II) provided for the repeal of subsection (3)(b), effective July 1, 2010. (See L. 2009, p. 887.)

**22-2-305. Data dictionary - legislative declaration - creation - contents - report.** (1) (a) The general assembly finds that there is a need for consistency in electronic data submission protocols and requirements to allow school districts and public schools to submit data for multiple reports in one transaction. Under the existing data submission system, school districts and public schools are often forced to report data that is known to be incorrect because of an existing inability to correct or resubmit data through the current data technology system. The

general assembly finds that the priority in data collection and submission must be the efficient collection and use of accurate, relevant data.

(b) The general assembly finds therefore that, with the creation and implementation of a data dictionary, the department may bring consistency and greater accuracy to the data elements collected from school districts and public schools and increase the efficiency of education data submission and collection by not collecting the same data elements more often than necessary.

(2) (a) The department shall develop and distribute to the school districts and public schools a data dictionary to define the data the department will collect and the methods and protocols by which school districts and public schools will submit the data. At a minimum, the data dictionary shall include the following items:

(I) A map of the current data collection requirements, including the definition of each data element, when each data element is collected, identification of the external reports for which each data element is used, and identification of the method by which each data element is collected;

(II) A description of the format for data submission, acceptable values in data submission, the available options for dealing with data fields for which the submitting school district or public school does not have information, and logical comparisons to prior reports;

(III) Identification of data relationships;

(IV) Data element tables; and

(V) Identification of data element locations within data access tools.

(b) In developing the data dictionary, the department shall seek and apply input from school districts, public schools, and the EDAC. In addition, the department shall ensure that the data elements included in the data dictionary are aligned with the descriptions and definitions of data elements that are used by national education organizations such as the federal department of education and other organizations that set national education standards and ratings.

(3) On or before August 1, 2007, the department shall report the status of the data dictionary to the state board, the education committees of the senate and house of representatives, or any successor committees, the governor, school districts, and the EDAC. At a minimum, the report shall include:

(a) A description of how many school districts and public schools were involved in the process of creating the data dictionary, the extent to which the EDAC was involved in the process, and the manner of the school districts', public schools', and the EDAC's involvement;

(b) An explanation of the department's methods and considerations in creating the data dictionary, including the extent to which the department considered models from other states;

(c) An explanation of the manner in which school districts and public schools will access the data dictionary; and

(d) The method by and frequency with which the department plans to review and update the data dictionary.

(4) The department shall ensure that the data dictionary is fully operational and available for use on or before October 1, 2007.

(5) The general assembly finds and declares that, for purposes of section 17 of article IX of the state constitution, the creation and implementation of the data dictionary pursuant to this section is an important element of accountability reporting and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 2007:** Entire part added, p. 1062, § 1, effective May 23.

**22-2-306. Advance notice - legislative declaration - data collection - data submission changes - website update - submission windows.** (1) The general assembly finds that it is imperative that school districts and public schools receive adequate advance notice of changes in data submission requirements to enable them to effectively comply with the new requirements. The general assembly further finds that the department must allow school districts and public schools the necessary time in which to comply with changes in data submission requirements in order to ensure that the school districts and public schools provide accurate data.

(2) The department shall provide to school districts, public schools, and vendors notice of new federal or state data submission requirements or changes to existing federal or state data submission requirements within one business day after receiving the new or changed requirements. The department shall notify school districts, public schools, and vendors of new or changed federal or state data submission requirements and communicate any other pertinent information through an electronic mail list developed by the department to which school districts, public schools, and vendors may subscribe. The department shall also conduct informational meetings that allow school districts, public schools, and vendors to ask questions and receive technical support to ensure accuracy and efficiency in data submission.

(3) (a) To improve the accuracy of submitted data and minimize inaccurate data submissions and errors in data submitted by school districts and public schools, the department shall update data reporting requirements on the department website on an annual basis. The department shall ensure that the department website is updated annually by April 1 with all changes to state or federal data reporting requirements made since the preceding April 1. No later than the following July 1, school districts and public schools shall comply with the changes to state or federal data reporting requirements that are included in the April 1 update.

(b) Notwithstanding any provision of paragraph (a) of this subsection (3) to the contrary, if federally required or state-required timelines for implementing data reporting requirements conflict with the provisions of paragraph (a) of this subsection (3), the department, the school districts, and the public schools shall comply with the federally required timelines.

(4) (a) To assist the department, school districts, and public schools in exercising reasonable management over data collection and submission activities, following the enactment of legislation that alters data collection requirements, the state board shall promulgate rules to implement the changes in accordance with a timeline that ensures the rules are effective by April 1 following the effective date of the legislation. Each school district and public school shall reformat its data systems by the July 1 following enactment of the rules.

(b) Notwithstanding any provision of paragraph (a) of this subsection (4) to the contrary, if federally required or state-required timelines for implementing data reporting requirements conflict with the provisions of paragraph (a) of this subsection (4), the state board, the school districts, and the public schools shall comply with the federally required timelines.

**Source: L. 2007:** Entire part added, p. 1064, § 1, effective May 23. **L. 2009:** (3) and (4) amended, (HB 09-1214), ch. 198, p. 889, § 2, effective April 30. **L. 2010:** (3)(b) and (4)(b) amended, (HB 10-1013), ch. 399, p. 1907, § 21, effective June 10.

**22-2-307. Data reporting requirements - interpretation of federal law - suspension.** (1) On or before October 1, 2009, and periodically thereafter, the state board shall review the rules for implementing the federal "Family Educational Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232g, and shall adopt an interpretation of said act that will facilitate the exchange and sharing of student information to the greatest extent possible in compliance with the federal regulations for implementing said act. The state board shall consult with the EDAC in determining its interpretation of said act.

(2) The department shall periodically review its interpretation of federal regulations pertaining to education data collection and reporting and shall ensure that it takes into consideration the interpretations adopted by the departments of education in neighboring states.

(3) (a) Notwithstanding any provision of law to the contrary, in any year in which the general assembly does not appropriate moneys to implement a state program in which the department, a school district, the state charter school institute, or a public school was participating, any reporting requirements that are required under the provisions of the state program are suspended, and the department, school districts, the state charter school institute, and public schools need not comply with said reporting requirements; except that a participating school district, the state charter school institute if it is participating, or a participating public school shall comply with requirements to report information concerning the entity's participation in the state program during the period in which it was funded.

(b) For purposes of this subsection (3), "state program" means a program specifically created in state statute and for which the statute creating the program specifically provides funding to a participating school district, the state charter school institute, or a public school.

**Source: L. 2009:** Entire section added, (HB 09-1214), ch. 198, p. 889, § 3, effective April 30.

**22-2-308. Data reporting requirements - office of legislative legal services.** Notwithstanding the provisions of section 2-3-505, C.R.S., the office of legislative legal services, created in section 2-3-501, C.R.S., shall notify EDAC of any legislation introduced that creates by specific language a new requirement for a local education agency to report data to any state or federal agency.

**Source: L. 2012:** Entire section added, (HB 12-1240), ch. 258, p. 1309, § 4, effective June 4. **L. 2013:** Entire section amended, (HB 13-1219), ch. 104, p. 357, § 4, effective August 7.

**22-2-309. Student data - accessibility - transparency - accountability - short title - definitions. (Repealed)**

**Source: L. 2014:** Entire section added, (HB 14-1294), ch. 366, p. 1750, § 2, effective August 6. **L. 2016:** Entire section repealed, (HB 16-1423), ch. 355, p. 1475, § 2, effective August 10.

**Editor's note:** This section was relocated to article 16 of this title in 2016. Former subsection numbers are shown in editor's notes following the C.R.S. sections in article 16 containing those subsections that were relocated.

PART 4

FACILITY SCHOOLS UNIT

**22-2-401. Legislative declaration.** (1) The general assembly hereby finds that:

(a) A significant number of children in Colorado are placed in day treatment centers, residential child care facilities, other out-of-home placement facilities, or hospitals and receive their education through programs provided by these facilities;

(b) Although these facilities strive to provide the best educational programs possible within limited resources and under difficult circumstances, studies indicate that students who receive educational services through facility programs are more likely to repeat a grade level, more likely to perform below grade level, more likely to drop out of school, less likely to be employed, less likely to continue into higher education, and more likely to be eventually arrested and incarcerated;

(c) Each facility independently provides an educational program that, in most instances, is not consistent in the areas of course work, academic credits, graduation standards, or curriculum with any other educational program provided by a facility or with any educational program provided by a school district or an institute charter school. This lack of consistency makes it extremely difficult for a student to move from one facility to another or to move from a facility to a school district or institute charter school and puts the student almost hopelessly behind in meeting standards for completing a grade level or for graduation.

(d) Each student who receives an educational program through a facility participates in the Colorado student assessment program. However, the student's scores are usually not included in calculating a school's levels of attainment of the performance indicators, and the transitory nature of the student's educational career makes it difficult, if not impossible, for an education provider to longitudinally track the student's academic growth.

(e) Because of the uniqueness of the population served by each facility, it is important for each facility to maintain a significant degree of control over the educational program provided by the facility. However, by partnering with the department of education to provide an educational program that, as much as practicable, is consistent among the facilities, each facility can vastly improve the quality of each student's overall academic experience while the student receives educational services from the facility and when the student transfers to another facility or to a school district or an institute charter school.

(2) Therefore, the general assembly finds that creating a unit within the department of education to work with facilities to create consistency with regard to curriculum, standards, and tracking of student performance within facility education programs will raise the overall quality of the education provided to these students, thereby helping these students meet their full potential both academically and as fully contributing adults within the community.

(3) The general assembly further finds that, for purposes of section 17 of article IX of the state constitution, creating the facility schools unit within the department of education and the facility schools board to work with approved facility schools to standardize the educational services provided to students in approved facility schools and implementing a data system to maintain the records of students who receive educational services from approved facility schools will enable approved facility schools to provide each student a more consistent and coherent education, thereby improving each student's likelihood of achieving state academic standards.

The facility schools unit, the facility schools board, and the data system are therefore important elements of accountable programs to meet state academic standards and may receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 2008:** Entire part added, p. 1374, § 1, effective May 27. **L. 2009:** (1)(d) amended, (SB 09-163), ch. 293, p. 1529, § 11, effective May 21.

**22-2-402. Definitions.** As used in this part 4, unless the context otherwise requires:

(1) "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 (2), has been placed on the list of facility schools that are approved to receive reimbursement for providing educational services to students placed in a facility.

(2) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(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.

(4) "Placed in a facility" means a student is in a facility due to:

(a) A court order or other action by a public entity in Colorado; or

(b) The student's determination, if the student is a homeless child as defined in section 22-1-102.5.

(5) "School district" means a school district organized and existing pursuant to law but does not include a local college district.

(6) "State board of education" or "state board" means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

(7) "Student" means a child or youth who has attained three years of age on or before August 1 and who is under twenty-one years of age.

(8) "Unit" means the facility schools unit created within the department pursuant to section 22-2-403.

**Source: L. 2008:** Entire part added, p. 1376, § 1, effective May 27.

**22-2-403. Facility schools unit - created.** (1) There is hereby created within the department the facility schools unit. The head of the unit shall be the director of facility schools and shall be appointed by the commissioner of education in accordance with section 13 of article XII of the state constitution.

(2) The facility schools unit and the office of the director of facility schools shall exercise their powers and perform their duties and functions under the department, the commissioner of education, and the state board of education as if the same were transferred to the department by a **type 2** transfer as defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

**Source: L. 2008:** Entire part added, p. 1376, § 1, effective May 27.

**22-2-404. Facility schools board - created - membership.** (1) There is hereby created the facility schools board to adopt curriculum standards and set graduation requirements for facility schools and to collaborate with and advise the unit. The facility schools board shall consist of seven members appointed by the state board as provided in this section. The state board shall appoint the initial members of the facility schools board on or before November 1, 2008. The facility schools board shall exercise its powers and perform its duties and functions as if the same were transferred to the department by a **type 1** transfer as defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

(2) The state board shall appoint the members of the facility schools board as follows:

(a) Two persons who represent school districts within Colorado, one of whom shall have expertise in special education;

(b) One person who represents state-level child placement agencies within Colorado;

(c) One person who represents county departments of human or social services within Colorado;

(d) Two persons who represent facilities within Colorado; and

(e) One person who represents students who receive educational services provided by facility schools in Colorado. The state board may choose a person who, as a child, received educational services provided by a facility school or who is a parent of a student who is receiving or formerly received educational services provided by a facility school.

(3) (a) In appointing the members of the facility schools board, the state board shall seek to ensure that the membership of the facility schools board collectively has expertise in the areas of:

(I) Curriculum and assessment;

(II) Educating students who are placed in facilities;

(III) Mental health;

(IV) Special education services; and

(V) School finance.

(b) The state board shall ensure that members of the facility schools board are representative of the various geographic areas of the state and are representative of the ethnic and racial diversity and gender balance within the state.

(4) Members of the facility schools board shall serve three-year terms; except that, of the members initially appointed, two members shall serve one-year terms and two members shall serve two-year terms. The state board may reappoint a person to serve successive terms on the facility schools board.

(5) Members of the facility schools board shall serve without compensation but may receive reimbursement for reasonable travel expenses incurred in fulfilling their duties on the facility schools board. The department staff shall assist the facility schools board in performing its duties.

**Source: L. 2008:** Entire part added, p. 1377, § 1, effective May 27. **L. 2018:** (2)(c) amended, (SB 18-092), ch. 38, p. 436, § 85, effective August 8.

**Cross references:** For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of Colorado 2018.

**22-2-405. Facility schools unit - duties.** (1) In addition to any other duties that may be required by law, the unit shall:

(a) Develop and maintain, as provided in section 22-2-407, the list of approved facility schools;

(b) Make recommendations to the facility schools board regarding the curriculum for use in the approved facility schools;

(c) Make recommendations to the facility schools board regarding graduation requirements for students in approved facility schools. The unit's recommendations shall follow the comprehensive guidelines for high school graduation requirements specified by the state board pursuant to section 22-2-106 (1)(a.5);

(d) Maintain, and make available as provided by law, student information and records for the students who receive educational services from approved facility schools;

(e) Ensure that each student who receives educational services from an approved facility school and who, upon leaving the facility, will reside in Colorado receives a unique identifying number, as provided in rules adopted pursuant to section 22-11-104, if the student has not already been assigned a number by the department; and

(f) Communicate and collaborate with the state department of human services, the county departments of human or social services, and referring agencies regarding the placement and transfer of students in facilities, including but not limited to communication concerning academic testing prior to and following placement and other academic and achievement testing.

(2) In complying with the duties specified in paragraph (d) of subsection (1) of this section, the unit shall:

(a) Adopt data reporting protocols and records transfer procedures for use by approved facility schools; and

(b) In purchasing a data system to maintain the records of students who are receiving educational services from approved facility schools, ensure that the data system selected is compatible with the system used by school districts in serving a majority of the students enrolled in public schools of the state.

**Source: L. 2008:** Entire part added, p. 1378, § 1, effective May 27. **L. 2009:** (1)(e) amended, (SB 09-163), ch. 293, p. 1529, § 12, effective May 21. **L. 2018:** (1)(f) amended, (SB 18-092), ch. 38, p. 436, § 86, effective August 8.

**Cross references:** For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of Colorado 2018.

**22-2-406. Facility schools board duties - curriculum - graduation standards - rules.** (1) In addition to any other duties provided by law, the facility schools board shall:

(a) Adopt curriculum to be provided by approved facility schools. At a minimum, the facility schools board shall align the curriculum for the core subjects of reading, writing, mathematics, science, history, and geography with the state content standards adopted pursuant to section 22-7-1005 and the state assessments administered as provided in section 22-7-1006.3. The curriculum must include a range of course work from which an approved facility school may select courses that meet the needs of the students who are placed at the facility.

(b) Adopt accountability measures, including academic performance measures, to be applied to approved facility schools and the students receiving educational services through the approved facility schools; and

(c) Award a high school diploma to a student who, while receiving services through an approved facility school, meets the graduation requirements the facility schools board shall establish pursuant to subsection (3) of this section and who applies for the award of a high school diploma from the facility schools board.

(2) The facility schools board may make recommendations to the state board and to the department of human services regarding any of the following issues:

(a) The process for placing a child or youth in a facility when the placement is initiated by a public entity and methods for improving the involvement of school districts in such placement decisions;

(b) The process for placing a child or youth in a facility when the placement is initiated by action by or request of a private person and methods by which school districts may be involved in such placement decisions;

(c) Methods and strategies for improving the quality of educational services provided by approved facility schools and for improving the educational outcomes for students who receive educational services from approved facility schools;

(d) Methods for recruiting and retaining highly qualified teachers and paraprofessionals for employment in approved facility schools;

(e) The provision of appropriate services for students with disabilities, including the process for developing and reviewing individualized education programs;

(f) Methods of reimbursing approved facility schools for the excess costs incurred in providing educational services to students with disabilities, including direct and indirect costs;

(g) The liability of the school districts of residence for providing a free and appropriate public education for the students who are placed in a facility and procedures to ensure students' rights to receive educational services;

(h) The oversight and monitoring of approved facility schools; and

(i) Any other issues that are determined by the facility schools board to be within its purview and that are intended to improve educational outcomes for students receiving educational services from approved facility schools or to promote the efficient delivery of educational services to students who are placed in facilities.

(3) The facility schools board shall promulgate rules in accordance with the "State Administrative Procedure Act", article 4 of title 24, C.R.S., to establish procedures by which a student who participates in an approved facility school may apply to receive a high school diploma awarded by the facility schools board. The facility schools board shall also, by rule, establish the graduation requirements that a student receiving educational services through an approved facility school shall meet to be awarded the facility school's high school diploma. In adopting the graduation requirements, the facility schools board shall take into consideration the recommendations of the unit and shall ensure that the graduation requirements follow the guidelines for high school graduation requirements specified by the state board pursuant to section 22-2-106 (1)(a.5).

**Source: L. 2008:** Entire part added, p. 1379, § 1, effective May 27. **L. 2015:** (1)(a) amended, (HB 15-1323), ch. 204, p. 721, § 22, effective May 20.

**22-2-407. List of approved facility schools - application - criteria - rules.** (1) Pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., the facility schools board shall promulgate rules for the creation and maintenance as provided in this section of a list of facility schools that are approved to receive reimbursement for providing educational services to students placed in the facility. In addition to the rules specified in this section, the facility schools board shall adopt such additional rules as may be necessary for the implementation of the list pursuant to this section.

(2) (a) The facility schools board by rule shall specify:

(I) The procedures by which a facility school may apply to the unit for placement on the list of approved facility schools;

(II) The information that each facility school shall provide in the application;

(III) The reporting requirements for approved facility schools; and

(IV) The criteria that a facility school shall meet to be placed on the list of approved facility schools.

(b) The unit shall review the applications received pursuant to paragraph (a) of this subsection (2) and shall place on the list of approved facility schools those applicants that meet the criteria specified by rule of the facility schools board. The unit shall notify each applicant regarding placement on the list of approved facility schools. If the unit denies an applicant placement on the list, the unit shall explain the basis for the denial. An applicant that is denied may reapply for placement on the list following correction of the cause for denial.

(3) An approved facility school shall comply with the following requirements in order to remain on the list of approved facility schools:

(a) Adopt and implement the curriculum and graduation requirements specified by the facility schools board pursuant to section 22-2-406 (1)(a) and (3);

(b) Demonstrate compliance with the accountability measures adopted by the facility schools board pursuant to section 22-2-406 (1)(b);

(c) Comply with the reporting and records tracking requirements specified by the unit pursuant to section 22-2-405 (1)(d) and (2); and

(d) Comply with any other requirements specified by rule of the facility schools board.

(4) The unit shall periodically, as provided by rule of the facility schools board, review each approved facility school to determine whether the approved facility school is in compliance with the requirements specified in subsection (3) of this section. If the unit determines that an approved facility school is out of compliance, the unit shall give the approved facility school notice of the lack of compliance. If the approved facility school does not come into compliance within thirty days after receiving the notice, the unit shall remove the facility school from the list of approved facility schools. A facility school that is removed from the list of approved facility schools may reapply for placement on the list as provided in subsection (2) of this section.

**Source: L. 2008:** Entire part added, p. 1380, § 1, effective May 27.

**22-2-408. Approved facility schools - funding.** (1) For the 2008-09 budget year and for each budget year thereafter, each approved facility school shall submit its pupil enrollment to the department and receive funding from the department in accordance with the provisions of section 22-54-129.

(2) For the 2009-10 budget year, and for each budget year thereafter, the department shall annually withhold two percent of the amount payable to each approved facility school. The amount withheld shall be allocated to the unit to offset the costs incurred by the unit and the facility schools board in implementing this part 4.

**Source: L. 2008:** Entire section added, p. 1218, § 31, effective May 22.

**Cross references:** For the legislative declaration contained in the 2008 act enacting this section, see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-2-409. Notification of risk.** (1) Beginning August 15, 2010, a state-licensed day treatment facility, facility school, or hospital licensed or certified pursuant to section 25-3-101, C.R.S., shall notify the appropriate child welfare education liaison, designated pursuant to section 22-32-138 (2)(a), of a student who:

(a) Is transferring to a public school from a state-licensed day treatment facility licensed by the department of human services pursuant to section 26-6-104, C.R.S., facility school as defined in section 22-2-402 (1), or hospital licensed or certified pursuant to section 25-3-101, C.R.S.; and

(b) Has been determined by the state-licensed day treatment facility, the facility school, the hospital licensed or certified pursuant to section 25-3-101, C.R.S., or the court to be a risk to himself or herself or the community within the twelve months prior to the proposed transfer.

(2) This section applies only to a hospital licensed or certified pursuant to section 25-3-301 that is providing inpatient acute care or psychiatric services for a student for more than ten days and if there is actual knowledge that the student will attend an identified public school within sixty days after discharge from the hospital. For purposes of this subsection (2), information shared with the state department of human services, county department of human or social services, or child education welfare liaison must be shared only for a student who has been deemed to be a risk to himself or herself or the community within the twelve months prior to discharge.

(3) The notification required in subsection (1) of this section must be made at least ten calendar days prior to the student's transition from the state-licensed day treatment facility, facility school, or hospital licensed or certified pursuant to section 25-3-101 and subsequent enrollment in a public school and must include an invitation to the child welfare education liaison, or his or her designee, to participate in the development of a transition plan for the student. The information provided to the child welfare education liaison must include, but need not be limited to, the transitioning student's educational records from the transferring educational facility and an outline of the student's transitional needs to be successful in the public school setting, which information would assist the school district in meeting the student's needs and ensuring a successful transition. If the transitioning student is in the custody of the state department of human services or a county department of human or social services, the state-licensed day treatment facility, facility school, or hospital licensed or certified pursuant to section 25-3-101 shall also provide the notification to the state department of human services.

(4) If a change of placement is required for the safety of the student or if a court, the state department of human services, or a county department of human or social services makes a placement change with fewer than ten calendar days notice, the responsible state or county

department of human services or social services shall provide information to the child welfare education liaison, designated pursuant to section 22-32-138 (2)(a), of the receiving school district, charter school, or institute charter school within five calendar days following the student's placement. The information provided to the child welfare education liaison must include, but need not be limited to, the transitioning student's educational records from the transferring educational facility and an outline of the student's transitional needs to be successful in the public school setting, which information would assist the district in meeting the student's needs and ensuring a successful transition.

(5) The responsible county department of human or social services and the receiving school district, charter school, or institute charter school shall cooperate to ensure that an appropriate placement including educational services is made pursuant to this section and sections 19-1-115.5, 22-20-108, and 22-32-138, as applicable.

(6) Within the confidentiality and privacy limits of state and federal law, the responsible county department of human or social services or the school district, charter school, institute charter school, or facility school shall provide information about the student to assist the receiving entity in determining an appropriate educational placement for the student.

(7) On or before July 1, 2011, the department of human services and the department of education shall enter into a memorandum of understanding, pursuant to section 22-2-139, concerning the enrollment of students in the public school system who meet the requirements of subsection (1) of this section.

**Source: L. 2010:** Entire section added, (HB 10-1274), ch. 271, p. 1249, § 4, effective May 25. **L. 2016:** (1)(a) amended, (SB 16-189), ch. 210, p. 762, § 34, effective June 6. **L. 2018:** (2) to (6) amended, (SB 18-092), ch. 38, p. 436, § 87, effective August 8.

**Cross references:** For the legislative declaration in the 2010 act adding this section, see section 1 of chapter 271, Session Laws of Colorado 2010. For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of Colorado 2018.

## PART 5

## TEACHER RECRUITMENT AND RETENTION

**22-2-501. Legislative declaration.** (1) The general assembly hereby finds that:

(a) Teachers have a great impact in student achievement. Evidence shows that teacher quality can account for the majority of variances in student learning and test scores.

(b) The teaching and learning conditions under which teachers practice their profession, though often overlooked, are essential elements to student achievement and teacher retention. These conditions must be systematically studied and addressed for Colorado to develop a critical mass of teachers who are well prepared to teach and who will remain in hardest-to-staff schools long enough to make a significant difference for students and their families.

(c) Research also demonstrates that the negative effects of teacher shortages and distribution challenges have a disproportionate impact on the nation's most disadvantaged students, leaving poor and minority children more likely to be taught by less-qualified and under-prepared teachers.

(d) Teachers who are truly highly qualified teach well-designed, standards-based lessons and are able to teach those lessons successfully because they know how and why their students learn. These teachers work effectively with their colleagues to push and lead school improvement and work steadily to sharpen their skills and increase their knowledge because they believe it is part of their professional responsibility to do so.

(e) National board certification is a nationally accepted sign of quality in the teaching profession and offers a nationwide standard for evaluating and encouraging quality teaching. It is a means to recognize and reward the accomplished teachers the state needs to build competitive, world-class schools. National board certified teachers advance the quality of teaching and learning by maintaining high and rigorous standards for what accomplished teachers should know and be able to do.

(2) The general assembly further finds and declares that, for purposes of section 17 of article IX of the state constitution, implementation of measures designed to improve teacher quality, recruitment, and retention through this part 5 and through House Bill 08-1384, as enacted at the second regular session of the sixty-sixth general assembly, is a critical element of accountable education reform, accountable programs to meet state academic standards, and performance incentives for teachers and, therefore, may receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 2008:** Entire part added, p. 1361, § 1, effective May 27.

**22-2-502. Definitions.** As used in this part 5, unless the context otherwise requires:

(1) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(2) "Low-performing, high-needs school" means a school that is required to submit a priority improvement or turnaround plan pursuant to section 22-11-210.

**Source: L. 2008:** Entire part added, p. 1362, § 1, effective May 27. **L. 2012:** Entire section amended, (HB 12-1261), ch. 257, p. 1306, § 2, effective August 8.

**Cross references:** For the legislative declaration in the 2012 act amending this section, see section 1 of chapter 257, Session Laws of Colorado 2012.

**22-2-503. Teaching and learning conditions survey.** (1) Subject to available appropriations, the department shall administer a biennial teaching and learning conditions survey, referred to in this section as the "survey", to all preschool, elementary, and secondary teachers in public schools of the state. The survey shall be designed to assess, at a minimum:

(a) Teaching and learning conditions as predictors of student achievement;

(b) The correlation, if any, between teaching and learning conditions and teacher retention; and

(c) The relationship, if any, between teaching and learning conditions and school administration.

(2) The survey results may be used by schools, school districts, the department, state policymakers, and researchers as a resource for:

(a) School and program design;

(b) Professional development programs;

(c) School improvement plans;

(d) School district continuous improvement programs;

(e) State education reform initiatives concerning achievement gaps, teacher gaps, dropout rates, and graduation rates; and

(f) Other analyses to inform school improvement efforts.

**Source: L. 2008:** Entire part added, p. 1362, § 1, effective May 27. **L. 2009:** IP(1) amended, (SB 09-214), ch. 24, p. 111, § 1, effective March 18.

**22-2-504. National certification compensation - definition - study.** (1) Beginning with the 2009-10 school year for teachers, school counselors, and principals who hold a certification from the national board for professional teaching standards, and school counselors who hold a certification from the national board for certified counselors, and beginning with the 2019-20 school year for nationally certified school psychologists who hold a certification from the national association of school psychologists, collectively referred to in this section as "school professionals", the department, subject to available appropriations, shall award an annual stipend of one thousand six hundred dollars to any school professional who is employed in a school district, a program operated by a board of cooperative services, a charter school authorized by a school district pursuant to part 1 of article 30.5 of this title 22, or a charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title 22. For any stipends that are awarded, the department shall allocate the stipend money to the school district that employs the school professional who is to receive the stipend, and the school district shall then make payment directly to the eligible school professional. A school district may, at its discretion, withhold any required employer retirement and medicare contributions associated with the stipend pursuant to this section from the one thousand six hundred dollar stipend amount. For any stipends that are awarded, the stipend shall be:

(a) Payable on May 1, 2009, and each May 1 thereafter, for nationally certified teachers, school counselors, and principals;

(b) Payable on May 1, 2020, and each May 1 thereafter, for nationally certified school psychologists;

(c) Prorated for less than full-time employment;

(d) Considered regular salary pursuant to section 24-51-101 (42)(a); and

(e) In addition to, and not in lieu of, any existing compensation being awarded at the local level to a school professional.

(2) Beginning with the 2009-10 school year for nationally certified teachers, school counselors, and principals, and beginning with the 2019-20 school year for nationally certified school psychologists, subject to available appropriations, an additional annual stipend of three thousand two hundred dollars shall be awarded to any school professional who meets the criteria set forth in subsection (1) of this section and who is employed as of May 1 in a given school year in a low-performing, high-needs school. Subject to available appropriations, a school professional shall continue to receive the additional stipend award pursuant to this subsection (2) if the school professional remains employed in a school that was previously a low-performing, high-needs school but improved sufficiently to implement an improvement or performance plan

pursuant to section 22-11-210. The additional stipend for a school professional is subject to the same restrictions and requirements as set forth in subsection (1) of this section.

(3) (a) On or before August 30, 2011, the department shall contract with an outside source to conduct two studies concerning the effectiveness of any annual stipends awarded to teachers pursuant to this section.

(b) The first study shall evaluate the effect of national board certification on student achievement, using longitudinal growth as a measurement. The results of the study shall describe, at a minimum, any differential effectiveness correlated to school characteristics, including but not limited to:

(I) Title I of the federal "Elementary and Secondary Education Act of 1965", 20 U.S.C. sec. 6301 et seq., eligibility;

(II) School size; and

(III) The proportion of students who attend the school for whom English is a second language.

(c) The second study shall evaluate the effectiveness of any stipends awarded on encouraging teachers to obtain national board certification and encouraging teachers to teach in low-performing schools, the effect of the national board certification on teacher retention, and the effect of having national board certified teachers on the culture of the school.

(d) On or before January 30, 2012, the department shall submit a report containing the findings of the study to the education committees of the house of representatives and the senate, or any successor committees, the governor, and the commissioner of education.

(4) If insufficient funding is available to award a stipend pursuant to subsection (1) of this section to all school professionals, stipends shall be awarded only to those school professionals who meet the criteria of subsection (1) of this section and who are employed in a low-performing, high-needs school.

**Source: L. 2008:** Entire part added, p. 1363, § 1, effective May 27. **L. 2009:** Entire section amended, (SB 09-214), ch. 24, p. 111, § 2, effective March 18; (2) amended, (SB 09-163), ch. 293, p. 1529, § 13, effective May 21. **L. 2011:** (1)(c) amended, (HB 11-1303), ch. 264, p. 1159, § 41, effective August 10. **L. 2012:** (1) and (2) amended and (4) added, (HB 12-1261), ch. 257, p. 1306, § 3, effective August 8. **L. 2019:** (1), (2), and (4) amended, (HB 19-1036), ch. 8, p. 34, § 1, effective August 2.

**Editor's note:** Amendments to subsection (2) by Senate Bill 09-163 and Senate Bill 09-214 were harmonized.

**Cross references:** For the legislative declaration in the 2012 act amending subsections (1) and (2) and adding subsection (4), see section 1 of chapter 257, Session Laws of Colorado 2012.

**22-2-505. Minority teacher recruitment - short title - legislative declaration - study - report.** (1) The general assembly finds and declares that:

(a) Diversity of teachers in K-12 classrooms is important not only because it helps provide positive role models for students but also because it offers a broader cultural understanding of learning strategies and needs;

(b) The most recent data for Colorado shows that while approximately forty-four percent of students in Colorado are minorities, only twelve percent of teachers are minorities; and

(c) Statewide, the number of minority teachers has not kept up with population growth and changes in student diversity.

(2) The general assembly therefore declares that it is a matter of statewide concern to study and develop strategies to increase and improve the recruitment, preparation, and retention of high-quality minority teachers in Colorado's public school system.

(3) The department shall study and develop strategies to increase and improve the recruitment, preparation, development, and retention of high-quality minority teachers in elementary and secondary schools in Colorado. On or before December 1, 2014, the department shall prepare a report on its findings, including current statewide and district demographics and recommendations, and submit it to the office of the governor, the state board of education, and the education committees of the house of representatives and senate, or any successor committees. The department shall present the report on its findings to the education committees of the house of representatives and senate, or any successor committees, on or before January 30, 2015.

(4) This section shall be known as "Aliyah's Law".

**Source: L. 2014:** Entire section added, (HB 14-1175), ch. 359, p. 1685, § 1, effective August 6.

## ARTICLE 3

Eye Protective Devices

**22-3-101. Duties regarding eye protective devices.** (1) It is the duty of the governing board of every school district, university, college, or other institution of higher education, and of every person, firm, or organization maintaining any private school, university, college, or other institution of higher education, in this state to provide eye protective devices for the use of all students, teachers, and visitors when participating in the courses and activities enumerated in section 22-3-102.

(2) It is the duty of the persons charged with the supervision of any such course or activity to require such eye protective devices to be worn by students, teachers, and visitors under the circumstances prescribed in section 22-3-102.

**Source: L. 69:** p. 1038, § 1. **C.R.S. 1963:** § 123-36-1.

**22-3-102. Courses in which devices to be used - substances and activities dangerous to eyes.** (1) Eye protective devices shall be worn in courses including, but not limited to, vocational or industrial art shops or laboratories and chemistry, physics, or combined chemistry-physics laboratories, at any time at which the individual is engaged in, or observing, an activity or the use of hazardous substances likely to cause injury to the eyes.

(2) Hazardous substances likely to cause physical injury to the eyes include materials which are flammable, toxic, corrosive to living tissues, irritating, strongly sensitizing, or radioactive or which generate pressure through heat, decomposition, or other means.

(3) Activity or the use of hazardous substances includes, but is not limited to, the following:

(a) Working with hot molten metal;

(b) Milling, sawing, turning, shaping, cutting, grinding, and stamping of any solid materials;

(c) Heat treating, tempering, or kiln firing of any metal or other materials;

(d) Gas or electric arc welding;

(e) Working with hot liquids, solids, or chemicals which are flammable, toxic, corrosive to living tissues, irritating, sensitizing, or radioactive or which generate pressure through heat, decomposition, or other means.

**Source: L. 69:** p. 1039, § 2. **C.R.S. 1963:** § 123-36-2.

**22-3-103. Standards for devices.** For the purposes of this article, the eye protective devices utilized shall be industrial quality eye protective devices which meet the standards of the U.S.A. standard practice for occupational and educational eye and face protection, Z87.1-1968, and subsequent revisions thereof, approved by the United States of America Standards Institute, Inc.

**Source: L. 69:** p. 1039, § 3. **C.R.S. 1963:** § 123-36-3.

**22-3-104. Implementation.** The commissioner of education shall prepare and circulate to each public and private educational institution in this state instructions and recommendations for implementing the eye safety provisions of this article.

**Source: L. 69:** p. 1039, § 4. **C.R.S. 1963:** § 123-36-4.

## ARTICLE 4

County Superintendent of Schools

**22-4-101 to 22-4-105. (Repealed)**

**Source: L. 84:** Entire article repealed, p. 582, § 1, effective March 19.

**Editor's note:** This article was numbered as article 2 of chapter 123 in C.R.S. 1963. For amendments to this article prior to its repeal in 1984, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

## ARTICLE 5

Boards of Cooperative
Services Act of 1965

**22-5-101. Short title.** This article shall be known and may be cited as the "Boards of Cooperative Services Act of 1965".

**Source: L. 65:** p. 1027, § 1. **C.R.S. 1963:** § 123-34-1.

**22-5-102. Legislative declaration.** The general assembly declares that this article is enacted for the general improvement and expansion of educational services of the public schools in the state of Colorado; for the creation of boards of cooperative services where feasible for purposes of enabling two or more school districts to cooperate in furnishing services authorized by law if cooperation appears desirable; and for the setting forth of the powers and duties of said boards of cooperative services.

**Source: L. 65:** p. 1027, § 2. **C.R.S. 1963:** § 123-34-2.

**22-5-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Board" means the board of education of a school district or the governing board or governing agency of a postsecondary institution.

(2) "Board of cooperative services" or "BOCES" means a regional educational service unit designed to provide supporting, instructional, administrative, facility, community, or any other services contracted by participating members.

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

(2.5) Repealed.

(2.7) "Institute charter school" means a charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title.

(3) "Postsecondary institution" means a community or technical college, a local district college, or a state-supported institution of higher education.

(4) "School district" means any public school district existing pursuant to law.

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

**Source: L. 73:** p. 1295, § 4. **C.R.S. 1963:** § 123-34-16. **L. 91:** Entire section amended, p. 896, § 33, effective June 5. **L. 92:** (2.5) added, p. 470, § 2, effective May 29; (2.5) amended, p. 2183, § 60, effective June 2. **L. 97:** (2.5) amended, p. 460, § 4, effective August 6; (2.5) repealed, p. 948, § 2, effective August 6. **L. 2010:** (2.3) and (2.7) added, (SB 10-161), ch. 250, p. 1116, § 3, effective August 11. **L. 2012:** (2) amended, (HB 12-1345), ch. 188, p. 716, § 3, effective May 19.

**Editor's note:** Subsection (2.5) was amended in House Bill 97-1219. Those amendments were superseded by the repeal of subsection (2.5) in House Bill 97-1253.

**22-5-104. Creation of board of cooperative services - meetings.** (1) Whenever the boards of education of two or more school districts or the board of education of a school district and the governing board or governing agency of a postsecondary institution desire to establish a board of cooperative services for the purpose of providing cooperative services as set forth in this article and have so certified to the commissioner of education and other interested boards by

appropriate resolution, the presidents of any two of the interested boards may call a meeting of the duly appointed representatives of the interested boards. The interested boards shall seek from the commissioner of education and the state board for community colleges and occupational education any aid and assistance that may be reasonably required, to the end that a proper plan of organization for the board of cooperative services shall be accomplished. At this meeting the boards which have previously and respectively adopted resolutions so authorizing may enter into a proposed agreement to form a board of cooperative services, which proposed agreement shall set forth the names of the participating districts and postsecondary institutions and such other items as may be required. The participating school districts and postsecondary institutions may then proceed to form the board of cooperative services.

(2) (a) At a subsequent meeting, the boards which have approved participation in a board of cooperative services shall agree upon the number of members which are to compose the cooperative board; except that there shall be no less than five members, and each participating board shall be entitled to at least one member on the board of cooperative services.

(b) Each participating board of education of a school district shall then appoint its assigned number of representatives, and one alternate for each, from its membership; except that, if the board of cooperative services consists of a single school district and a single postsecondary institution, the board of education may appoint its representatives, and one alternate for each, from its membership or it may appoint the superintendent of the school district as one of its assigned number of representatives. The term of office of any member representing a board of education of a school district who is also a member of the board of education shall have the same expiration date as the term which the member is serving on the board of education at the time of appointment to the board of cooperative services. The term of office of any school district superintendent who is appointed to represent the board of education of a school district shall not exceed three years; except that, if the superintendent ceases to be an employee of the school district while serving on the board of cooperative services, a vacancy shall exist on the board of cooperative services.

(c) Each participating governing board or governing agency of a postsecondary institution shall then appoint its assigned number of representatives, and one alternate for each, from its membership or the governing board or governing agency may appoint the chief executive officer of such postsecondary institution as one of its assigned number of representatives. The term of office of each member representing a governing board or governing agency of a postsecondary institution shall not exceed three years; except that, if any member of a board of cooperative services who represents a governing board or governing agency of a postsecondary institution ceases to be a member of such governing board or governing agency or the chief executive officer of such postsecondary institution, a vacancy shall exist on the board of cooperative services.

(d) As a term of office expires a replacement to the board of cooperative services shall be appointed by the participating board within thirty days after the expiration date. When other vacancies occur, they shall be filled by appointment by the respective boards within thirty days from the date on which the vacancy occurs.

(e) (I) Upon agreement of all of the boards participating in a board of cooperative services, one member of the board of cooperative services may be jointly appointed by the participating boards from the public at large; however, such member shall reside in the area served by the board of cooperative services. The term of office of such member shall not exceed

three years. As the term of office of such member expires, a replacement to the board of cooperative services shall be jointly appointed by the participating boards within thirty days after the expiration date.

(II) In addition to the member appointed pursuant to subparagraph (I) of this paragraph (e), the participating boards of a board of cooperative services consisting of a single school district and a single postsecondary institution may jointly appoint up to four members of the board of cooperative services from the public at large. A member so appointed shall reside in the area served by the board of cooperative services. The term of office of a member so appointed shall not exceed three years. As the term of office of a member appointed pursuant to this subparagraph (II) expires, a replacement to the board of cooperative services may be jointly appointed by the participating boards within thirty days after the expiration date.

(3) The agreement to establish a board of cooperative services may be amended to admit one or more additional school districts or postsecondary institutions if the board of the school district or postsecondary institution seeking admission shall certify by resolution a desire to be admitted to membership in the board of cooperative services and if the board of cooperative services by resolution agrees to the admission of the school district or postsecondary institution.

(4) A board of cooperative services shall meet at least quarterly. A quorum shall consist of a simple majority of those members serving on a board of cooperative services. In the absence of a regular member, the alternate, if present, may be counted toward the required quorum and assume the prerogatives of the regular member.

(5) A board of cooperative services may adopt a policy authorizing board members to attend and participate in regular or special meetings electronically, including participating by using video or audio conferencing technology that will allow members of the board to view or hear each other during the meeting and fully participate in the discussion and in voting; except that the board members shall gather in one physical location for at least one of the quarterly meetings held each year. The policy must address the method by which members of the public are allowed access to any video or audio conference of the board of cooperative services that is conducted pursuant to this subsection (5). In addition, the policy must specify any agenda items that the board of cooperative services may not consider during any video or audio conference conducted pursuant to this subsection (5). A quorum exists at any video or audio conference held pursuant to this subsection (5) if the number of members participating in the video or audio conference equals the number necessary for a quorum pursuant to subsection (4) of this section.

**Source: L. 65:** p. 1027, § 3. **C.R.S. 1963:** § 123-34-3. **L. 67:** p. 804, § 1. **L. 73:** p. 1293, § 1. **L. 91:** (1) to (3) amended, p. 897, § 34, effective June 5. **L. 97:** (2)(b) and (2)(c) amended, p. 957, § 1, effective May 21. **L. 99:** (5) added, p. 126, § 1, effective March 24. **L. 2003:** (2)(e) amended, p. 671, § 1, effective August 6. **L. 2013:** (5) amended, (SB 13-015), ch. 52, p. 176, § 2, effective August 7.

**22-5-105. Organization of board of cooperative services - meetings.** (1) (a) At its first meeting, the members of the board of cooperative services elected as set forth in section 22-5-104 shall elect from their membership a president, a vice-president, a secretary, and a treasurer, whose terms of office are for two years, unless their terms of office as board members expire earlier, in which case the officership shall similarly expire. The duties of the president, vice-president, secretary, and treasurer of the board of cooperative services are the same as set

forth for similar offices of boards of education in sections 22-32-105 to 22-32-107. Similarly, meetings of the board of cooperative services are called, held, and conducted as set forth in section 22-32-108; except that, pursuant to section 22-5-104 (5), a board of cooperative services may conduct meetings electronically, including by using video or audio conferencing technology.

(b) A board of cooperative services that includes in its membership at least one school district that the department of education determines is rural, based on the geographic size of the school district and the distance of the school district from the nearest large, urbanized area, and that enrolls six thousand five hundred or fewer students in kindergarten through twelfth grade, may provide notice of special meetings by electronic mail as provided in section 22-32-108 (2)(b).

(2) At each meeting at which a board of cooperative services elects officers, each board member shall sign an affidavit stating that the board member is aware of and will comply with the confidentiality requirements and restrictions applicable to executive sessions of the board, as described in section 24-6-402, C.R.S., regardless of whether the board member participates in the executive session in person or electronically in accordance with a policy adopted pursuant to section 22-5-104 (5). The board of cooperative services shall keep and preserve the affidavits with the minutes of board meetings and other board documents.

**Source: L. 65:** p. 1028, § 4. **C.R.S. 1963:** § 123-34-4. **L. 91:** Entire section amended, p. 898, § 35, effective June 5. **L. 99:** Entire section amended, p. 127, § 2, effective March 24. **L. 2013:** Entire section amended, (SB 13-015), ch. 52, p. 177, § 3, effective August 7. **L. 2015:** (1) amended, (HB 15-1321), ch. 217, p. 798, § 6, effective May 22.

**22-5-105.5. Regional education and support services plan - submittal - recommendations. (Repealed)**

**Source: L. 92:** Entire section added, p. 468, § 1, effective May 29; (4) and (5) amended, p. 2183, § 61, effective June 2.

**Editor's note:** Subsection (6) provided for the repeal of this section, effective July 1, 1994. (See L. 92, p. 468.)

**22-5-106. Financing, budgeting, and accounting.** (1) (a) Financing of the services performed under the direction of the board of cooperative services shall be by contributions from available moneys in any funds, which may be legally expended for such services, of the participating members on the basis of a proportionality agreed upon by the participating members and from the boards of cooperative services.

(b) A board of cooperative services may finance all or a portion of the costs of an approved career and technical education program from funds received pursuant to article 8 of title 23.

(2) A board of cooperative services shall adopt a budget and an appropriation resolution prior to the beginning of the fiscal year for which adopted.

(3) A board of cooperative services shall follow the provisions of the "School District Budget Law of 1964", being part 1 of article 44 of this title, wherever such provisions are

applicable; except that the provisions of sections 22-44-112 (3)(c), (4), and (6) and 22-44-115 (4) shall not apply to a board of cooperative services.

**Source: L. 65:** p. 1028, § 5. **C.R.S. 1963:** § 123-34-5. **L. 67:** p. 793, § 1. **L. 71:** p. 1176, § 1. **L. 73:** p. 1293, § 2. **L. 90:** (2) amended, p. 1080, § 33, effective May 31. **L. 91:** (1) amended, p. 899, § 36, effective June 5. **L. 2005:** (1) amended, p. 435, § 10, effective April 29. **L. 2017:** (1)(b) amended, (SB 17-294), ch. 264, p. 1394, § 42, effective May 25.

**22-5-106.5. Short-term loans.** A board of cooperative services may, upon approval of its members, negotiate or contract with any person, corporation, association, or company for a loan not to exceed the difference between the anticipated revenues for the current fiscal year for the budget of the board of cooperative services and the amount credited to date to said budget in order to pay current obligations. Such loan shall be liquidated within six months thereafter from moneys subsequently credited to said budget. The total principal, interest, and fees to be paid on such loan shall not exceed the total amount of the authorized budget for the same length of time.

**Source: L. 77:** Entire section added, p. 1035, § 1, effective May 7. **L. 91:** Entire section amended, p. 899, § 37, effective June 5.

**22-5-107. Duties of board of cooperative services.** In addition to any other duty required to be performed by law, the board of cooperative services shall have the same duties as those for boards of education as set forth in section 22-32-109 (1)(a) to (1)(m), (1)(q), (1)(r), and (1)(pp) and section 22-9-106.

**Source: L. 65:** p. 1029, § 6. **C.R.S. 1963:** § 123-34-6. **L. 92:** Entire section amended, p. 471, § 1, effective April 29. **L. 2019:** Entire section amended, (SB 19-057), ch. 35, p. 114, § 7, effective August 2.

**22-5-108. Powers of board of cooperative services.** (1) In addition to any other powers granted by law, the board of cooperative services shall have the following specific powers, to be exercised in its judgment:

(a) Those powers set forth for boards of education in section 22-32-110 (1)(b) to (1)(k), (1)(n) to (1)(q), (1)(s) to (1)(w), (1)(y), (1)(aa) to (1)(ee), and (1)(jj), and in sections 22-32-113, 22-32-114, 22-32-116 to 22-32-118, 22-32-120 to 22-32-122, and 22-32-124;

(b) To take and hold in the name of the board of cooperative services so much real and personal property as may be reasonably necessary for any purpose authorized by law;

(c) To operate schools and classes as authorized by the members;

(d) To determine which programs and facilities of the board of cooperative services shall be operated and maintained;

(e) To award diplomas or certificates of accomplishment as authorized by the members;

(f) To exclude from any library operated by the board of cooperative services any books, magazines, papers, or other publications which, in the judgment of the board, are of immoral or pernicious nature;

(g) To select a depositary for moneys belonging to the board of cooperative services, and to invest any funds on hand which are not then needed in the conduct of its affairs in any

securities which are legal investments for the state and its political subdivisions, pursuant to part 6 of article 75 of title 24, C.R.S.;

(h) To enter into contracts and to receive federal matching funds for moneys spent in providing student health services pursuant to section 25.5-5-301 (6) or 25.5-5-318, C.R.S.;

(i) To contract with a district charter school or an institute charter school pursuant to section 22-30.5-104 (7)(b) or 22-30.5-507 (8)(b), respectively, for the use of a school building and grounds, the operation and maintenance of the building and grounds, and the provision of any service, activity, or undertaking that the district charter school or institute charter school is required to perform to carry out the educational program described in its charter contract.

**Source: L. 65:** p. 1029, § 7. **C.R.S. 1963:** § 123-34-7. **L. 67:** p. 805, § 2. **L. 69:** p. 1032, § 2. **L. 73:** p. 1293, § 3. **L. 97:** (1)(h) added, p. 1138, § 6, effective May 28. **L. 2006:** (1)(h) amended, p. 2005, § 63, effective July 1. **L. 2010:** (1)(i) added, (SB 10-111), ch. 170, p. 599, § 1, effective August 11; (1)(i) added, (SB 10-161), ch. 250, p. 1116, § 4, effective August 11. **L. 2017:** (1)(a) amended, (HB 17-1301), ch. 201, p. 746, § 4, effective August 9.

**Editor's note:** Amendments to subsection (1)(i) by Senate Bill 10-111 and Senate Bill 10-161 were harmonized.

**22-5-109. Matching power.** The board of cooperative services shall be authorized to use the contributions from the participating members to match state and federal funds, or funds from any other agencies when applicable, when the acceptance of financial assistance from such other agencies requires matching of funds as a condition of participating in services authorized by law.

**Source: L. 65:** p. 1029, § 8. **C.R.S. 1963:** § 123-34-8. **L. 91:** Entire section amended, p. 899, § 38, effective June 5.

**22-5-110. State and federal payments.** Any state or federal financial assistance which would accrue to an individual school district if it were performing a service performed under the direction of a board of cooperative services shall be apportioned by the appropriate state or federal agency to the participating school districts on the basis of the proportionality of the contributions of the participating school districts to the performance of the service or upon the basis of proportionality otherwise set forth by law.

**Source: L. 65:** p. 1029, § 9. **C.R.S. 1963:** § 123-34-9.

**22-5-111. Buildings and facilities.** (1) A school district which is participating in a cooperative service agreement, when authorized by a vote of the eligible electors as provided in article 42 of this title, may contract for bonded indebtedness for the purpose of purchasing sites, constructing buildings or other structures, and equipping buildings which are necessary for the operation of a cooperative educational service program. The district which contracts for bonded indebtedness may charge the other members participating in the cooperative service agreement for the use of the building and equipment. The rental proceeds may be applied to the retirement of said bonded indebtedness. This article shall not be construed to create liability for retirement

of such bonded indebtedness upon the other members participating in the cooperative service agreement.

(2) The boards of education of the school districts participating in a cooperative service agreement may jointly, separately, or, after approval of each participating board of education, as a board of cooperative services construct, purchase, or lease sites, buildings, and equipment for the purpose of providing the facilities necessary for the operation of a cooperative service program at any appropriate location, whether within or without a school district providing the money for the facilities. School district moneys in any fund from which moneys may be legally expended for such facilities may be used for carrying out the provisions of this section. The provisions of sections 22-32-127 and 22-45-103 (1) shall apply to any installment purchase agreement or any lease or rental agreement, including but not limited to any sublease-purchase agreement entered into by a school district that is a member of a board of cooperative services pursuant to section 22-43.7-110 (2)(c), entered into by a board of cooperative services or by the boards of education of the school districts participating in a cooperative service agreement. No board of education of a school district participating in a cooperative service agreement shall make any levy for its bond redemption fund, or use any moneys in its bond redemption fund, except in accordance with the provisions of section 22-45-103 (1)(b).

(3) The board of cooperative services, when authorized by a vote of the registered electors of all of the school districts participating in the agreement, may borrow any moneys available from the permanent school fund for purposes of purchasing sites and erecting buildings for use of the board of cooperative services. Repayment of such loans and interest thereon shall be by payments from the participating school districts on a proportion agreed upon by the boards of education of said participating school districts.

**Source: L. 65:** p. 1029, § 10. **C.R.S. 1963:** § 123-34-10. **L. 67:** p. 793, § 2. **L. 83:** (2) amended, p. 743, § 1, effective June 1. **L. 85:** (2) amended, p. 733, § 4, effective May 31. **L. 87:** (1) and (3) amended, p. 305, § 22, effective July 1. **L. 91:** (1) amended, p. 899, § 39, effective June 5. **L. 93:** (1) amended, p. 1780, § 44, effective June 6. **L. 2008:** (2) amended, p. 1065, § 9, effective May 22.

**22-5-112. Veto power and dissolution.** (1) A participating board may refrain from participating in a specific activity proposed by the board of cooperative services by giving due notice through a board resolution as may be provided in the bylaws of the board of cooperative services.

(2) A participating board may withdraw from a board of cooperative services after having given due notice as provided in the bylaws of the board of cooperative services and after having satisfactorily completed all specific contracts to which it has become a party, or upon otherwise being released from its commitments by the board of cooperative services.

(3) A board of cooperative services may be dissolved by its resolution upon the completion of all contracts or upon other adequate discharge of its obligations.

**Source: L. 67:** p. 805, § 3. **C.R.S. 1963:** § 123-34-11.

**22-5-113. Approval for postsecondary occupational programs.** No board of cooperative services shall establish a new postsecondary program of occupational education

without first obtaining approval from the state board for community colleges and occupational education.

**Source: L. 67:** p. 447, § 24. **C.R.S. 1963:** § 123-34-12.

**Cross references:** For the establishment of the state board for community colleges and occupational education, see § 23-60-104.

**22-5-114. Eligibility for funds.** (1) (a) Any board of cooperative services organized under the provisions of this article shall be eligible to receive such state moneys as may be available upon receiving approval by the state board.

(b) Approval to receive state moneys under this subsection (1) does not constitute approval to receive state moneys pursuant to section 22-5-118.

(2) Unless otherwise approved by the state board, to be eligible to receive state funds under this section and under section 22-5-118, a board of cooperative services shall meet all the following criteria:

(a) It shall serve school districts with a combined total enrollment of not less than four thousand students; and

(b) It shall either serve school districts in two or more counties or serve multiple school districts located in the same county.

**Source: L. 73:** p. 1294, § 4. **C.R.S. 1963:** § 123-34-13. **L. 96:** Entire section amended, p. 977, § 2, effective May 23. **L. 2001:** (1)(a) amended, p. 352, § 16, effective April 16. **L. 2003:** (1)(a) amended, p. 2124, § 14, effective May 22.

**22-5-114.5. Designation as local education agency - rules.** (1) Any board of cooperative services may act as a local education agency for a participating member or consortium of members that chooses to apply for, receive, or administer a grant through a grant program created by a federal or state statute or program. The provisions of this section shall not apply to federal formula grant moneys unless allowed by the "Elementary and Secondary Education Act of 1965", Pub.L. 89-10.

(2) A board of cooperative services may apply to the department for federal or state moneys received by the department only with the approval of two or more of the BOCES member school districts that have expressly agreed to participate in a grant application through a vote by the board of directors of the board of cooperative services. If a board of cooperative services applies for state or federal grant moneys on behalf of participating member school districts, the participating member school districts are not eligible to apply for the same state or federal grant moneys. If a participating member school district of a BOCES expressly declines to participate in a grant application, that member school district is not precluded from applying for the same state or federal grant moneys as an individual school district.

(3) A board of cooperative services may apply to any division within the department for any federal and state grant moneys for which it is eligible. All divisions within the department must treat boards of cooperative services as local education agencies and inform them of and allow them to apply for all federal and state grant moneys for which they are eligible.

(4) An eligible grantee or consortium of grantees may designate a board of cooperative services as the fiscal manager for a state or federal grant. The grantee or consortium of grantees remains responsible for ensuring that all the requirements of the grant are met.

(5) The state board may promulgate rules to establish processes and guidelines for a board of cooperative services to apply for state or federal grant moneys pursuant to this section.

**Source: L. 2013:** Entire section added, (SB 13-002), ch. 65, p. 215, § 1, effective March 22.

**22-5-115. Financing boards of cooperative services.** (1) (a) No later than July 1, 1973, and July 1 of each year thereafter prior to July 1, 2007, the state board shall determine the number of eligible boards of cooperative services and, subject to available appropriations, award a ten-thousand-dollar grant to each such eligible board. For budget years commencing on or after July 1, 2007, the state board, subject to available appropriations, shall award at least ten thousand dollars to each eligible board of cooperative services.

(b) If available moneys are insufficient to award each eligible board the amount specified in paragraph (a) of this subsection (1), the state board shall reduce proportionately all awards for eligible boards for that year.

(2) The state board shall certify to the state treasurer the name and address of, and the amount payable to, each eligible board of cooperative services. Upon receipt of such certification, but no later than July 15, 1973, and July 15 of each year thereafter, the state treasurer shall make distribution of the amount so certified to the respective boards of cooperative services.

(3) The general assembly shall annually make a separate appropriation to the state board to cover the estimated cost of the basic grants to eligible boards of cooperative services as set forth in subsection (1) of this section.

(4) For budget years commencing on or after July 1, 1996, any amount received by a board of cooperative services pursuant to this section must be used to fund professional educator development in standards-based education, as implemented through part 10 of article 7 of this title, in each school district that is a member of such board and in any nonmember school district that chooses to participate in a professional educator development program with any board of cooperative services.

**Source: L. 73:** p. 1294, § 4. **C.R.S. 1963:** § 123-34-14. **L. 93:** (4) added, p. 1047, § 3, effective June 3. **L. 97:** (4) amended, p. 460, § 5, effective August 6. **L. 2003:** (1), (3), and (4) amended, p. 2124, § 15, effective May 22. **L. 2006:** (1) amended and (3) RC&RE, p. 1119, §§ 1, 2, effective May 25. **L. 2015:** (4) amended, (HB 15-1323), ch. 204, p. 721, § 23, effective May 20.

**22-5-116. Corporate status of boards of cooperative services.** Each regularly organized board of cooperative services formed at any time is hereby declared to be a body corporate and in its name may hold title to personal property for any purpose authorized by law, sue, and be a party to contracts for any purpose authorized by law.

**Source: L. 73:** p. 1295, § 4. **C.R.S. 1963:** § 123-34-15.

**22-5-117. Employment of teacher transferred from school district.** Any teacher transferred from employment in a school district which is a member of a board of cooperative services to employment in said board of cooperative services shall retain the employment status he had attained prior to his transfer to the board of cooperative services, including credit for years of service as a probationary teacher, as provided in article 63 of this title, in the school district from which he transferred.

**Source: L. 73:** p. 1295, § 4. **C.R.S. 1963:** § 123-34-17. **L. 90:** Entire section amended, p. 1131, § 9, effective July 1.

**22-5-118. Implementation and financing of regional education and support services - plan - annual report.** (1) The general assembly recognizes that the increasing number of students, the desire to reduce school districts' reliance on property taxes, the need to consolidate services rather than schools, and the limitations on state revenues require the boards of cooperative services to develop the highest possible efficiencies and most economic methods for school districts to deliver education and support services. The general assembly further recognizes that it is essential to assist school districts in providing educational services with the maximum economies of scale without violating the principle of local control. The general assembly therefore declares that using boards of cooperative services to assist in delivering education and support services furthers a valid public purpose and promotes a commitment to achieving efficiencies and economies in providing educational services.

(2) Beginning fiscal year 1996-97 and for fiscal years thereafter, in addition to any state moneys received pursuant to section 22-5-115, a board of cooperative services may receive state moneys by submitting to the department of education a plan for the provision of education and support services programs, as specified in this section. Any amount appropriated to fund any education or support services program pursuant to this section shall be distributed by the department of education to each board of cooperative services that submits a plan. The amount appropriated shall be divided equally based on the total number of students enrolled in the member school districts of the participating boards and distributed based on the number of students participating in the funded education or support services program from each member school district of each participating board.

(3) (a) To receive funds under this section, a board of cooperative services, in cooperation with its participating school districts, the department of education, the Colorado commission on higher education, the state board for community colleges and occupational education, and postsecondary institutions, shall prepare and submit a plan to increase efficiencies and economies in providing education and support services to the board's participating school districts.

(b) Each plan shall include but is not limited to measures concerning:

(I) The enhancement of student achievement and instruction through cooperative research and development, the continuous upgrading of standards and assessment techniques, and the establishment of a regional curriculum center;

(II) Staff development and training programs;

(III) The development of improved communications through such methods as communications technology, distance learning, and media assistance;

(IV) The use of federal and state categorical funds and the distribution and delivery of federal block grant moneys;

(V) Data processing;

(VI) Agreements to act as a regional administrative unit for transportation, cooperative purchasing, and other noninstructional support services, as may be appropriate;

(VI.5) Agreements pertaining to the board's operations, if any, as a school food authority, pursuant to section 22-5-120; and

(VII) Cooperative programs for students who are at risk of suspension or expulsion.

(4) A board of cooperative services may contract with a school district that is not a member of the board of cooperative services to provide to the school district any of the services specified in the plan developed pursuant to this section.

(5) The general assembly may appropriate moneys to the department of education for distribution to boards of cooperative services as provided in this section. Any moneys appropriated shall be in addition to any moneys appropriated pursuant to section 22-5-115.

(6) (a) By July 1 of each year, each board of cooperative services that receives moneys pursuant to this section shall submit a report to the department of education concerning the programs and services funded by moneys received pursuant to this section.

(b) Repealed.

(7) The state board may adopt rules for the implementation of this section.

**Source: L. 96:** Entire section added, p. 975, § 1, effective May 23. **L. 98:** (6)(b) repealed, p. 1075, § 1, effective June 1. **L. 2006:** (6)(a) amended, p. 597, § 7, effective August 7. **L. 2010:** (3)(b)(VI) amended and (3)(b)(VI.5) added, (HB 10-1335), ch. 326, p. 1512, § 2, effective August 11.

**22-5-119. Statewide supplemental online and blended learning program - legislative declaration - contract - definitions.** (1) The short title of this section is the "Empowering Digital Learning for All Act".

(2) (a) (I) The general assembly finds that:

(A) The overwhelming influence of the rapidly evolving use of technology and the internet will render high-quality remote digital educational content almost cost-free after a period of declining costs. Access to digital content and educational courses is already an essential part of the higher education system but is not widely applied in elementary and secondary education. While some school districts have been able to keep pace with the changing context of public education, most have not.

(B) The scope of the coming change in the delivery of public education services is massive and more far-reaching than the currently available constructs of online learning or blended learning. The scope of the change is such that the advances that the technology revolution brings must be equally available to students throughout Colorado who choose a blended learning environment.

(C) The public education system must take advantage of this opportunity to significantly improve statewide educational equity by delivering educational services through the digital learning environment. It is likely that failure to embrace this change in the delivery of public education services will lead to a decline in the equity and quality of the system of public education in Colorado.

(D) Colorado lacks a clearly articulated and accepted vision and plan to implement the shift in delivering educational services to a digital environment, which must occur to adequately prepare students for postsecondary success. It is crucial that the state identify a single public entity to provide leadership in designing and implementing a statewide plan for increasing the availability of supplemental online educational courses and blended learning for school districts, charter schools, and BOCES.

(II) It is therefore in the best interests of the state to increase its investment in the expansion of affordable, high-quality supplemental online education courses and blended learning support for school districts, charter schools, and BOCES, especially those that lack the capacity to develop their own supplemental online education course offerings, by subsidizing the provision of supplemental online education courses, professional development, and technical assistance to implement supplemental online and blended learning statewide.

(III) Due to its experience in assisting school districts with supplemental online education courses and blended learning in Colorado, it is further in the best interests of the state to designate a BOCES to articulate the statewide plan for supplemental online and blended learning and to lead, manage, and administer the statewide supplemental online and blended learning program in accordance with this section.

(b) The general assembly declares that the amount necessary to implement the statewide supplemental online and blended learning program may be appropriated from federal mineral leasing revenues transferred to the state public school fund pursuant to section 34-63-102, C.R.S., and section 22-54-114 (1).

(c) The general assembly further declares that, for purposes of section 17 of article IX of the state constitution, the statewide supplemental online and blended learning program is an important element in implementing accountable education reform and enabling school districts, charter schools, and BOCES to meet state academic standards and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

(3) As used in this section, unless the context otherwise requires:

(a) "Administering BOCES" means the BOCES that the department designates as provided in subsection (4) of this section.

(b) "Blended learning" means a formal education program through which a student learns at least in part through digital content with some element of student control and at least in part at a supervised physical location that is not the student's home.

(c) "BOCES" means a board of cooperative services created pursuant to this article.

(d) "Charter school" means a district charter school authorized pursuant to part 1 of article 30.5 of this title or an institute charter school authorized pursuant to part 5 of article 30.5 of this title.

(e) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(f) "Local public education agency" means a school district, BOCES, or charter school.

(g) "Provider" means a nonprofit entity or a local public education agency that provides:

(I) Supplemental online education courses that are taught by employees of the provider who are teachers licensed in Colorado pursuant to article 60.5 of this title;

(II) Professional development resources for teachers; or

(III) Consulting services for school districts, charter schools, and BOCES with regard to providing supplemental online education courses and blended learning.

(h) "Small rural school district" means a school district in Colorado that the department determines is rural, based on the geographic size of the school district and the distance of the school district from the nearest large, urbanized area, and that enrolls fewer than one thousand students in kindergarten through twelfth grade.

(i) "Statewide supplemental online and blended learning program" or "program" means the program described in subsection (4) of this section.

(j) "Supplemental online education course" means an education course that is:

(I) Taught by a teacher who is licensed pursuant to article 60.5 of this title;

(II) Delivered via a technologically enhanced format to one or more students at a location that is remote from the delivery point; and

(III) Developed by a school district, charter school, or BOCES or obtained from a provider to augment the education program provided by the school district, charter school, or BOCES.

(4) (a) The department, in consultation with the statewide association of BOCES, shall designate a BOCES to lead, manage, and administer the statewide supplemental online and blended learning program as provided in this section. In administering the program, the BOCES, subject to available appropriations, shall select and contract with providers in accordance with subsection (6) of this section to provide the resources described in paragraph (b) of subsection (5) of this section. At least every five years, the department, in consultation with the statewide association of BOCES, shall review the designation of the administering BOCES and may continue the designation or select a different BOCES.

(b) The administering BOCES shall manage and administer the program to achieve, at a minimum, the following goals:

(I) Expanding the availability of supplemental online education courses and blended learning strategies;

(II) Increasing significantly the number of students who enroll in high-quality, effective, and affordable supplemental online education courses;

(III) Working with school districts, charter schools, and BOCES to create, offer, and sustain their own high-quality, effective, and affordable supplemental online education courses and blended learning, as well as targeted professional development and mentoring support;

(IV) Assisting educators in local public education agencies to increase their competency specifically in using digital learning strategies to lead and instruct in, and otherwise implement, digital learning; and

(V) Documenting and sharing best practices in providing supplemental online education courses and blended learning.

(5) (a) In leading the statewide supplemental online and blended learning program, the administering BOCES, in partnership with the commissioner of education, the state board of education, and one or more private, nonprofit entities, shall prepare a plan for integrating supplemental online and blended learning into the educational programs provided by school districts, charter schools, and BOCES. Each school district, charter school, and BOCES may determine the extent to which it participates in the statewide plan.

(b) The administering BOCES shall ensure that, through the program, all school districts, charter schools, and BOCES in the state have access to:

(I) Supplemental online and blended learning resources, including, at a minimum, supplemental online education courses available from contract providers or from a school district, charter school, or BOCES and a library of digital course content;

(II) Professional development resources for teachers, including resources for certifying teachers' ability to successfully integrate supplemental online and blended learning resources into school-building-based educational programs; and

(III) Consulting assistance for school districts, charter schools, and BOCES that choose to use supplemental online and blended learning for students, including an inventory of successful models for integrating supplemental online education courses and blended learning into school-building-based educational programs.

(c) The administering BOCES shall actively market to school districts, charter schools, and BOCES the availability of resources through the statewide supplemental online and blended learning program.

(d) The administering BOCES may enter into an agreement with the statewide internet portal authority created in article 37.7 of title 24, C.R.S., to provide the platform for accessing services and programs available through the statewide supplemental online and blended learning program.

(6) (a) The administering BOCES shall establish a fair and transparent request for proposal process to use when selecting providers to provide resources as described in paragraph (b) of subsection (5) of this section through the statewide supplemental online and blended learning program. The request for proposal process must include input from a review committee as described in paragraph (b) of this subsection (6) that the administering BOCES convenes as needed.

(b) The review committee consists of:

(I) A representative from the administering BOCES;

(II) A representative from the office in the department responsible for online and blended learning;

(III) The following members selected jointly by the administering BOCES and the department:

(A) A national expert in online and blended learning;

(B) An administrator from a school that is designated an alternative education campus as provided in section 22-7-604.5; and

(C) An administrator from a school that obtains online or blended services through the program; and

(IV) Two educators as follows:

(A) One educator appointed by the governor, or his or her designee, who has experience with supplemental online education or blended learning; and

(B) One educator selected by the department who is employed in a small rural school district. The department is encouraged to select an educator who has experience with supplemental online education or blended learning.

(c) The review committee shall review all proposals using established rubrics and shall recommend one or more providers for approval to the administering BOCES. If the administering BOCES chooses not to follow the recommendations of the review committee concerning a provider, it shall provide the review committee with a written explanation of the rationale for the decision.

(d) A provider that the administering BOCES contracts with pursuant to this subsection (6) may subcontract with one or more for-profit or nonprofit entities, local public education agencies, or private organizations in meeting the obligations of its contract with the administering BOCES.

(7) Supplemental online education courses must be provided to a school district, charter school, or BOCES at an affordable total program cost for high-quality, accredited courses with local support.

(8) Each high school student in Colorado may take at least one supplemental online course per year. Each supplemental online course contract provider shall report to the administering BOCES information concerning the students who participate in the supplemental online courses to enable the administering BOCES to track the students' academic performance in the supplemental online courses. The administering BOCES shall annually collect data related to completion and passage rates from the providers contracted to provide supplemental online and blended learning and report that data to the department. The department shall collect the data through existing student data collection systems and in compliance with all state and federal laws and regulations concerning the privacy of information, including but not limited to the federal "Family Educational Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232g, as amended.

(9) The general assembly shall annually appropriate to the department for allocation to the administering BOCES an amount sufficient to administer the statewide supplemental online and blended learning program and fund the contracts entered into with providers pursuant to this section. The administering BOCES may expend up to ten percent of the amount annually appropriated to offset its costs incurred in leading, managing, and administering the program.

(10) (a) On or before March 15, 2017, and on or before March 15 each year thereafter, the administering BOCES shall submit to the education committees of the house of representatives and the senate, or any successor committees, the joint budget committee of the general assembly, the state board of education, and the department a report concerning implementation and use of the statewide supplemental online and blended learning program for the preceding school year.

(b) This subsection (10) is exempt from the provisions of section 24-1-136 (11), C.R.S., and the annual reporting requirements of this subsection (10) are effective until changed by the general assembly acting by bill.

**Source: L. 2007:** Entire section added, p. 1093, § 1, effective May 23. **L. 2010:** (6) repealed, (HB 10-1037), ch. 43, p. 169, § 2, effective March 29. **L. 2012:** IP(3) amended, (HB 12-1345), ch. 188, p. 716, § 4, effective May 19. **L. 2013:** (1)(a)(I)(A), (1)(a)(II), (1)(a)(III), (3), (4), IP(5), (5)(j), and (5)(l) amended and (1)(a.5), (3.3), and (3.5) added, (SB 13-139), ch. 128, p. 427, § 1, effective August 7. **L. 2016:** Entire section amended, (HB 16-1222), ch. 334, p. 1356, § 1, effective June 10. **L. 2017:** (8) amended, (SB 17-294), ch. 264, p. 1394, § 43, effective May 25.

**22-5-120. School food authority operations - contracts for provision of food and beverages.** (1) Each board of cooperative services is authorized to maintain, equip, and operate a food-service facility as a school food authority, as defined in section 22-32-120 (8).

(2) Each board of cooperative services that elects to operate as a school food authority is encouraged to procure and distribute to schools of its constituent school districts food and beverages that:

(a) Satisfy nutritional standards established by the United States department of agriculture; and

(b) Have been locally grown or produced.

(3) Each board of cooperative services that elects to operate as a school food authority may seek, accept, and expend gifts, grants, and donations to facilitate its operations as a school food authority; except that a board of cooperative services shall not accept a gift, grant, or donation if it is subject to conditions that are inconsistent with this article or any other law of the state.

**Source: L. 2010:** Entire section added, (HB 10-1335), ch. 326, p. 1507, § 1, effective August 11.

**22-5-121. BOCES healthy food grant program - application process - fund - rules - repeal. (Repealed)**

**Source: L. 2010:** Entire section added, (HB 10-1335), ch. 326, p. 1508, § 1, effective August 11.

**Editor's note:** Subsection (8) provided for the repeal of this section, effective July 1, 2015. (See L. 2010, p. 1508.)

**22-5-122. Assistance for implementing and meeting state educational priorities - financing.** (1) (a) For the 2012-13 fiscal year and each fiscal year thereafter, a BOCES may receive state moneys in addition to any other moneys received pursuant to this article by submitting a plan to the state board, in a form and manner specified by rule of the state board, that details how the BOCES will use the additional moneys to assist its participating school districts in implementing and meeting the state's educational priorities as determined by the commissioner of education pursuant to subsection (2) of this section. The state board may specify additional information that a BOCES is required to include in a plan submitted pursuant to this paragraph (a).

(b) For the 2012-13 fiscal year, a BOCES that seeks additional moneys shall submit a plan pursuant to paragraph (a) of this subsection (1) to the state board on or before August 1, 2012. For the 2013-14 fiscal year and each fiscal year thereafter, a BOCES that seeks additional moneys shall submit a plan pursuant to paragraph (a) of this subsection (1) to the state board on or before May 1 of the preceding fiscal year.

(c) For the 2013-14 fiscal year, and each fiscal year thereafter, if a BOCES that submits a plan to the state board pursuant to paragraph (a) of this subsection (1) also submitted a plan in the previous fiscal year, the BOCES shall include a report detailing the results of the previous year's plan in its new plan submission.

(2) On or before June 1, 2012, on or before March 1, 2015, and on or before March 1 every third year thereafter, the commissioner of education, in consultation with a statewide association in the state that represents one or more BOCES in the state and a council created by

the commissioner of education that advises the commissioner and the department of education regarding the needs and concerns of rural school districts in the state, shall determine the state's educational priorities for the purposes of this section. The priorities may include, but need not be limited to, educator effectiveness, school district accreditation and accountability, and standards and assessments for preschool through elementary and secondary education.

(3) A BOCES may develop a memorandum of understanding with a school district that is contiguous to the area of the BOCES, but that is not a member of the BOCES, to enable the district to participate with the BOCES in the plan submitted pursuant to subsection (1) of this section. In addition, two or more adjoining BOCES may collaborate regarding the implementation of a plan submitted pursuant to this section.

(4) (a) The department of education shall establish a method to allow the member school districts of a BOCES that chooses not to submit a plan pursuant to paragraph (a) of subsection (1) of this section to submit a plan as a consortium of districts or as a newly formed BOCES to the state board and to receive moneys to assist the districts in implementing and meeting the state educational priorities as determined pursuant to subsection (2) of this section.

(b) A member district of a BOCES that has submitted a plan pursuant to subsection (1) of this section may choose not to participate in the BOCES plan to assist the member districts in implementing and meeting the state's educational priorities. If a member district chooses not to participate, the BOCES shall work with the other member districts in the BOCES to implement the plan.

(5) (a) The general assembly may appropriate moneys to the department of education for the purposes of this section. Of the amount appropriated, the department may retain up to one hundred twenty thousand dollars annually for the purpose of funding a departmental liaison for rural school districts and up to fifty thousand dollars annually for the purpose of funding the department's ongoing support of a council created by the commissioner of education that advises the commissioner and the department regarding the needs and concerns of rural school districts. The department shall distribute the remaining amount as specified in paragraph (b) of this subsection (5).

(b) The department of education shall distribute the remaining amount appropriated by the general assembly for the purposes of this section, after subtracting the amounts specified in paragraph (a) of this subsection (5), as follows:

(I) Equally distribute forty-five percent to the BOCES that submit plans pursuant to subsection (1) of this section;

(II) Distribute forty-five percent based on the total number of member school districts of the participating BOCES and nonmember school districts that participate with the BOCES as detailed in a memorandum of understanding entered into pursuant to subsection (3) of this section; and

(III) Distribute ten percent based on the total number of students enrolled in the member school districts of the participating BOCES and enrolled in the nonmember school districts that participate with the BOCES as detailed in a memorandum of understanding entered into pursuant to subsection (3) of this section.

(c) Any state moneys appropriated by the general assembly for the purposes of this section shall not be used to supplant the level of state moneys appropriated to support and for use by BOCES during the 2011-12 fiscal year.

(6) The state board shall promulgate rules pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., for the administration of this section.

(7) The general assembly finds and declares that, for purposes of section 17 of article IX of the state constitution, a program to assist school districts in implementing and meeting the state's educational priorities is a program for accountable education reform and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 2012:** Entire section added, (HB 12-1345), ch. 188, p. 717, § 5, effective May 19.

## ARTICLE 5.5

Regional Service Areas Act

**22-5.5-101. Short title.** This article shall be known and may be cited as the "Regional Service Areas Act".

**Source: L. 2008:** Entire article added, p. 1693, § 1, effective June 2.

**22-5.5-102. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) Colorado should align its education system to maximize the state's limited resources in improving student achievement and closing the learning gap;

(b) One of the most effective ways to align the state's education system and maximize resources is to expand the department of education's eight existing regional service areas to twelve regional service areas, and to include in the expansion process representation from community and local district colleges, technical colleges, state institutions of higher education, early childhood councils, and business and industry;

(c) Colorado experimented with successful results with regional consortiums for professional development during 2000 and 2001 as a means to deliver professional development programs across school district lines in an efficient and effective manner;

(d) Regions can serve as an efficient and effective link between the state, the department of education, boards of cooperative services, administrative units, school districts, state institutions of higher education, and business and industry to leverage and implement scarce resources for education reform initiatives at state, regional, and local levels;

(e) A regional service area system would extend and expand service delivery in many areas, including but not limited to data centers, financial services, cooperative purchases, technological support, capital construction planning assistance, dropout prevention, early childhood and preschool programs, postsecondary partnerships and student transitions into postsecondary schools, professional development, curriculum and instructional expertise and support, and shared administration and services among school districts;

(f) Funding for regional service areas should be consistent and sustainable over time;

(g) School districts, boards of cooperative services, administrative units, community colleges, local district colleges, technical colleges, postsecondary institutions, early childhood

councils, and representatives from business and industry located within the same geographic area should work collaboratively to develop a regional plan that meets the needs of participants in order to increase the effectiveness of a regional system.

(2) The general assembly therefore declares that it is in the best interest of the state of Colorado and its citizens to assist in providing a thorough and uniform educational system by creating a system of regional service areas that utilizes existing relationships to provide programs and services beyond the boundaries of the current twenty-one boards of cooperative services, fifty-seven administrative units, and one hundred seventy-eight school districts.

(3) The general assembly further finds and declares that, for purposes of section 17 of article IX of the state constitution, the establishment of twelve regional service areas which will effectively align the state's education system and maximize resources is a critical element of accountable education reform, accountable programs to meet state academic standards, expanding technology education, improving student safety, expanding the availability of preschool and kindergarten programs, and accountability reporting and, therefore, may receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 2008:** Entire article added, p. 1693, § 1, effective June 2.

**22-5.5-103. Definitions.** As used in this article, unless the context otherwise requires:

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

(2) "Board" means the board of education of a school district.

(3) "Board of cooperative services" means a regional educational service unit created pursuant to article 5 of this title.

(4) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(5) "Postsecondary institution" means a community or technical college, a local district college, or a state-supported institution of higher education.

(5.5) "Pupil enrollment count day" has the same meaning as set forth in section 22-54-103 (10.5).

(6) "Regional service area" means one of twelve regional service areas created pursuant to section 22-5.5-104.

(7) "Regional service council" means the governing body of a regional service area plan, which governing body is established pursuant to section 22-5.5-105.

(8) "School district" means a school district existing pursuant to law.

(9) "State board" means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

**Source: L. 2008:** Entire article added, p. 1695, § 1, effective June 2. **L. 2012:** (5.5) added, (HB 12-1090), ch. 44, p. 150, § 4, effective March 22.

**22-5.5-104. Regional service areas - creation - rules.** (1) On or before December 1, 2008, the state board, in consultation with the department, school districts, and boards of cooperative services, shall divide the state into twelve regional service areas throughout the state.

Each regional service area shall consist of at least two school districts and one or more boards of cooperative services.

(2) The state board and the department shall consult with the department of higher education and the governor's office to establish the state's education initiatives, including priorities for preschool through postsecondary education.

(3) On or before December 1, 2008, the state board shall promulgate rules for the development, expansion, implementation, and management of the regional service areas created pursuant to this article.

**Source: L. 2008:** Entire article added, p. 1695, § 1, effective June 2.

**22-5.5-105. Regional service areas - establishment - plan - governance.** (1) (a) Following the creation of the twelve regional service areas by the state board pursuant to section 22-5.5-104, but on or before June 30, 2009, individuals in a regional service area may organize a regional service area. Participants in a regional service area may include, but need not be limited to, representatives from school districts, boards of cooperative services, administrative units, early childhood councils, postsecondary institutions, business and industry, other education agencies in the regional service area, teachers, and parents. A regional service area plan shall be governed by no more than one regional service council.

(b) Participation by school districts or boards of cooperative services in a regional service area is voluntary.

(2) (a) Each plan for a regional service area shall be administered by a locally appointed regional service council, representing the following entities within the regional service area and composed of a minimum of five members; except that a regional service council initially formed or reorganized on or after August 5, 2009, shall be composed of a minimum of six members as follows:

(I) Each participating board of cooperative services shall appoint at least one council member. A board of cooperative services that has more than five member districts shall appoint an additional council member. The terms shall run coterminously with the council member's term on his or her board.

(II) Each board of cooperative services superintendent advisory council within a regional service area shall appoint two superintendents or their designees to serve on the regional service council. A superintendent advisory council that has more than five members shall appoint an additional superintendent or his or her designee to the regional service council. The superintendents or their designees shall each represent a participating school district.

(III) Each school district that chooses to participate in the regional service area and that is not a member of a board of cooperative services within the regional service area shall appoint one board member, superintendent, or designee to the regional service council. The terms shall run coterminously with the council member's term on his or her board, if applicable.

(IV) The regional service council, within ninety days after its initial formation and each time the regional service council reorganizes thereafter, shall appoint one council member representing business and industry, one council member representing each existing early childhood council from within the regional service area, and, for a regional service council initially formed or reorganized on or after August 5, 2009, one council member who is a parent

of a student enrolled in a public preschool, elementary, secondary, or postsecondary institution located within the regional service area.

(V) Each four-year institution of higher education, each community college, and each technical college within the regional service area may appoint a trustee or advisory council member, or the president of the institution or his or her designee, to serve on the regional service council.

(VI) The department of education regional manager for the regional service area and the executive director for any board of cooperative services in the regional service area shall serve as ex-officio, nonvoting members of the regional service council.

(b) The regional service council shall have the authority to set terms of office, organize, have meetings, and accept moneys and shall be accountable for funding and programs.

(3) To receive funding pursuant to section 22-5.5-106 (2) and (3), the regional service council on behalf of each regional service area shall submit a plan to the state board for approval on or before June 30, 2009. The plan shall address the needs of large and small school districts within the regional service area and focus on increasing effectiveness and efficiencies in providing education and services throughout the region. The plan shall include, at a minimum:

(a) A list of representatives from various educational agencies and business and industry in the regional service area;

(b) A description of how the regional service area intends to use and develop state, regional, and local expertise;

(c) An outline of available funding sources, including local and regional contributions, federal moneys, and any available state resources;

(d) A description of how the agencies within the regional service area will coordinate and collaborate to enhance effectiveness and efficiencies among and between regional service areas;

(e) A strategy to address the needs of participating school districts within the regional service area;

(f) A budget outlining projected expenditures by the regional service area; and

(g) Accountability criteria associated with the plan, including but not limited to:

(I) Evaluation of alignment with established state priorities;

(II) Rationale for selection of priorities based upon regional needs assessment data;

(III) Goals that are specific, measurable, achievable, and realistic, all within an established time frame;

(IV) Specific outcomes demonstrated with effectiveness and efficiencies;

(V) An evaluation process and criteria; and

(VI) Budget alignment with priorities and activities.

(4) (a) Each regional service council shall submit a plan developed pursuant to subsection (3) of this section to the state board for approval as a prerequisite to the receipt of state moneys pursuant to this article.

(b) On or before August 1, 2009, the state board shall notify each regional service council that submitted a plan for a regional service area of its approval or rejection.

**Source: L. 2008:** Entire article added, p. 1695, § 1, effective June 2. **L. 2009:** IP(2)(a) and (2)(a)(IV) amended, (SB 09-090), ch. 291, p. 1439, § 4, effective August 5.

**22-5.5-106. Funding.** (1) On or before June 30, 2009, a regional service council may apply to the state board on behalf of a regional service area for a one-time grant of up to ten thousand dollars for direct reimbursement of expenses related to the development of the plan for the regional service area. The state board shall provide an applying regional service council with the one-time grant for reimbursement of expenses related to the development of the plan no later than thirty days following the submission of the grant application.

(2) If the plan for a regional service area is approved by the state board pursuant to section 22-5.5-105, on or after July 1, 2009, and annually thereafter, the state board shall award to the regional service area a grant of up to fifty thousand dollars, subject to available appropriations by the general assembly. If available moneys are insufficient to award each eligible regional service area a full fifty-thousand-dollar grant, the state board shall reduce proportionately all grant awards for eligible regional service areas for that year. A regional service council may choose not to accept funding on behalf of the regional service area if the prorated amount is insufficient to allow the regional service area to function effectively.

(3) In addition to the grants described in subsections (1) and (2) of this section, on or after July 1, 2009, and annually thereafter, the department shall, subject to available appropriations, allocate to each eligible regional service area an amount equal to up to fifty cents per pupil based on the pupil enrollment for each school district in the regional service area as of the pupil enrollment count day of the previous year.

(4) Funding for a regional service area after the first grant pursuant to this section is contingent upon the successful implementation of the regional service area's plan, as evaluated by the state board and the department. The state board shall annually notify each regional service council on or before September 1 regarding whether the regional service area will receive moneys pursuant to subsections (2) and (3) of this section in the coming year and the amounts.

(5) A regional service council may use a maximum of ten percent of the amount annually received by the regional service area for grant management and fiscal oversight. For regions with a total pupil enrollment of less than fifteen thousand students, the regional service council may use up to twenty percent of the amount annually received by the regional service area for grant management and fiscal oversight.

(6) Each regional service council that receives funding on behalf of a regional service area pursuant to subsections (2) and (3) of this section shall submit to the department a revised annual budget on or before March 1, 2010, and on or before March 1 each year thereafter. If a regional service council expects to exceed by more than ten percent the projected expenditures specified in the budget included in the original plan submitted to the state board pursuant to section 22-5.5-105, the regional service council shall seek prior approval for the expenditure from the department.

(6.5) Each regional service council is authorized to seek and accept gifts, grants, or donations from private or public sources for the purposes of this article; except that a gift, grant, or donation shall not be accepted if the conditions attached to the gift, grant, or donation require its expenditure in a manner contrary to law. Any gifts, grants, or donations received by a regional service council shall be submitted directly to the board of cooperative services that is acting as the regional service council's fiscal agent pursuant to subsection (7) of this section.

(7) Each regional service council shall select one board of cooperative services in the regional service area to act as its fiscal agent to receive the moneys from the state treasurer or any gifts, grants, or donations accepted pursuant to subsection (6.5) of this section.

**Source: L. 2008:** Entire article added, p. 1698, § 1, effective June 2. **L. 2010:** (4) amended, (HB 10-1013), ch. 399, p. 1908, § 22, effective June 10. **L. 2012:** (3) amended, (HB 12-1090), ch. 44, p. 150, § 5, effective March 22.

**22-5.5-107. Regional service areas - programs and services.** (1) A regional service area may provide any of the following services and programs, including but not limited to:

(a) Data and assessment centers;

(b) Shared financial services among school districts and boards of cooperative services;

(c) Cooperative purchases;

(d) Technology infrastructure and support;

(e) Distance, online learning, and other alternative learning opportunities for students;

(f) Precollegiate programs, counseling, and dropout prevention;

(g) Capital construction planning assistance;

(h) Curriculum and instructional expertise and support;

(i) Professional development for teachers and administrators;

(j) Regional and state initiatives;

(k) Shared administration and support services for school districts;

(l) Early childhood and preschool programs; and

(m) Postsecondary partnerships and services to support student transitions into postsecondary schools.

**Source: L. 2008:** Entire article added, p. 1699, § 1, effective June 2.

**22-5.5-108. Reporting requirements.** On or before July 1 of the year following the approval of a regional service area's plan pursuant to section 22-5.5-105, and on or before January 1 each year thereafter, the regional service council shall submit a written report on behalf of the regional service area to the state board and the department summarizing its activities for the calendar year, especially those activities related to the measurable goals and objectives outlined in the plan, a summary of any efficiencies or improved effectiveness achieved at the district or regional level by the regional service area, and any proposed amendments to the plan originally submitted to the state board pursuant to this article.

**Source: L. 2008:** Entire article added, p. 1700, § 1, effective June 2.

## ARTICLE 6

Comprehensive Educational Planning

**22-6-101 to 22-6-113. (Repealed)**

**Source: L. 84:** Entire article repealed, p. 584, § 1, effective March 19.

**Editor's note:** This article was numbered as article 43 of chapter 123 in C.R.S. 1963. For amendments to this article prior to its repeal in 1984, consult the Colorado statutory research

explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

## ARTICLE 7

Educational Accountability

**Editor's note:** This article was numbered as article 41 of chapter 123 in C.R.S. 1963. This article was amended with relocations in 1997, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1997, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

### PART 1

### LOCAL ACCOUNTABILITY PROGRAMS

**22-7-101 to 22-7-107. (Repealed)**

**Source: L. 2009:** Entire part repealed, (SB 09-163), ch. 293, p. 1525, § 5, effective May 21.

**Editor's note:** This article was amended with relocations in 1997, and this part 1 was subsequently repealed in 2009. For amendments to this part 1 prior to its repeal in 2009, consult the Colorado statutory research explanatory note beginning on page vii in the front of this volume and the editor's note following the article heading.

### PART 2

### EDUCATIONAL ACHIEVEMENT

**22-7-201 to 22-7-207. (Repealed)**

**Source: L. 2009:** Entire part repealed, (SB 09-163), ch. 293, p. 1525, § 5, effective May 21.

**Editor's note:** This article was amended with relocations in 1997, and this part 2 was subsequently repealed in 2009. For amendments to this part 2 prior to its repeal in 2009, consult the Colorado statutory research explanatory note beginning on page vii in the front of this volume and the editor's note following the article heading.

### PART 3

COLORADO STATE ADVISORY COUNCIL
FOR PARENT INVOLVEMENT IN EDUCATION

**Editor's note:** This article was amended with relocations in 1997, and this part 3 was repealed in 1997 and subsequently recreated and reenacted in 2009, resulting in the addition, relocation, and elimination of sections as well as subject matter. For additional historical information concerning this article, see the editor's note following the article heading.

**22-7-301. Legislative declaration.** (1) The general assembly hereby finds that:

(a) Although education reform efforts are ongoing at both the state and local levels, Colorado continues to experience an unacceptably high dropout rate, inequalities in the academic achievement levels of students from different racial and socioeconomic groups, and low rates of enrollment and persistence in postsecondary education;

(b) To accomplish the goals of reducing the dropout rate, reducing the gaps in academic achievement and growth among student groups, and increasing the number of students who continue into higher education following high school graduation or completion, the state must look to additional strategies for improving public education;

(c) Studies show that, when parents are involved as partners with their children's schools, students achieve higher levels of academic performance, students demonstrate better attendance and homework completion, and students are less likely to dropout of school;

(d) Students from diverse cultural backgrounds tend to perform better academically when their parents and the professionals at their schools collaborate to bridge the gap between the culture at home and that at the school; and

(e) Secondary students whose parents are involved with their schools make better transitions into postsecondary education, maintain the quality of their academic work, and are more like to develop realistic plans for their futures.

(2) The general assembly therefore finds that it is in the best interests of the state to create a state advisory council for parent involvement in education that will review best practices and recommend to policy makers and educators strategies to increase parent involvement in public education, thereby helping to improve the quality of public education and raise the level of students' academic achievement throughout the state.

**Source: L. 2009:** Entire part RC&RE, (SB 09-090), ch. 291, p. 1426, § 1, effective August 5.

**22-7-302. Definitions.** As used in this part 3, unless the context otherwise requires:

(1) "Charter school" means a charter school authorized by a school district pursuant to part 1 of article 30.5 of this title or a charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title.

(2) "Close the achievement and growth gap" means to lessen the variance in academic achievement and growth among student groups, as reflected in state assessment scores, in the scores achieved on the curriculum-based, achievement college entrance exam, and in calculations of students' longitudinal academic growth, by improving the academic achievement and growth of students in those groups that are underperforming.

(3) "Council" means the Colorado state advisory council for parent involvement in education created in section 22-7-303.

(4) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(5) "National standards for family-school partnerships" means the following research-based standards for family-school partnerships recognized nationally by parent teacher associations:

(a) Families are active participants in the life of the school and feel welcomed, valued, and connected to each other, to school staff, and to what students are learning and doing in the classroom;

(b) Families and school staff engage in regular, meaningful communication about student learning;

(c) Families and school staff continuously collaborate to support students' learning and healthy development both at home and at school and have regular opportunities to strengthen their knowledge and skills to provide said support effectively;

(d) Families are empowered to be advocates for their own and other children to ensure that students are treated fairly and have access to learning opportunities that will support their success;

(e) Families and school staff are equal partners in decisions that affect children and families and together inform, influence, and create policies, practices, and programs; and

(f) Families and school staff collaborate with community members to connect students, families, and staff to expanded learning opportunities, community services, and civic participation.

(6) "Parent" means a child's biological parent, adoptive parent, or legal guardian or another adult person recognized by the child's school as the child's primary caregiver.

(7) "Parent education program" means a program to teach parents strategies and skills for working with their children and the staff of the schools and institutions of higher education in which their children are enrolled.

(8) "Parent involvement grant program" means the parent involvement in education grant program created in section 22-7-305.

(9) "School-based parent information resource center" means a center that provides to parents information on education opportunities for their children, training for parents and families on education issues, and other support services that may be available to parents, such as mental health services, social services, and housing referrals.

(10) "State board" means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

(11) "Student populations that are significantly represented in the state" means student populations that each constitute at least ten percent of the total population of students in the state, which student populations may include, but need not be limited to, the student populations described in section 22-11-301 (3).

**Source: L. 2009:** Entire part RC&RE, (SB 09-090), ch. 291, p. 1427, § 1, effective August 5. **L. 2012:** (11) added, (SB 12-160), ch. 204, p. 813, § 2, effective May 24. **L. 2015:** (2) amended, (HB 15-1323), ch. 204, p. 733, § 55, effective May 20.

**22-7-303. Colorado state advisory council for parent involvement in education - created - membership.** (1) There is hereby created within the department of education the Colorado state advisory council for parent involvement in education. The council shall consist of members appointed as provided in this section and shall have the powers and duties specified in this part 3. The council shall exercise its powers and perform its duties and functions under the department, the commissioner of education, and the state board of education as if the same were transferred to the department by a **type 2** transfer as defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

(2) The council shall consist of the following members:

(a) The following members appointed by the state board:

(I) One person from each congressional district who is a parent of a child enrolled in a publicly funded preschool program, in any of grades kindergarten through twelve, or in a state-supported institution of higher education. Four of the members appointed pursuant to this subsection (2)(a)(I) must be members of a school accountability committee or a school district accountability committee. In making the appointments pursuant to this subsection (2)(a)(I), the state board shall consider the student populations that are significantly represented in the state.

(II) A representative from each of two state-based nonprofit organizations that specialize in promoting the involvement of parents of traditionally underserved populations;

(III) A representative from a nonprofit organization that specializes in promoting the involvement of parents of students with disabilities;

(IV) A representative from a nonprofit organization that partners with funding providers, state agencies, and service providers to assist organizations in providing services to improve the health and well-being of families and children;

(V) A representative of a statewide organization of parents and teachers;

(VI) Repealed.

(VII) A representative of a statewide organization that represents school executives;

(VIII) A representative of a statewide organization that represents members of school district boards of education;

(IX) A representative of a statewide organization that represents teachers;

(X) A representative of a statewide organization that represents charter schools;

(XI) A representative of a statewide organization that represents career and college guidance counselors; and

(XII) Repealed.

(XIII) A person with expertise in early childhood care and education;

(b) One or more representatives from the department of education, appointed by the commissioner of education, with expertise in the following areas:

(I) Strategies to close the achievement and growth gap;

(II) The program for the education of migrant children described in article 23 of this title;

(III) The English language proficiency program described in article 24 of this title;

(IV) Federal title I programs;

(V) The education of exceptional children, as defined in section 22-20-103 (12); and

(VI) The family literacy education grant program created in section 22-2-124;

(c) Two persons appointed by the executive director of the department of higher education; and

(d) A representative of the department of human services appointed by the executive director of said department.

(3) (a) A person may not be appointed to fill more than one of the member positions required in subsection (2) of this section in a single term. Each appointing authority shall make its initial appointments on or before October 1, 2009. Each member of the council shall serve at the pleasure of the member's appointing authority. The appropriate appointing authority shall fill any vacancies arising during a member's term on the council.

(b) The state board, in appointing members to the council, shall, to the extent practicable, select persons who will reflect the gender balance and ethnic and racial diversity of the state and will provide representation from throughout the state.

(4) The council members appointed pursuant to paragraph (a) of subsection (2) of this section shall serve three-year terms; except that, of the persons initially appointed, the state board shall select four who shall serve initial terms of one year and four who shall serve initial terms of two years.

(5) The state board shall call the first meeting of the council to be held no later than November 15, 2009. At its first meeting, and annually thereafter, the council shall select from among its members a person to serve as chair of the council. The council shall meet upon call of the chair as often as necessary to accomplish its duties as specified in this part 3.

(6) The council members shall serve without compensation but may receive reimbursement for actual and necessary expenses incurred in performing their duties pursuant to this part 3, including but not limited to expenses incurred in providing a regional training program pursuant to section 22-7-304 (3).

**Source: L. 2009:** Entire part RC&RE, (SB 09-090), ch. 291, p. 1428, § 1, effective August 5. **L. 2011:** (2)(c)(I) amended, (SB 11-245), ch. 201, p. 848, § 6, effective August 10. **L. 2012:** (2)(a)(I), (2)(a)(II), (2)(a)(III), (2)(a)(IV), (2)(a)(XI), and (2)(c) amended and (2)(a)(VI) and (2)(a)(XII) repealed, (SB 12-160), ch. 204, p. 812, § 1, effective May 24. **L. 2013:** (6) amended, (SB 13-193), ch. 355, p. 2074, § 6, effective May 28. **L. 2019:** (2)(a)(I) amended, (SB 19-161), ch. 217, p. 2239, § 1, effective May 20.

**Cross references:** For the legislative declaration in the 2011 act amending subsection (2)(c)(I), see section 1 of chapter 201, Session Laws of Colorado 2011.

**22-7-304. Council - advisory duties - technical assistance - report.** (1) The council shall inform, at a minimum, the early childhood councils, public schools, school districts, the state charter school institute, the department, the state board, the department of higher education, the Colorado commission on higher education, and the governing boards for the state institutions of higher education concerning best practices and strategies, aligned with the national standards for family-school partnerships, for increasing parent involvement in public education and promoting family and school partnerships, including but not limited to best practices and strategies in the following areas:

(a) Creating and implementing programs to effectively involve parents in improving their children's education and levels of academic achievement. To identify these best practices and strategies, the council shall review the programs implemented in other states and the results of state and national research conducted in this area.

(b) Involving parents in programs to raise academic achievement, increase high school graduation rates, decrease student dropout rates, and close the achievement and growth gap;

(c) Involving parents in response to intervention programs in public schools and school districts;

(d) Involving parents in programs to raise academic achievement, improve the persistence rate, and improve the on-time graduation rate of students enrolled in institutions of higher education;

(e) Increasing parent involvement in education-related committees at the local and state levels;

(f) Designing and implementing parent education programs and centers and parent leadership training programs;

(g) Creating and implementing family-to-school liaison positions; and

(h) Establishing and implementing school-based parent information resource centers.

(2) The council shall recommend to the state board and to the Colorado commission on higher education plans for statewide parent involvement initiatives, which may include, but need not be limited to:

(a) Requiring each school district and the state charter school institute, as part of the accreditation process, to increase the level of parent involvement in education; and

(b) Initiatives to increase admissions to institutions of higher education and the degree-completion rate and to reduce the need for remediation.

(3) (a) The council shall provide training and other resources designed to help the school district accountability committees and school accountability committees increase the level of parent engagement with the public schools and with school districts, including increasing the number of parents serving on school district accountability committees and school accountability committees.

(b) The council shall work with the department to provide regional training programs for school district accountability committees and school accountability committees. At a minimum, the training programs must address parent leadership and increasing parent engagement with school district accountability committees and school accountability committees, including best practices for parent engagement with school district accountability committees and school accountability committees.

(c) The council shall work with the department to provide regional training programs for school districts and charter schools concerning best practices and skills for district and school personnel in working with parents.

(4) The council, in consultation with the department of education and the department of higher education, shall identify key indicators of successful parent engagement in education and use the indicators to develop recommendations for methods by which the department of education and the department of higher education may measure and monitor the level of parent engagement with elementary and secondary public schools and with institutions of higher education in Colorado.

(5) On or before December 31, 2013, and on or before December 31 each year thereafter, the council shall report to the state board, the Colorado commission on higher education, and the education committees of the senate and the house of representatives, or any successor committees, the council's progress in promoting parent engagement in the state and in fulfilling the duties specified in this section.

**Source: L. 2009:** Entire part RC&RE, (SB 09-090), ch. 291, p. 1431, § 1, effective August 5. **L. 2013:** (3), (4), and (5) added, (SB 13-193), ch. 355, p. 2074, § 7, effective May 28. **L. 2018:** IP(1) amended, (SB 18-099), ch. 90, p. 727, § 9, effective August 8; IP(1) amended, (HB 18-1141), ch. 59, p. 601, § 3, effective August 8.

**Editor's note:** Amendments to subsection IP(1) by SB 18-099 and HB 18-1141 were harmonized.

**Cross references:** For the legislative declaration in HB 18-1141, see section 1 of chapter 59, Session Laws of Colorado 2018.

**22-7-305. Parent involvement in education grant program - creation - rules - fund - reports.** (1) (a) There is hereby created in the department the parent involvement in education grant program to provide moneys to assist public schools in creating and implementing programs to support greater parent involvement in the schools. The council shall assist the department in implementing the parent involvement grant program as provided in this section and shall provide advice to recipient schools to assist them in creating and implementing programs to ensure that the programs reflect the best practices identified by the council pursuant to section 22-7-304.

(b) The school district of a public school, or a board of cooperative services or regional service council that operates a public school, that seeks a grant through the parent involvement grant program shall apply on behalf of the public school; except that, if the public school is a charter school, the public school may apply on its own behalf. To be eligible to receive a grant, a public school shall meet one or more of the following criteria:

(I) A significant percentage, as defined by rule of the state board, of the students enrolled in the public school for the three academic years immediately preceding application were:

(A) Eligible for free or reduced-cost lunch pursuant to the provisions of the federal "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq.; or

(B) English language learners, as defined in section 22-24-103 (4);

(II) The dropout rate for the public school for each of the three academic years immediately preceding application exceeded the state average dropout rate for each respective year by a percentage established by rule of the state board;

(III) For each of the three academic years immediately preceding application, the statewide assessment scores of students enrolled in the public school demonstrated that:

(A) A significant achievement or growth gap, as defined by rule of the state board, existed among identified groups of students; or

(B) The school was an academically underperforming school, as defined by rule of the state board.

(c) The programs that a recipient school may fund with grant moneys received through the parent involvement grant program shall include, but need not be limited to, programs to establish:

(I) Family-to-school liaison positions;

(II) Parent leadership training opportunities;

(III) Centers to provide parent education programs; and

(IV) School-based parent information resource centers.

(2) The state board shall promulgate rules pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., as necessary for implementation of the parent involvement grant program, including but not limited to:

(a) Rules as specified in paragraph (b) of subsection (1) of this section and subsection (5) of this section;

(b) Rules establishing the time frames for submission and review of applications and selection of recipient schools;

(c) Rules specifying the information to be included in grant applications; and

(d) Rules identifying any criteria for selection of recipient schools in addition to the criteria specified in paragraph (b) of subsection (1) of this section.

(3) The council shall review the grant applications received pursuant to this section and shall recommend recipient schools and the grant amounts to the state board. Subject to available appropriations, the state board shall annually award grants through the parent involvement grant program, which grants shall be paid from the parent involvement grant program fund created in subsection (4) of this section.

(4) (a) There is hereby created in the state treasury the parent involvement grant program fund, referred to in this subsection (4) as the "fund", that shall consist of such moneys as may be credited to the fund pursuant to paragraph (b) of this subsection (4). The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs associated with the implementation of the parent involvement grant program. Any moneys in the fund not expended for the purpose of this section may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund; except that any unexpended and unencumbered moneys remaining in the fund as of June 30, 2019, shall be transferred to the general fund.

(b) The council shall seek and may accept gifts, grants, and donations from private or public sources for the purposes of the parent involvement grant program; except that the council shall not accept a gift, grant, or donation if it is subject to conditions that are inconsistent with this part 3 or any other law of the state. The council shall transmit all private and public moneys received through gifts, grants, or donations to the state treasurer, who shall credit the same to the fund.

(c) Notwithstanding any provision of this section to the contrary, the state board and the department shall not implement the parent involvement grant program until such time as there is at least twenty thousand dollars credited to the fund.

(d) In any fiscal year in which there is at least twenty thousand dollars credited to the fund, the department may use up to one percent of the moneys credited to the fund to offset the costs incurred in implementing the parent involvement grant program.

(5) (a) Beginning in the budget year following the first budget year in which the state board awards grants pursuant to this section, each recipient school shall annually submit to the council and the department, in accordance with timelines specified by rule of the state board, a report summarizing the amount of moneys received in the preceding fiscal year from the parent involvement grant program, the manner in which the moneys were used, and the results achieved through the use of the moneys. The report shall include such additional information as may be required by rule of the state board.

(b) On or before March 15 of the first year in which the council receives reports pursuant to paragraph (a) of this subsection (5), and on or before March 15 each year thereafter, the council shall summarize the reports received pursuant to paragraph (a) of this subsection (5) and submit the summary, with any additional pertinent information, to the state board and the education committees of the house of representatives and the senate, or any successor committees.

**Source: L. 2009:** Entire part RC&RE, (SB 09-090), ch. 291, p. 1432, § 1, effective August 5. **L. 2010:** (1)(b)(I)(B) amended, (SB 10-062), ch. 168, p. 594, § 7, effective April 29; (4)(d) amended, (HB 10-1422), ch. 419, p. 2075, § 37, effective August 11. **L. 2014:** (1)(b)(I)(B) amended, (HB 14-1298), ch. 244, p. 934, § 14, effective May 21. **L. 2015:** (1)(b)(I)(B) amended, (SB 15-264), ch. 259, p. 953, § 45, effective August 5.

**22-7-306. Repeal of part.** (1) This part 3 is repealed, effective September 1, 2024.

(2) Prior to said repeal, the council shall be reviewed as provided in section 2-3-1203.

**Source: L. 2009:** Entire part RC&RE, (SB 09-090), ch. 291, p. 1434, § 1, effective August 5. **L. 2019:** Entire section amended, (SB 19-161), ch. 217, p. 2239, § 2, effective May 20.

PART 4

EDUCATION REFORM

**22-7-401 to 22-7-414. (Repealed)**

**Source: L. 2015:** Entire part repealed, (HB 15-1323), ch. 204, p. 718, § 13, effective May 20.

**Editor's note:** This part 4 was added in 1997. For amendments to this part 4 prior to its repeal in 2015, consult the 2014 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

PART 5

COLORADO BASIC LITERACY ACT

**22-7-501 to 22-7-508. (Repealed)**

**Editor's note:** (1) This article was amended with relocations in 1997, resulting in the creation of this part 5. For amendments to this part 5 prior to its repeal in 2013, consult the 2012 Colorado Revised Statutes, the Colorado statutory research explanatory note beginning on page vii in the front of this volume, and the editor's note following the article heading.

(2) Section 22-7-508 provided for the repeal of this part 5, effective July 1, 2013. (See L. 2012, p. 646.)

(3) Section 22-7-504 (1) was amended in House Bill 13-1139, effective August 7, 2013, but those amendments did not take effect due to the repeal of this part 5, effective July 1, 2013.

PART 6

SCHOOL ACCOUNTABILITY REPORTS

**22-7-601. Legislative declaration. (Repealed)**

**Source: L. 2000:** Entire part added, p. 323, § 1, effective April 10. **L. 2001:** (1)(e), (1)(f), and (2) amended, p. 1476, § 1, effective June 8. **L. 2009:** Entire section repealed, (SB 09-163), ch. 293, p. 1525, § 5, effective May 21.

**22-7-602. Definitions.** As used in this part 6, unless the context otherwise requires:

(1) "Alternative education campus" means a public school, including a charter school, that receives a designation pursuant to section 22-7-604.5.

(1.5) Repealed.

(2) to (4) Repealed.

(5) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(6) "District school board" means the board of education of a school district existing pursuant to law.

(7) "Public school" means a school that receives a majority of its funding from moneys raised by a general state, county, or district tax and whose property is operated by a political subdivision of the state or a charter school established pursuant to article 30.5 of this title.

(8) Repealed.

(9) "State board" means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

(10) Repealed.

**Source: L. 2000:** Entire part added, p. 324, § 1, effective April 10. **L. 2001:** (1), (7), and (8) amended, p. 1477, § 2, effective June 8. **L. 2002:** (1) amended and (1.5) added, p. 465, § 1, effective May 24. **L. 2004:** (8) amended, p. 1661, § 10, effective June 3. **L. 2009:** (1.5), (2), (3), (4), (8), and (10) repealed, (SB 09-163), ch. 293, p. 1525, § 5, effective May 21.

**22-7-603. State data reporting system. (Repealed)**

**Source: L. 2000:** Entire part added, p. 325, § 1, effective April 10. **L. 2001:** (1) amended, p. 359, § 26, effective April 16; (3)(d) amended, p. 679, § 2, effective May 30; (1) amended, p. 1477, § 3, effective June 8. **L. 2004:** (1) amended, p. 1661, § 11, effective June 3. **L. 2009:** Entire section repealed, (SB 09-163), ch. 293, p. 1525, § 5, effective May 21.

**22-7-603.5. Legislative declaration - measurement of value added to academic progress. (Repealed)**

**Source: L. 2001:** Entire section added, p. 359, § 27, effective April 16. **L. 2006:** (4) amended, p. 715, § 2, effective July 1. **L. 2007:** (4) amended, p. 2031, § 43, effective June 1. **L. 2009:** Entire section repealed, (SB 09-163), ch. 293, p. 1525, § 5, effective May 21.

**22-7-603.7. Academic growth pilot program - legislative declaration - creation. (Repealed)**

**Source: L. 2002:** Entire section added, p. 1769, § 39, effective June 7. **L. 2004:** Entire section repealed, p. 1656, § 2, effective June 3.

**22-7-604. Academic performance - academic growth of students - rating - designation and methodology - rules. (Repealed)**

**Source: L. 2000:** Entire part added, p. 327, § 1, effective April 10. **L. 2001:** IP(1) amended and (1.5) added, p. 670, § 1, effective May 30; (1), (1.5), (2), (5), (6), (7), and (8) amended, pp. 1478, 1506, §§ 4, 34, effective June 8. **L. 2002:** (1.5)(a) amended, p. 467, § 3, effective May 24; (2) and (6)(a) amended, p. 1777, § 40, effective June 7. **L. 2003:** (5)(c) amended, p. 1991, § 34, effective May 22. **L. 2004:** (6) amended, p. 1656, § 3, effective June 3. **L. 2006:** (1.5)(a)(III) added and (1.5)(b) and (6)(d) amended, pp. 430, 431, §§ 3, 7, effective April 13. **L. 2008:** (3)(e) added, p. 772, § 8, effective May 14; (5)(c) amended, p. 1267, § 2, effective August 5. **L. 2009:** Entire section repealed, (SB 09-163), ch. 293, p. 1525, § 5, effective May 21.

**22-7-604.3. Academic growth calculation - model - rule-making. (Repealed)**

**Source: L. 2004:** Entire section added, p. 1651, § 1, effective June 3. **L. 2005:** (4)(a)(I) amended, p. 967, § 1, effective June 2. **L. 2006:** (5)(h) and (7) added, p. 430, §§ 4, 5, effective April 13; (5)(c) repealed, p. 597, § 11, effective August 7. **L. 2007:** Entire section amended, p. 7, § 2, effective February 6. **L. 2008:** (2)(a) and (3)(a) amended, p. 6, § 1, effective February 14; (3.5) added, p. 772, § 7, effective May 14. **L. 2009:** Entire section repealed, (SB 09-163), ch. 293, p. 1525, § 5, effective May 21.

**22-7-604.5. Alternative education campuses - criteria - application - rule-making - definition.** (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 must 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:

(I) Having a specialized mission and serving a special needs or at-risk population;

(II) Being an autonomous public school;

(III) Having an administrator who is not under the supervision of an administrator at another public school;

(IV) Having a budget separate from any other public school;

(V) Having nontraditional methods of instruction delivery; and

(VI) (A) Serving students who have severe limitations that preclude appropriate administration of the assessments administered pursuant to section 22-7-1006.3;

(B) Serving a student population in which more than ninety percent of the students have 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 percent of the student population; or

(C) Serving students who attend on a part-time basis and who come from other public schools where the part-time students are counted in the enrollment of the other public school; except that the results of the assessments administered pursuant to section 22-7-1006.3 to all part-time students and high-risk students as defined in subsection (1.5) of this section must be used in determining the levels of attainment on the performance indicators for the public school for which the student is counted for enrollment purposes;

(D) (Deleted by amendment, L. 2010, (SB 10-154), ch. 157, p. 541, § 1, effective April 21, 2010.)

(b) A procedure for a district school board to request that the state board designate a public school of the school district as an alternative education campus; and

(c) (Deleted by amendment, L. 2009, (SB 09-163), ch. 293, p. 1520, § 2, effective May 21, 2009.)

(d) A procedure for a district school board to appeal to the state board a denial of a request for designation.

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

(a) Has been committed to the department of human services following adjudication as a juvenile delinquent or is in detention awaiting disposition of charges that may result in commitment to the department of human services;

(b) Has dropped out of school or has four excused or unexcused absences from public school in any one month or ten excused or unexcused absences from public school during any school year. Absences due to suspension or expulsion of a student are considered absences for purposes of this paragraph (b).

(c) Has been expelled from school or engaged in behavior that would justify expulsion;

(d) Has a documented history of personal drug or alcohol use or has a parent or guardian with a documented substance use disorder;

(e) Has a documented history of personal street gang involvement or has an immediate family member with a documented history of street gang involvement;

(f) Has a documented history of child abuse or neglect, has been adjudicated a ward of the court, or has been involved in the foster care system;

(g) Has a parent or guardian in prison or on parole or probation or has experienced the loss of a parent or sibling;

(h) Has a documented history of domestic violence in the immediate family;

(i) Has a documented history of repeated school suspensions;

(j) Is a parent or pregnant woman under the age of twenty years;

(k) Is a migrant child, as defined in section 22-23-103 (2);

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

(m) Has a documented history of a mental health disorder or behavioral issue or has experienced significant trauma; 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) 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. 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.

(b) Repealed.

(2.5) (a) The department shall annually review the performance of each alternative education campus based on the criteria specified by rule of the state board pursuant to section 22-11-210 (1)(b) and shall recommend to the commissioner and the state board whether the alternative education campus shall adopt a performance, improvement, priority improvement, or turnaround plan, as said plans are described in sections 22-11-403 to 22-11-406. Based on the recommendations, the state board, pursuant to section 22-11-210 (2), shall notify each alternative education campus and its district school board, or the institute if the alternative education campus is an institute charter school, of the type of plan the alternative education campus shall adopt. In adopting its plan, each alternative education campus shall comply with the provisions of sections 22-11-403 to 22-11-406, as applicable.

(b) The district school board for an alternative education campus or the institute, if the alternative education campus is an institute charter school, shall specify the accreditation category for the alternative education campus in accordance with the accreditation process adopted by the district school board or the institute pursuant to section 22-11-307.

(c) Notwithstanding the provisions of section 22-11-503, the school performance report for an alternative education campus shall include the information specified by rule of the state board that will effectively communicate to the parents of students enrolled in the alternative education campus and to the public the performance of the alternative education campus and the performance of students enrolled in the alternative education campus.

(d) (Deleted by amendment, L. 2009, (SB 09-163), ch. 293, p. 1520, § 2, effective May 21, 2009.)

(3) (a) Except as excluded pursuant to section 22-7-1006.3, the results of the assessments administered pursuant to section 22-7-1006.3 to all part-time students attending a school or a program that is designated an alternative education campus pursuant to this section must be included in determining the levels of attainment on the performance indicators achieved by the school to which the student is assigned for enrollment purposes.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (3), for a part-time student with an individualized education program pursuant to section 22-20-108, the school district in which the student is enrolled, or, in the case of a board of cooperative services, the administrative unit, may designate either the school of residency or the school of attendance as the school to which the student's scores shall be assigned to determine levels of attainment on the performance indicators.

**Source: L. 2002:** Entire section added, p. 465, § 2, effective May 24. **L. 2004:** IP(1), (1)(a)(VI)(B), and (1)(a)(VI)(C) amended and (1)(a)(VI)(D), (1.5), and (2.5) added, p. 488, §§ 2, 3, effective April 20. **L. 2005:** (3) amended, p. 491, § 2, effective May 10. **L. 2006:** (2.5)(c)(I) amended, p. 432, § 8, effective April 13. **L. 2009:** Entire section amended, (SB 09-163), ch. 293, p. 1520, § 2, effective May 21. **L. 2010:** (1)(a)(VI) and (1.5)(i) amended and (1.5)(k), (1.5)(l), and (1.5)(m) added, (SB 10-154), ch. 157, pp. 541, 542, §§ 1, 2, effective April 21. **L. 2011:** (1)(a)(VI)(B), IP(1.5), (1.5)(l), (1.5)(m), and (2)(a) amended and (1.5)(n) added, (HB 11-1277), ch. 306, p. 1473, § 2, effective August 10. **L. 2015:** IP(1), (1)(a)(VI)(A), (1)(a)(VI)(C), and (3)(a) amended, (HB 15-1323), ch. 204, p. 721, § 24, effective May 20. **L. 2016:** (1)(a)(VI)(B), (1.5)(b), (1.5)(f), (1.5)(g), and (1.5)(m) amended, (HB 16-1429), ch. 249, p. 1020, § 1, effective June 8. **L. 2017:** (1.5)(d) and (1.5)(m) amended, (SB 17-242), ch. 263, p. 1319, § 170, effective May 25.

**Editor's note:** Subsection (2)(b)(II) provided for the repeal of subsection (2)(b), effective July 1, 2003. (See L. 2002, p. 465.)

**Cross references:** For the legislative declaration contained in the 2004 act amending the introductory portion to subsection (1) and subsections (1)(a)(VI)(B) and (1)(a)(VI)(C) and enacting subsections (1)(a)(VI)(D), (1.5), and (2.5), see section 1 of chapter 162, Session Laws of Colorado 2004. For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

**22-7-604.7. Alternative education campuses - methods to measure quality performance - repeal. (Repealed)**

**Source: L. 2016:** Entire section added, (HB 16-1429), ch. 249, p. 1021, § 2, effective June 8.

**Editor's note:** Subsection (3) provided for the repeal of this section, effective July 1, 2017. (See L. 2016, p. 1021.)

**22-7-605. School accountability reports - format - rules. (Repealed)**

**Source: L. 2000:** Entire part added, p. 333, § 1, effective April 10. **L. 2001:** IP(5)(c)(I) and (5)(c)(III) amended and (5)(c)(I.5) and (5)(c)(IV) added, p. 196, § 1, effective March 28; IP(6)(c)(I) amended and (6)(c)(I.5) added, p. 194, § 1, effective March 28; (7)(d)(V) amended, p. 671, § 3, effective May 30; (1), (2)(a), (2)(b), (2)(c), (3)(a), IP(3)(b), (3)(c), (4), IP(5), IP(5)(c)(I), IP(5)(c)(I.5), (5)(c)(III), (5)(c)(IV), (5)(e), IP(6), (6)(a)(III), IP(6)(c)(I), IP(6)(c)(I.5), (6)(d)(IV), (7)(a), (7)(b)(I), (7)(c), (7)(d)(II), (7)(d)(III), (7)(d)(V), (7)(d)(VI), (8), (9)(a), (9)(d), and (10) amended and (11) added, pp. 1481, 1505, 1504, 1495, §§ 5, 33, 32, 31, 18, effective June 8; (5)(b)(I) and (5)(d) amended, p. 1509, § 40, effective July 1, 2002. **L. 2002:** (3)(a) and (10) amended and (8)(f) added, pp. 996, 997, §§ 5, 6, effective June 1; (9.5) added, p. 1794, § 59, effective June 7. **L. 2004:** (4)(c.5) added and (4)(d) amended, p. 58, § 1, effective March 8; (3)(b)(II)(B) amended and (8) R&RE, pp. 451, 450, §§ 2, 1, effective April 13; (4)(b)(II)(A), (4)(b)(II)(C), (5)(e)(II), and (8)(a) amended, pp. 1658, 1659, §§ 4, 5, effective June 3; (2)(b)

amended, p. 1619, § 8, effective July 1. **L. 2006:** (5)(b)(I) amended, p. 406, § 3, effective April 6. **L. 2007:** Entire section R&RE, p. 1045, § 1, effective May 23. **L. 2009:** Entire section repealed, (SB 09-163), ch. 293, p. 1525, § 5, effective May 21.

**22-7-606. School accountability reports - delivery web site. (Repealed)**

**Source: L. 2000:** Entire part added, p. 345, § 1, effective April 10. **L. 2001:** Entire section amended, p. 1487, § 6, effective June 8. **L. 2002:** (1)(a) and (3) amended, p. 1795, § 61, effective June 7. **L. 2003:** (1)(a) amended, p. 2141, § 46, effective May 22; (1)(a) and (3)(b) amended, p. 970, § 1, effective August 6. **L. 2005:** (4) repealed, p. 968, § 3, effective June 2. **L. 2007:** Entire section R&RE, p. 1054, § 2, effective May 23. **L. 2009:** Entire section repealed, (SB 09-163), ch. 293, p. 1525, § 5, effective May 21.

**22-7-607. School accountability reports - nonpublic schools. (Repealed)**

**Source: L. 2000:** Entire part added, p. 346, § 1, effective April 10. **L. 2001:** Entire section amended, p. 1489, § 7, effective June 8. **L. 2009:** Entire section repealed, (SB 09-163), ch. 293, p. 1525, § 5, effective May 21.

**22-7-607.5. Teacher pay incentive program - repeal. (Repealed)**

**Source: L. 2001:** Entire section added, p. 1495, § 19, effective June 8. **L. 2002:** (2)(b) amended, p. 670, § 5, effective May 28; (1)(a), (1)(c), (2)(a), (2)(b), (2)(c), (2)(d), (3)(a), and (3)(b) amended, pp. 1785, 1783, §§ 52, 47, effective June 7. **L. 2003:** Entire section repealed, p. 522, § 15, effective March 5.

**22-7-608. Low-graded schools. (Repealed)**

**Source: L. 2000:** Entire part added, p. 346, § 1, effective April 10. **L. 2001:** Entire section repealed, p. 1489, § 8, effective June 8.

**22-7-609. School improvement plans. (Repealed)**

**Source: L. 2000:** Entire part added, p. 347, § 1, effective April 10. **L. 2001:** (2), (3)(a), (3)(b), and (5) amended, p. 355, § 19, effective April 16; (2), (3)(c), and (5) amended and (6) added, pp. 1507, 1489, §§ 36, 9, effective June 8. **L. 2003:** (2) amended, p. 729, § 2, effective March 20. **L. 2004:** (2) amended and (3)(a.5) and (3)(c.5) added, p. 1620, §§ 9, 10, effective July 1. **L. 2006:** (5) amended, p. 399, § 1, effective April 6. **L. 2009:** Entire section repealed, (SB 09-163), ch. 293, p. 1525, § 5, effective May 21.

**22-7-609.3. Voluntary restructuring - state board approval. (Repealed)**

**Source: L. 2006:** Entire section added, p. 400, § 2, effective April 6. **L. 2009:** Entire section repealed, (SB 09-163), ch. 293, p. 1525, § 5, effective May 21.

**22-7-609.4. Public school restructuring - tracking students. (Repealed)**

**Source: L. 2006:** Entire section added, p. 402, § 2, effective April 6. **L. 2009:** Entire section repealed, (SB 09-163), ch. 293, p. 1525, § 5, effective May 21.

**22-7-609.5. School improvement grant program - repeal. (Repealed)**

**Source: L. 2001:** Entire section added, p. 353, § 18, effective April 16; (1)(b), (5)(b), and (6) amended, p. 1506, § 35, effective June 8. **L. 2003:** (3)(c)(II) repealed, p. 522, § 15, effective March 5.

**Editor's note:** Subsection (7) provided for the repeal of this section, effective July 1, 2003. (See L. 2001, p. 353.)

**22-7-609.6. School improvement - appropriations. (Repealed)**

**Source: L. 2002:** Entire section added, p. 1795, § 62, effective June 7. **L. 2004:** Entire section amended, p. 1662, § 12, effective June 3; entire section amended, p. 1620, § 11, effective July 1. **L. 2009:** Entire section repealed, (SB 09-163), ch. 293, p. 1525, § 5, effective May 21.

**22-7-610. High-rated or improved school. (Repealed)**

**Source: L. 2000:** Entire part added, p. 349, § 1, effective April 10. **L. 2001:** Entire section amended, p. 1490, § 10, effective June 8. **L. 2009:** Entire section repealed, (SB 09-163), ch. 293, p. 1525, § 5, effective May 21.

**22-7-611. Closing the achievement gap program - strategies - assistance - criteria - rule-making.** (1) As used in this section, unless the context otherwise requires:

(a) "Eligible district" means a school district that has been identified by rule of the state board as having a significant achievement gap.

(b) "Eligible school" means a public school that has been identified by rule of the state board as having a significant achievement gap.

(2) There is hereby established in the department the closing the achievement gap program, referred to in this section as the "program", to provide extensive assistance to eligible districts and eligible schools.

(3) The department shall prepare and distribute to each eligible district and eligible school an outline of different strategies the eligible district or eligible school may implement to improve academic achievement. The department shall provide the outline by April 1 of the school year preceding the school year in which the eligible district or eligible school intends to participate in the program. The outline may include, but need not be limited to, the following strategies:

(a) Using disaggregated student data to set academic improvement targets in reading, writing, mathematics, and science;

(b) Using improvement targets to define professional development needs related to content, instruction, differentiation, and best practices in educating special education students, gifted and talented students, English language learners, and other student subgroups, as needed;

(c) Developing interim district-level and building-level assessments to monitor student progress toward proficiency on the state model content standards and developing a plan to immediately address gaps in learning;

(d) Examining and realigning, as needed, school scheduling, academic support systems, and assignments of personnel;

(e) Designing a plan for increasing parental knowledge and skill to support academic objectives; and

(f) Identifying leaders who specialize in rehabilitating failing schools and who may serve as school principals.

(4) (a) An eligible school that chooses to apply for participation in the program shall provide to its district school board a list of the strategies selected from the outline provided by the department that the eligible school intends to implement to improve academic achievement among the students enrolled in the eligible school. The eligible school shall provide the list by May 1 of the school year preceding the school year in which the eligible school intends to participate in the program. If the district school board chooses to allow the eligible school to apply for participation in the program, the district school board shall, in accordance with timelines adopted by rule of the state board, provide to the department a list of the strategies that the district school board and the eligible school have chosen to implement to improve academic achievement among the students enrolled in the eligible school.

(b) An eligible district that chooses to apply for participation in the program shall, in accordance with timelines adopted by rule of the state board, provide to the department a list of the strategies selected from the outline provided by the department that the eligible district has chosen to implement to improve academic achievement within the eligible district.

(5) The state board shall determine the criteria by which eligible districts and eligible schools shall be selected to participate in the program and shall promulgate rules that set forth the criteria.

(6) Subject to available appropriations or gifts, grants, and donations, and upon the request of a participating eligible district or eligible school, the department shall provide assistance through the program to the participating eligible district or eligible school. The assistance may consist of, but is not limited to, information, personnel, and program and technical support.

(7) The state board may promulgate all reasonable and necessary rules to implement this section.

(8) The department may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section.

**Source: L. 2003:** Entire section added, p. 2510, § 1, effective June 5. **L. 2009:** Entire section amended, (SB 09-163), ch. 293, p. 1524, § 3, effective May 21. **L. 2020:** (6) amended and (8) added, (HB 20-1418), ch. 197, p. 947, § 23, effective June 30.

**Cross references:** For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

**22-7-612. Closing the achievement gap commission - creation - members - report - repeal. (Repealed)**

**Source: L. 2003:** Entire section added, p. 2511, § 1, effective June 5. **L. 2004:** (5) amended, p. 1199, § 55, effective August 4.

**Editor's note:** Subsection (5) provided for the repeal of this section, effective January 1, 2006. (See L. 2004, p. 1199.)

**22-7-613. Closing the achievement gap cash fund - creation - repeal.**

(1) and (2) Repealed.

(3) On July 1, 2020, the state treasurer shall transfer all unexpended and unencumbered state money in the closing the achievement gap cash fund to the state education fund created in section 17 (4) of article IX of the state constitution.

(4) This section is repealed, effective July 1, 2021.

**Source: L. 2003:** Entire section added, p. 2513, § 1, effective June 5. **L. 2009:** (1) amended, (SB 09-163), ch. 293, p. 1525, § 4, effective May 21; (1) amended, (SB 09-256), ch. 294, p. 1566, § 29, effective May 21. **L. 2012:** (1)(b) repealed, (HB 12-1238), ch. 180, p. 673, § 18, effective July 1. **L. 2020:** (1)(a) and (2) repealed and (3) and (4) added, (HB 20-1418), ch. 197, p. 947, § 22, effective June 30.

**Editor's note:** Amendments to subsection (1) by Senate Bill 09-163 and Senate Bill 09-256 were harmonized.

**Cross references:** For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

PART 7

TEACHER DEVELOPMENT GRANT PROGRAM

**22-7-701. Short title.** This part 7 shall be known and may be cited as the "Teacher Development Act".

**Source: L. 2000:** Entire part added, p. 1973, § 1, effective June 2.

**22-7-702. Legislative declaration.** (1) The general assembly hereby finds that:

(a) There is a high correlation between student success and excellent teaching;

(b) While educator preparation programs offered by institutions of higher education may provide candidates with the basic knowledge necessary to enter the classroom, ongoing

development through school-based, skills-development activities is necessary to enable educators to develop excellent teaching skills;

(c) In-service training programs and similar forms of off-site course work are often unable to provide the kind of skill development needed;

(d) Working collaboratively as colleagues to review assignments, student work, curriculum, and teaching methodology has been proven successful in enabling teachers to determine whether all of these facets of teaching in combination successfully provide the information students need to master reading, writing, mathematics, and science, as indicated by high achievement levels on assessments.

(2) Based on the findings specified in subsection (1) of this section, the general assembly hereby finds that it is necessary to provide grants pursuant to this part 7 to assist schools in providing opportunities for teachers to participate in school-based skills-development activities that are focused on mastering skills in instructing students in reading, writing, mathematics, and science.

**Source: L. 2000:** Entire part added, p. 1973, § 1, effective June 2. **L. 2011:** (1)(b) amended, (SB 11-245), ch. 201, p. 848, § 7, effective August 10.

**Cross references:** For the legislative declaration in the 2011 act amending subsection (1)(b), see section 1 of chapter 201, Session Laws of Colorado 2011.

**22-7-703. Definitions.** As used in this part 7, unless the context otherwise requires:

(1) Repealed.

(2) "Department" means the department of education created in section 24-1-115, C.R.S.

(3) "Grant program" means the teacher development grant program created in section 22-7-704.

(4) "School" means any public school in the state, including but not limited to a traditional public school of a school district, a charter school, and an approved facility school, as defined in section 22-2-402 (1).

(5) "State board" means the state board of education created in section 1 of article IX of the state constitution.

(6) "Teacher development schedule" means a schedule of school-based skills-development activities to assist teachers throughout the school year in improving their classroom teaching skills. A "teacher development schedule" may include, but need not be limited to:

(a) Time set aside during which teachers meet to review their assignments, present lesson plans, and provide feedback to one another; and

(b) On-site training, observation, and evaluation by recognized experts in instructional strategies and techniques.

**Source: L. 2000:** Entire part added, p. 1974, § 1, effective June 2. **L. 2004:** (1) repealed, p. 5, § 1, effective February 20. **L. 2008:** (4) amended, p. 1384, § 7, effective May 27.

**22-7-704. Teacher development grant program - created - rules.** (1) There is hereby created the teacher development grant program to provide moneys to schools for use in providing a teacher development schedule. A teacher development schedule may include only

research-based activities that have been proven effective in improving teachers' skills, especially in teaching reading, writing, mathematics, and science.

(2) (a) On or before October 1, 2000, and on or before each October 1 thereafter, subject to available appropriations, the state board shall award teacher development grants to schools selected from those submitting applications pursuant to section 22-7-705. Each grant shall continue for two school years, unless discontinued pursuant to paragraph (b) of this subsection (2). No two-year grant shall exceed twenty thousand dollars. On expiration of a grant, a school may reapply for a grant by submitting an application pursuant to section 22-7-705.

(b) The state board shall annually review each grant recipient's use of the moneys awarded pursuant to this section. Based on the recommendations of the department made pursuant to section 22-7-706 (4), the state board shall discontinue the grant awarded to any recipient that is not making adequate progress in achieving the goals identified in the recipient's grant application.

(c) Moneys received by a school pursuant to the grant program shall be in addition to the moneys budgeted to the school by the school district in which the school is located and shall not reduce the amount of said budgeted moneys that the school would have received if it had not received a grant pursuant to this part 7. Grants awarded through the program shall be paid from moneys in the teacher development fund created in section 22-7-708.

(3) The state board shall implement the grant program in accordance with the provisions of this part 7. Pursuant to article 4 of title 24, C.R.S., the state board shall promulgate such rules as are required in this part 7 and such additional rules as may be necessary for the implementation of the grant program. Participation by a school in the grant program is voluntary.

(4) The department shall solicit and is hereby authorized to receive such public and private gifts, grants, and donations as may be available to fund the grant program. Any moneys so received shall be credited to the teacher development fund created in section 22-7-708.

**Source: L. 2000:** Entire part added, p. 1974, § 1, effective June 2. **L. 2004:** (2)(a) and (2)(b) amended, p. 7, § 3, effective February 20.

**22-7-705. Teacher development grant program - application.** (1) Any school that chooses to participate in the grant program shall submit an application to the department as provided by rule of the state board. Prior to submitting a grant application to the department, an applying school shall submit to the board of education of the school district in which the school is located the items specified in paragraphs (a) to (d) of subsection (2) of this section. Within thirty days after receiving said items, the board of education shall provide to the school a written statement of support or opposition for the proposed schedule that shall include the reasons underlying such support or opposition.

(2) At a minimum, a grant application shall include the following information:

(a) The activities that the school will provide through the teacher development schedule and the research that demonstrates the effectiveness of such activities as implemented in other public or nonpublic schools;

(b) Evidence that the teachers and administrators at the school have participated in selection of the activities to be provided and are in support of the teacher development schedule;

(c) The specific, measurable goals that the school expects to achieve in implementing the teacher development schedule, including both one-year goals and the goals to be achieved upon

conclusion of the grant. At a minimum, the school's goals shall include a measurable increase in student learning in the areas of reading, writing, mathematics, and science.

(d) The school's plan for measuring the success of the activities provided through the teacher development schedule in meeting the school's identified goals, including but not limited to how the school will determine improvement in student learning;

(e) The amount of any moneys received by the school pursuant to Title I of the federal "Elementary and Secondary Education Act of 1965", 20 U.S.C. sec. 6301 et seq., how the school is using such moneys, and any improvements in student learning that have occurred in the preceding three years through the use of such moneys;

(f) Whether the school has previously received a grant pursuant to this part 7 and the demonstrated goals achieved in using the grant as specified in the progress and final reports submitted to the department pursuant to section 22-7-707;

(g) A written statement of support for or opposition to the school's proposed teacher development schedule by the board of education of the school district in which the applying school is located, including the reasons underlying such support or opposition.

(3) Repealed.

(4) An institute charter school or approved facility school that submits an application pursuant to this part 7 shall not be required to submit the application to any school district or to include in the application a statement of support for or opposition to the application by a local board of education.

**Source: L. 2000:** Entire part added, p. 1975, § 1, effective June 2. **L. 2004:** (3) repealed, p. 8, § 4, effective February 20; (4) added, p. 1621, § 12, effective July 1. **L. 2008:** (4) amended, p. 1384, § 8, effective May 27.

**22-7-706. Grants - criteria - repeal. (Repealed)**

**Source: L. 2000:** Entire part added, p. 1976, § 1, effective June 2. **L. 2004:** Entire section amended, p. 5, § 2, effective February 20.

**Editor's note:** Subsection (6)(a) provided for the repeal of this section, effective July 1, 2010. (See L. 2004, p. 5.)

**22-7-707. Reporting requirements - progress reports - final reports.** (1) Each school that receives a grant pursuant to this part 7 shall submit to the department:

(a) A progress report specifying the progress made by the school during the initial year of the grant in achieving the goals specified in the school's grant application;

(b) A final report demonstrating the school's success in achieving the goals specified in the school's grant application.

(2) The state board by rule shall specify the date by which each grant recipient shall submit the progress report and the final report and the specific contents of each report. At a minimum, the progress report and the final report shall:

(a) Apply the methods identified in the school's plan for measuring the success of the teacher development schedule, as specified in the school's grant application; and

(b) Specify the student learning results achieved by the school in the areas of reading, writing, mathematics, and science.

(3) Repealed.

**Source: L. 2000:** Entire part added, p. 1976, § 1, effective June 2. **L. 2004:** IP(3) amended, p. 8, § 5, effective February 20. **L. 2005:** IP(3) amended, p. 861, § 2, effective June 1. **L. 2017:** (3) repealed, (HB 17-1267), ch. 242, p. 994, § 4, effective August 9.

**22-7-708. Teacher development fund - creation.** There is hereby created in the state treasury the teacher development fund referred to in this section as the "fund", for payment of teacher development grants awarded pursuant to section 22-7-704. The fund shall consist of such moneys as may be appropriated thereto by the general assembly and such moneys as may be credited thereto pursuant to section 22-7-704 (4). Moneys in the fund shall be subject to annual appropriation by the general assembly for the purposes specified in this part 7. The department may expend up to three percent of the moneys annually appropriated to the fund to offset the documented costs incurred in implementing the grant program. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.

**Source: L. 2000:** Entire part added, p. 1979, § 1, effective June 2. **L. 2003:** Entire section amended, p. 456, § 10, effective March 5. **L. 2011:** Entire section amended, (SB 11-218), ch. 151, p. 526, § 3, effective May 5. **L. 2015:** Entire section amended, (SB 15-264), ch. 259, p. 953, § 46, effective August 5.

## PART 8

## SUMMER SCHOOL GRANT PROGRAM

**Editor's note:** (1) This part 8 was repealed in 2003 and was subsequently recreated and reenacted in 2006, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 8 prior to 2003, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Prior to the recreation and reenactment of this part 8, section 22-7-806 provided for the repeal of this part 8, effective April 4, 2003. (See L. 2003, p. 515.)

**22-7-801. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) Establishing a summer school grant program to provide funding to school districts and institute charter schools to provide intensive reading, writing, or mathematics education services to students entering the fifth through eighth grades who received an unsatisfactory proficiency level score on the reading, writing, or mathematics component of the Colorado student assessment program for the previous academic year is an important element of an accountable education program to meet state academic standards; and

(b) Research shows that implementing research-based practices, as defined by the federal "No Child Left Behind Act of 2001", 20 U.S.C. sec. 6301 et seq., as amended, can cause significant improvement in a student's performance in reading, writing, or mathematics in a short period.

(2) The general assembly therefore finds that a program to provide grants to school districts and institute charter schools to assist them in providing summer school programs for students who are entering the fifth through eighth grades and are performing unsatisfactorily in reading, writing, or mathematics may receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 2006:** Entire part RC&RE, p. 669, § 11, effective April 28. **L. 2008:** (1)(a) and (2) amended, p. 1207, § 14, effective May 22.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsections (1)(a) and (2), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-7-802. Definitions.** As used in this part 8, unless the context otherwise requires:

(1) Repealed.

(2) "Department" means the department of education created in section 24-1-115, C.R.S.

(3) "Eligible student" means a student who will begin fifth, sixth, seventh, or eighth grade in the next academic year and who has received an unsatisfactory proficiency level score on the state reading, writing, or mathematics assessment administered pursuant to section 22-7-1006.3 for the preceding academic year.

(4) "Grant program" means the summer school grant program created in section 22-7-803.

(5) "State board" means the state board of education created pursuant to section 1 of article IX of the state constitution.

**Source: L. 2006:** Entire part RC&RE, p. 670, § 11, effective April 28. **L. 2008:** (3) amended, p. 1207, § 15, effective May 22. **L. 2015:** (1) repealed and (3) amended, (HB 15-1323), ch. 204, p. 722, § 25, effective May 20.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsection (3), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-7-803. Summer school grant program - creation - administration - rules.** (1) There is hereby created the summer school grant program to provide grants to school districts and institute charter schools to operate summer school programs for eligible students, subject to the requirements of this part 8. The grant program shall be designed to assist school districts and institute charter schools in providing intensive educational services to eligible students in the areas of reading, writing, or mathematics.

(2) The department shall administer the grant program and the state board shall award grants as provided in this part 8.

(3) The department shall evaluate the progress of the summer school programs operated by school districts and institute charter schools that receive grants pursuant to this part 8.

(4) (a) The state board shall promulgate rules in accordance with article 4 of title 24, C.R.S., to implement and administer the grant program. At a minimum, the rules shall specify the following:

(I) The time frames for submitting grant program applications;

(II) The form of the grant program application;

(III) The time frames for distribution of the grant moneys;

(IV) The method by which the department shall evaluate the progress of the summer school programs operated by school districts and institute charter schools that receive grants pursuant to this part 8; and

(V) Any other procedures or policies the state board deems necessary to implement and administer the grant program.

(b) In implementing the grant program and rules promulgated pursuant to this subsection (4), the state board shall ensure that all grants awarded pursuant to this part 8 are issued to school districts or institute charter schools on or before April 30 of each budget year for which moneys are appropriated for the grant program.

**Source: L. 2006:** Entire part RC&RE, p. 670, § 11, effective April 28.

**22-7-804. Summer school programs - requirements.** (1) A school district or institute charter school that receives a grant to provide a summer school program pursuant to this part 8 is subject to the following requirements:

(a) The summer school program shall be research-based, pursuant to the federal "No Child Left Behind Act of 2001", 20 U.S.C. sec. 6301 et seq., as amended, and shall be delivered by teachers who are trained in the use of the program.

(b) The school district or institute charter school conducting the summer school program shall administer, in the subject areas in which the summer school program will focus, a test to every eligible student participating in the program. The school district or institute charter school shall administer the test before the program begins and upon completion of the program to evaluate the progress of each eligible student who participates in the program.

(c) The goal of the summer school program shall be to enable eligible students participating in the program to progress from scoring at the unsatisfactory proficiency level in reading, writing, or mathematics, as applicable, to scoring at the proficient level in reading, writing, or mathematics, as applicable.

**Source: L. 2006:** Entire part RC&RE, p. 671, § 11, effective April 28.

**22-7-805. Summer school grant program - application - criteria.** (1) A school district or institute charter school that seeks to receive a grant pursuant to this part 8 shall submit an application to the department in accordance with rules promulgated by the state board. A school district shall submit an application on behalf of all grade-appropriate schools in the district, including the district charter schools within the district. The application shall include the following information:

(a) The number of eligible students enrolled in the school district or institute charter school, as applicable;

(b) A description of the educational services that the school district or institute charter school anticipates providing through a summer school program;

(c) A description of the method that the school district or institute charter school will use to measure an eligible student's academic progress throughout the program;

(d) A description of the goals that the school district's or institute charter school's summer school program is expected to achieve and the method by which the school district or institute charter school will measure achievement of the goals; and

(e) Any additional information required by rule of the state board promulgated pursuant to section 22-7-803 (4).

(2) The department shall review the applications received from school districts and institute charter schools pursuant to this section and shall make recommendations to the state board concerning the awarding of grants and the amounts of the grants. The state board shall take into consideration the recommendations of the department and shall annually award grants to school districts and institute charter schools in amounts specified by the state board. In awarding grants pursuant to this part 8, the state board shall:

(a) Consider whether the school district's or institute charter school's summer school program complies with the requirements of section 22-7-804;

(b) Consider the geographic location of the school district or institute charter school, as applicable, and, to the extent possible, ensure that grant moneys are awarded to school districts and institute charter schools throughout the state;

(c) Award grants to school districts and institute charter schools that are implementing summer school programs using curricula that are research-based and that have been used with demonstrated success either by the applying school district or institute charter school or by another school district; and

(d) Award grants to school districts and institute charter schools that demonstrate success in improving the academic performance of eligible students in the area of reading, writing, or mathematics, as applicable.

**Source: L. 2006:** Entire part RC&RE, p. 672, § 11, effective April 28.

**22-7-806. Reporting requirements.** (1) On or before October 1 of each year following a budget year for which moneys were appropriated for the grant program, each school district and institute charter school that receives a grant pursuant to this part 8 shall submit a report to the department after completion of its summer school program. The report shall include the following information:

(a) The number of eligible students who participated in the school district's or institute charter school's summer school program, as applicable;

(b) The levels of performance in the subject area in which the summer school program was offered demonstrated by the eligible students participating in the summer school program both at the beginning of the program and at the end of the program, based on tests administered to the eligible students before and after participating in the program; and

(c) Such other information as the state board may by rule, promulgated pursuant to section 22-7-803 (4), require to assess the effectiveness of the summer school programs operated by school districts and institute charter schools.

**Source: L. 2006:** Entire part RC&RE, p. 673, § 11, effective April 28.

**22-7-807. Summer school grant program - funding.** (1) For the 2006-07 budget year and for each budget year thereafter, subject to available appropriations, the general assembly shall annually appropriate moneys from the state education fund created in section 17 (4) of article IX of the state constitution to the department to be used to award grants for summer school programs pursuant to this part 8.

(2) The department may annually withhold a portion of the moneys appropriated for the purposes of this part 8 to offset the direct costs incurred in administering the grant program and in evaluating the progress of each summer school program pursuant to the requirement of section 22-7-803 (3). The amount withheld by the department in any budget year shall not exceed three percent of the amount appropriated for the purposes of this part 8 in that budget year.

**Source: L. 2006:** Entire part RC&RE, p. 673, § 11, effective April 28.

PART 9

READ-TO-ACHIEVE GRANT PROGRAM

**22-7-901 to 22-7-909. (Repealed)**

**Editor's note:** (1) This part 9 was added in 2007. For amendments to this part 9 prior to its repeal in 2012, consult the 2011 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 22-7-909 provided for the repeal of this part 9, effective July 1, 2012. (See L. 2012, p. 672.)

PART 10

PRESCHOOL TO POSTSECONDARY
EDUCATION ALIGNMENT

**22-7-1001. Short title.** This part 10 shall be known and may be cited as the "Preschool to Postsecondary Education Alignment Act".

**Source: L. 2008:** Entire part added, p. 740, § 1, effective May 14.

**22-7-1002. Legislative declaration.** (1) The general assembly hereby finds that:

(a) Since 1993, implementation of standards-based education has resulted in significant increases in the ability of school districts and the state to measure what each student knows and is able to demonstrate at various levels in the student's academic career and in significant increases in learning and academic achievement among some students enrolled in the public schools of the state;

(b) However, Colorado continues to see a widening of the achievement gap, unacceptably high dropout rates throughout the state, unacceptably low numbers of high school

graduates who continue into and successfully complete higher education, and an unacceptably high need for remediation among those students who do continue into higher education;

(c) From the inception of the nation, public education was intended both to prepare students for the workforce and to prepare them to take their place in society as informed, active citizens who are ready to both participate and lead in citizenship. In recent years, the emphasis in public education has been squarely placed on the areas of reading, writing, mathematics, and science, but it is important that education reform also emphasize the public education system's historic mission of education for active participation in democracy.

(d) With the advent of the twenty-first century and increasing expectations and demands with regard to the use of technology and higher-level critical thinking skills, coupled with increasing levels of national and international economic competition, it is now imperative that the state move to the next generation of standards-based education.

(2) The general assembly finds that:

(a) More and more studies indicate that high-quality early learning experiences are crucial to ensuring students' ultimate success in school, in postsecondary education, in the workforce, and in life, generally;

(b) The next generation of standards-based education must take into account the fact that children enter school with varying skills and experiences. Under the Colorado student assessment program, Colorado does not have the ability to describe achievement gaps until students are in third grade, which, in most circumstances, is too late to adequately address the varying skill levels and experiences with which the students entered school. Understanding the skills, knowledge, and behavior that students bring to their earliest years of public education will provide crucial information to families, communities, schools, and teachers so that they can better support young children's learning and development.

(c) With the increasing number of children who participate in preschool and the recognized importance of providing a high-quality preschool experience, the next generation of standards-based education must ensure that preschools provide very high-quality services that are most likely to help students develop the necessary skills to excel as they enter elementary school.

(3) The general assembly finds that:

(a) The next generation of standards-based education must consider the needs of the whole student by creating a rich and balanced curriculum;

(b) The next generation of standards-based education must also take into account the fact that, while all students must be well prepared for active citizenship, different students will have different career aspirations: Some will seek higher education upon graduation; some will seek career or technical training to pursue a particular vocation; others will immediately seek to enter the workforce;

(c) In the modern world, however, there is little variation in the level of academic preparedness that a student must achieve in order to succeed after high school, regardless of the student's aspirations. To be successful in the workforce and earn a living wage immediately upon graduation from high school, a student needs nearly the same level of academic achievement and preparation that he or she would need to continue into career and technical or higher education.

(d) In providing the curricula to ensure that each student attains the level of academic achievement and preparation he or she needs to continue into the student's chosen post-graduation path of entering the workforce, career and technical education, or higher education, a

wide variety of curricular and program options will be necessary to spark in each student the ambition and desire to graduate from high school and achieve his or her aspirations;

(e) Public education must encourage and accommodate students' exposure to and involvement in postsecondary planning and in activities that develop creativity and innovation skills; critical-thinking and problem-solving skills; communication and collaboration skills; social and cultural awareness; civic engagement; initiative and self-direction; flexibility; productivity and accountability; character and leadership; information technology application skills; and other skills critical to preparing students for the twenty-first-century workforce and for active citizenship;

(f) The ultimate goal of public education, whatever the student's post-high school aspirations may be or whatever they may become over time, is to ensure that, to the extent possible, each student is prepared to meet his or her full potential. To this end, the system of preschool through postsecondary public education, and the educators who ensure its success, should never cease in striving to help a student achieve mastery of both knowledge and skills.

(4) The general assembly concludes, therefore, that:

(a) To educate students to their full potential, the state must align the public education system from preschool through postsecondary and workforce readiness. This alignment will ensure that a student who enters school ready to succeed and achieves the required level of proficiency on standards as he or she progresses through elementary and secondary education will have achieved postsecondary and workforce readiness when the student graduates from high school, if not earlier. As such, the student will be ready to enter the workforce or to enter postsecondary education without need for remediation.

(b) Alignment of standards from preschool through postsecondary and workforce readiness requires that the state board of education and the Colorado commission on higher education, with the departments of education and higher education, work in close collaboration to create a seamless system of public education standards, expectations, and assessments;

(c) Creating this seamless system of standards, expectations, and assessments from preschool through postsecondary and workforce readiness is a multi-faceted and complex project that will require multiple stages of planning, design, and implementation and that will likely continue over years. Further, achieving the goals outlined in this part 10 will likely require the reallocation of existing state resources and the identification and allocation of new resources to meet increased needs at the state and local levels, including but not limited to significant investment in professional development for educators.

(d) Aligning standards from preschool through postsecondary and workforce readiness and creating a seamless system of public education will place even greater demands on principals, teachers, and other educators. The general assembly recognizes that enabling them to meet these demands will require an investment in professional development.

(e) Throughout the process of creating a seamless system of public education in Colorado, the state board of education and the Colorado commission on higher education must ensure that the standards for preschool through elementary and secondary education, culminating in postsecondary and workforce readiness, are sufficiently relevant and rigorous to ensure that each student who receives a public education in Colorado is prepared to compete academically and economically within the state or anywhere in the nation or the world.

(5) The general assembly finds and declares that, for purposes of section 17 of article IX of the state constitution, adoption and implementation of a school readiness description, of

standards and aligned assessments for preschool through elementary and secondary education, and of a postsecondary and workforce readiness description are critical elements of accountable education reform and accountable programs to meet state academic standards and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 2008:** Entire part added, p. 740, § 1, effective May 14.

**22-7-1003. Definitions.** As used in this part 10, unless the context otherwise requires:

(1) "Assessment" means the method used to collect evidence of what a student knows and is able to do and to measure a student's academic progress toward attaining a standard.

(2) "Board of cooperative services" or "BOCES" means a board of cooperative services created and operating pursuant to article 5 of this title that operates one or more public schools.

(3) "Commission" means the Colorado commission on higher education created pursuant to section 23-1-102, C.R.S.

(4) "Commissioner" means the commissioner of education appointed by the state board pursuant to section 22-2-110.

(5) "District charter school" means a charter school authorized by a school district pursuant to part 1 of article 30.5 of this title. A district charter school is a "district charter high school" if it serves any of grades nine through twelve.

(6) "Division of child care" means the division within the department of human services that is responsible for child care regulation.

(7) "Executive director" means the executive director of the department of higher education appointed by the governor pursuant to section 24-1-114, C.R.S.

(8) "Institute charter school" means a charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title. An institute charter school is an "institute charter high school" if it serves any of grades nine through twelve.

(9) "Local education provider" means a school district, a board of cooperative services, a district charter school, or an institute charter school.

(10) "Local school board" means a school district board of education.

(11) "P-20 council" means the P-20 education coordinating council appointed by the governor pursuant to executive order B 003 07.

(11.5) "Performing arts" shall have the same meaning as provided in section 22-1-104.5 (1)(b).

(12) to (14) Repealed.

(15) "Postsecondary and workforce readiness" means the knowledge and skills that a student should have attained prior to or upon attaining a high school diploma, as adopted by the state board and the commission pursuant to section 22-7-1008.

(16) Repealed.

(17) "Postsecondary and workforce readiness program" means a program of study that, prior to or beginning in ninth grade and continuing through twelfth grade, is designed to prepare a student to demonstrate postsecondary and workforce readiness prior to or upon attaining a high school diploma.

(18) "Postsecondary education" means all formal public education that requires as a prerequisite the acquisition of a high school diploma or its equivalent. "Postsecondary

education" includes programs resulting in acquisition of a certificate, an associate degree of applied sciences, an associate degree of general studies, an associate degree of arts, or an associate degree of science and all baccalaureate degree programs.

(19) "Regional educator meeting" means a meeting convened pursuant to section 22-7-1011 by the commissioner and the executive director in a regional service area.

(20) "School district" means a school district, other than a local college district, organized and existing pursuant to law.

(21) "School readiness" means the level of development that indicates a child is able to engage in and benefit from elementary school classroom environments, as adopted by the state board pursuant to section 22-7-1004.

(22) "Standard" means a clear, measurable, learning target for what a student should know or be able to do relative to a particular instructional area.

(23) "State board" means the state board of education created pursuant to section 1 of article IX of the state constitution.

(24) "State plan" means the state plan required by the federal "No Child Left Behind Act of 2001", 20 U.S.C. sec. 6301 et seq.

(25) "Visual arts" shall have the same meaning as provided in section 22-1-104.5 (1)(c).

**Source: L. 2008:** Entire part added, p. 743, § 1, effective May 14. **L. 2010:** (11.5) and (25) added, (HB 10-1273), ch. 233, p. 1021, § 5, effective May 18. **L. 2015:** (12), (13), (14), and (16) repealed, (HB 15-1323), ch. 204, p. 728, § 46, effective May 20.

**Cross references:** For the legislative declaration in the 2010 act adding subsections (11.5) and (25), see section 1 of chapter 233, Session Laws of Colorado 2010.

**22-7-1004. School readiness description - school readiness assessment - adoption - revisions.** (1) On or before December 15, 2008, the state board shall adopt a description of school readiness. The state board, in adopting the school readiness description shall ensure that, at a minimum, school readiness includes physical well-being and motor development, social and emotional development, language and comprehension development, and cognition and general knowledge.

(2) (a) On or before December 15, 2010, the state board shall adopt one or more assessments that are aligned with the description of school readiness and are suitable for measuring students' levels of school readiness. In adopting assessments of students' school readiness, the state board shall consider assessments that are research-based; recognized nationwide as reliable instruments for measuring school readiness; and suitable for determining the instruction and interventions students need to improve their readiness to succeed in school. School readiness assessments shall not be used to deny a student admission or progression to kindergarten or first grade.

(b) School readiness assessment results shall not be publicly reported for individual students. Following adoption of the school readiness assessment, the state board shall adopt a system for reporting population-level results that provide baseline data for measuring overall change and improvement in students' skills and knowledge over time.

(3) (a) On or before July 1, 2017, and on or before July 1 every six years thereafter, the state board shall review the school readiness description and shall adopt any appropriate

revisions to the description. The state board shall review the school readiness assessments and adopt any appropriate revisions to the school readiness assessments when the board reviews the assessments as specified in section 22-7-1006 (5).

(b) The state board shall ensure that any revisions adopted pursuant to this subsection (3) continue to meet the requirements for the description of school readiness and the school readiness assessments specified in this section.

**Source: L. 2008:** Entire part added, p. 746, § 1, effective May 14. **L. 2010:** (3)(a) amended, (HB 10-1013), ch. 399, p. 1908, § 23, effective June 10.

**22-7-1005. Preschool through elementary and secondary education - aligned standards - adoption - revisions.** (1) On or before December 15, 2009, the state board shall adopt standards that identify the knowledge and skills that a student should acquire as the student progresses from preschool through elementary and secondary education.

(2) (a) The state board shall ensure that the preschool through elementary and secondary education standards, at a minimum, include standards in reading, writing, mathematics, science, history, geography, visual arts, performing arts, physical education, world languages, English language competency, economics, civics, financial literacy, and any other instructional areas for which the state board had adopted standards as of January 1, 2008.

(b) In developing the preschool through elementary and secondary education standards, the state board shall also take into account any career and technical education standards adopted by the state board for community colleges and occupational education, created in section 23-60-104, C.R.S., and, to the extent practicable, shall align the appropriate portions of the preschool through elementary and secondary education standards with the career and technical education standards.

(c) In developing the preschool through elementary and secondary education standards, the state board shall include identification of the levels of attainment that a student shall achieve in order to demonstrate readiness for promotion from elementary grades to middle school grades and from middle school grades to high school grades.

(2.3) On or before July 1, 2020, the state board shall adopt standards that identify the knowledge and skills that an elementary through secondary education student should acquire related to mental health, including suicide prevention. When the state board is adopting standards, the state board shall take into account what local education providers are currently teaching with regard to mental health.

(2.5) On or before July 1, 2018, the state board shall adopt standards that identify the knowledge and skills that a secondary student should acquire related to computer science, including computer code writing, in one or more courses that qualify as a graduation requirement in either mathematics or science. Local education providers may elect to implement the standards adopted pursuant to this subsection (2.5).

(2.7) (a) On or before July 1, 2021, the state board shall adopt standards that identify the knowledge and skills that students should acquire as a condition of high school graduation related to Holocaust and genocide studies, as defined in section 22-1-104.7 (1), including but not limited to the Armenian Genocide.

(b) In creating the standards described in subsection (2.7)(a) of this section, the department of education shall utilize a stakeholder process that is cost-effective and efficient, including the use of experts in the community.

(c) The adoption of the standards identified in this subsection (2.7) is conditional on the receipt of gifts, grants, or donations.

(3) The state board in adopting the preschool through elementary and secondary education standards shall:

(a) Align the standards to ensure that a student who demonstrates attainment of the standards as the student advances from preschool through elementary and secondary education will be able to demonstrate postsecondary and workforce readiness prior to or upon attaining a high school diploma;

(b) Collaborate with the commission to ensure that the standards are aligned with the description of postsecondary and workforce readiness adopted pursuant to section 22-7-1008;

(c) Ensure that the standards will facilitate longitudinal measurement of each student's academic growth from preschool through elementary and secondary education;

(d) Ensure that the standards include development of postsecondary planning skills and the application of those skills;

(e) Ensure that, in addition to measuring a student's subject matter knowledge, the standards, to the extent practicable, will require a student to develop and demonstrate creativity and innovation skills; critical-thinking and problem-solving skills; communication and collaboration skills; social and cultural awareness; civic engagement; initiative and self-direction; flexibility; productivity and accountability; character and leadership; the ability to use information and communications technologies to find, evaluate, create, and communicate information; and other skills critical to preparing students for the twenty-first-century workforce and for active citizenship; and

(f) Ensure that the standards are comparable in scope, relevance, and rigor to the highest national and international standards that have been implemented successfully and are consistent with and relevant to achievement of the goals specified in section 22-7-1002.

(4) Repealed.

(5) The state board shall modify the preschool through elementary and secondary education standards adopted pursuant to this section as necessary in response to comments received through the peer review process and to reflect the contents of the state plan approved pursuant to section 22-7-1012.

(6) (a) Pursuant to subsection (6)(b) of this section, the state board shall review and adopt any appropriate revisions to the preschool through elementary and secondary education standards specified in this section. In adopting revisions, the state board may add or delete one or more of the specific instructional areas based on the needs of the state and changes in national and international academic expectations. In adopting revisions to the standards pursuant to this subsection (6), the state board shall ensure that the standards continue to meet the requirements specified in subsection (3) of this section. In adopting revisions to the standards related to history and civics, the state board shall take into consideration any recommendations provided by the history, culture, social contributions, and civil government in education commission established in section 22-1-104.3.

(b) (I) The state board shall ensure that all preschool through elementary and secondary education standards specified in this section are reviewed at least, but not more than, once every six years pursuant to subsection (6)(b)(II) of this section.

(II) (A) On or before July 1, 2022, and on or before July 1 every six years thereafter, the state board shall perform the requirements pursuant to subsection (6)(a) of this section for approximately one-third of the preschool through elementary and secondary education standards specified in this section.

(B) On or before July 1, 2024, and on or before July 1 every six years thereafter, the state board shall perform the requirements pursuant to subsection (6)(a) of this section for approximately one-third of the preschool through elementary and secondary education standards specified in this section.

(C) On or before July 1, 2026, and on or before July 1 every six years thereafter, the state board shall perform the requirements pursuant to subsection (6)(a) of this section for the remaining approximately one-third of the preschool through elementary and secondary education standards specified in this section.

**Source: L. 2008:** Entire part added, p. 746, § 1, effective May 14; (2)(a) amended, p. 2276, § 5, effective June 5. **L. 2010:** (2)(a) amended, (HB 10-1273), ch. 233, p. 1022, § 6, effective May 18; (6) amended, (HB 10-1013), ch. 399, p. 1908, § 24, effective June 10. **L. 2015:** (4) repealed, (HB 15-1323), ch. 204, p. 729, § 47, effective May 20. **L. 2016:** (2.5) added, (HB 16-1198), ch. 122, p. 346, § 2, effective August 10. **L. 2017:** (3)(e) amended, (HB 17-1184), ch. 145, p. 487, § 2, effective August 9. **L. 2019:** (2.3) added, (HB 19-1120), ch. 197, p. 2150, § 5, effective May 16; (6) amended, (HB 19-1192), ch. 302, p. 2776, § 3, effective May 28. **L. 2020:** (2.7) added, (HB 20-1336), ch. 252, p. 1228, § 2, effective July 8; (6) amended, (HB 20-1032), ch. 278, p. 1362, § 1, effective September 14.

**Cross references:** For the legislative declaration in the 2010 act amending subsection (2)(a), see section 1 of chapter 233, Session Laws of Colorado 2010. For the legislative declaration in HB 17-1184, see section 1 of chapter 145, Session Laws of Colorado 2017. For the legislative declaration in HB 19-1120, see section 1 of chapter 197, Session Laws of Colorado 2019.

**22-7-1006. Preschool through elementary and secondary education - aligned assessments - adoption - revisions.** (1) (a) On or before December 15, 2010, or as soon thereafter as fiscally practicable, the state board shall adopt a system of assessments that are aligned with the preschool through elementary and secondary education standards and are designed to measure students' levels of attainment of the standards and to longitudinally measure students' academic progress toward attaining the standards and toward attaining postsecondary and workforce readiness. In adopting the system of assessments, the state board shall ensure, at a minimum, that the system is designed to:

(I) Provide relevant, timely results that will aid teachers, parents, and students in identifying areas in which students may need additional support or assistance in attaining the standards;

(II) Facilitate and ensure longitudinal measurement of students' academic growth over time;

(III) Provide guidance to teachers, parents, and students in determining whether each student is making the necessary progress toward achieving postsecondary and workforce readiness;

(IV) Provide results that may be used across multiple education systems as a student progresses from preschool through elementary and secondary education and into postsecondary education;

(V) Maintain a high level of accountability across the state for students, schools, and school districts;

(VI) Comply with the requirements of federal law with regard to statewide standardized testing; and

(VII) Provide assessment scores that are useful in measuring student academic performance, the academic performance of a school, and the academic performance of a school district for purposes of state and federal accountability systems.

(b) In adopting a system of assessments, the state board shall give consideration to the use of authentic assessment methods, such as portfolios, projects, and performances, so long as the assessment methods are valid and reliable, employ standard scoring criteria, and align with the preschool through elementary and secondary education standards.

(c) In adopting a system of assessments, the state board shall also adopt scoring criteria for measuring a student's level of attainment of a standard based on the student's performance on a particular assessment and for measuring a student's progress toward attaining postsecondary and workforce readiness.

(d) In adopting a system of assessments, the state board shall also make recommendations concerning a system of ratings for public schools that recognizes each school's success in supporting the longitudinal academic growth of the students enrolled in the public schools and in achieving adequate yearly progress as required by federal law.

(e) In adopting a system of assessments, the state board shall recommend legislative changes as necessary to implement the system and the proposed changes to the system of ratings for public schools.

(f) The state board shall ensure that the assessments adopted pursuant to this section are a combination of constructed response and selected response tasks that require the student to produce information or perform tasks in a way that the student's skills and competencies can be measured.

(1.5) Colorado shall participate as a governing board member, at least until January 1, 2014, in a consortium of states that focuses on the readiness of students for college and careers by developing a common set of assessments. On or before January 1, 2014, and on or before each January 1 thereafter, if Colorado is a governing board member of the consortium of states, the state board is strongly encouraged to conduct a fiscal and student achievement benefit analysis of Colorado remaining a governing board member of the consortium. If adopting the system of assessments that is aligned with the state standards for reading, writing, and mathematics, the state board shall rely upon assessments developed by the consortium of states.

(2) In adopting the system of assessments, the state board shall ensure that the assessments it adopts that are administered in high school are designed to enable a student to demonstrate postsecondary and workforce readiness by the time the student graduates from high school.

(3) In adopting an assessment that is aligned with the state standards for writing, the state board shall:

(a) Ensure that any writing assessment that is included within the system of assessments can be evaluated and the results returned to the local education providers in a timely manner and that the assessment is designed to provide relevant, useful results; and

(b) Seek input from local education providers concerning the writing assessments used by each local education provider, the usefulness of the assessments, and recommendations from the local education provider concerning writing assessments that would be effectively used at a statewide level.

(4) The state board shall modify the system of assessments adopted pursuant to this section as necessary in response to comments received through the peer review process and to reflect the contents of the state plan approved pursuant to section 22-7-1012.

(5) (a) Every six years after the adoption of the system of assessments pursuant to paragraph (a) of subsection (1) of this section, the state board shall review and adopt any appropriate revisions or updates to the system of assessments, including any assessments administered in languages other than English. The state board may adopt revisions to an assessment or adopt additional assessments, regardless of whether it adopts any revision to the standards with which the assessment is aligned. In adopting revisions to the system of assessments, the state board shall ensure that the system of assessments continues to meet the requirements specified in this section. The department of education shall review and update the administration and security policies for assessments as necessary to maintain the integrity of the assessments.

(b) In reviewing the assessments administered to students enrolled in high school, the state board shall adopt any revisions that may be necessary to ensure that the assessments are aligned with any revisions to the description of postsecondary and workforce readiness adopted by the state board and the commission pursuant to section 22-7-1008 (3)(a).

**Source: L. 2008:** Entire part added, p. 748, § 1, effective May 14. **L. 2010:** IP(1)(a) and (5) amended, (HB 10-1013), ch. 399, p. 1908, § 25, effective June 10. **L. 2012:** (1.5) added, (HB 12-1240), ch. 258, p. 1334, § 58, effective June 4. **L. 2015:** (1)(f) added and (2) and (5) amended, (HB 15-1323), ch. 204, pp. 712, 729, §§ 2, 48, effective May 20.

**Editor's note:** Amendments to subsection (5) by § 2 and § 48 of HB 15-1323 were harmonized.

**22-7-1006.1. Assessment selection - department of education - study - legislative declaration - repeal. (Repealed)**

**Source: L. 2016:** Entire section added, (HB 16-1234), ch. 337, p. 1369, § 2, effective June 10.

**Editor's note:** Subsection (4) provided for the repeal of this section, effective July 1, 2017. (See L. 2016, p. 1369).

**Cross references:** For the legislative declaration in HB 16-1234, see section 1 of chapter 337, Session Laws of Colorado 2016.

**22-7-1006.3. State assessments - administration - rules.** (1) (a) Beginning in the 2015-16 school year, the department of education, in collaboration with local education providers, shall administer the state assessments in the instructional areas of English language arts, mathematics, science, and social studies, as adopted by the state board pursuant to section 22-7-1006, as follows:

(I) The department shall administer a state assessment in English language arts and a state assessment in mathematics to all students enrolled in grades three through eight in public schools throughout the state.

(II) The department shall administer a state assessment in science to students enrolled in public elementary, middle, and high schools throughout the state. The department shall select the specific grades in which to administer the state science assessment, ensuring that students take the state science assessment once in elementary school, once in middle school, and once in high school; except that the department shall not administer the state science assessment to students enrolled in twelfth grade.

(III) The department shall administer a state assessment in social studies to students enrolled in public elementary and middle schools throughout the state. The department shall select the specific grades in which to administer the state social studies assessment, ensuring that students take the state social studies assessment once in elementary school and once in middle school. The department shall administer the social studies assessment required by this subsection (1)(a)(III) in a representative sample of public schools each school year, ensuring that it administers the social studies assessment in each public school at least once every three years. A school district, for one or more of the schools of the school district that are not included in the representative sample, or a charter school that is not included in the representative sample, may request that the department administer the assessment in the district school or charter school. The department shall administer the social studies assessment in the requested school in the school year following the school year in which it receives the request.

(b) Repealed.

(c) The department of education, in collaboration with local education providers, shall administer the state assessments on a schedule that the department annually sets.

(d) If all or any portion of a state assessment requires a student to use a computer to take the assessment, at the request of a local education provider, the department of education must administer the portions of the state assessment that require a computer in a format that a student may complete using pencil and paper. Each local education provider shall report to the department the number of students it enrolls who will take the state assessment in a pencil-and-paper format.

(e) The department shall review and update assessment administration and security policies as necessary to maintain the integrity of the assessments.

(2) (a) The department of education shall select and the state shall pay the costs of administering an assessment that is aligned with the state academic standards for students enrolled in ninth grade and with the assessment selected pursuant to subsection (2)(a.5) of this section. Every five years, the department shall request competitive bids and contract for the assessment required in this subsection (2)(a). Each local education provider shall administer the

ninth-grade assessment during the spring semester on a schedule that the department annually sets.

(a.5) The department of education shall select and the state shall pay the costs of administering an assessment that is aligned with the state academic standards for students enrolled in tenth grade and with the assessment selected pursuant to subsection (2)(b) of this section. Every five years, the department shall request competitive bids and contract for the assessment required in this subsection (2)(a.5). Each local education provider shall administer the assessment for students enrolled in tenth grade. Each local education provider shall administer the tenth-grade assessment on a schedule that the department annually sets.

(b) The department of education shall select and the state shall pay the costs of administering an assessment that is administered throughout the United States and relied upon by institutions of higher education, referred to in this section as the "curriculum-based, achievement college entrance exam". Every five years, the department shall request competitive bids and contract for the curriculum-based, achievement college entrance exam. At a minimum, the curriculum-based, achievement college entrance exam must test in the areas of reading, writing, mathematics, and science. Each local education provider shall administer the curriculum-based achievement college entrance exam for students enrolled in eleventh grade. The local education provider shall administer the writing portion of the curriculum-based, achievement college entrance exam to each student who requests the opportunity to take the writing portion. The department shall pay the costs of administering the writing portion of the exam.

(c) (I) The department of education shall annually schedule a day on which the curriculum-based, achievement college entrance exam is administered for all eleventh-grade students enrolled in public high schools throughout the state.

(II) Notwithstanding the provisions of subparagraph (I) of this paragraph (c), a student who can show a need to take the curriculum-based, achievement college entrance exam on an alternate date on which the exam is administered throughout the country may take the exam on that alternate date, so long as the alternate date is before the date scheduled by the department pursuant to subparagraph (I) of this paragraph (c). The department shall pay all costs associated with a student taking the curriculum-based, achievement college entrance exam on an alternate date as provided in this subparagraph (II).

(d) The state board shall adopt rules to ensure that the requirements of the administrator of the curriculum-based, achievement college entrance exam, such as a secure environment, are met and to identify the level of need that a student must demonstrate to take the curriculum-based, achievement college entrance exam on an alternate date as provided in subparagraph (II) of paragraph (c) of this subsection (2).

(2.5) As soon as practicable after June 10, 2016, the department of education shall apply to the federal department of education for innovative assessment and accountability demonstration authority as authorized in section 1201 of Title I of part B of the federal "Every Student Succeeds Act", Pub.L. 114-95, enacted by the 114th Congress. The commissioner of education shall notify the chairs of the education committees of the house of representatives and the senate, or any successor committees, when the department submits the application and when the department receives the response from the federal department of education granting or denying the state demonstration authority.

(3) (a) Except as otherwise provided in paragraphs (b) and (c) of this subsection (3), each student enrolled in a public school is required to take the state assessments administered

pursuant to subsection (1) of this section at the student's grade level, as determined by the enrolling local education provider.

(b) A child who is enrolled in a nonpublic school or participating in a nonpublic home-based educational program pursuant to section 22-33-104.5 is not required to take a state assessment administered pursuant to this section, even though the child may also be attending a public school for a portion of the school day and therefore included in the enrollment of a local education provider.

(c) A student who has an individualized education program as provided in section 22-20-108, and whose individualized education program specifies that the student takes the state's alternate assessment for students with significant cognitive disabilities or another assessment approved by rule of the state board, is not required to take the state assessments administered pursuant to subsection (1) of this section, but the student must take the alternate assessment or the other approved assessment. Each local education provider shall report to the department of education the results of the alternate assessments or other approved assessments administered to students enrolled by the local education provider. The department shall aggregate the results separately for each public school.

(d) If a student has an individualized education program as provided in section 22-20-108 that specifies that the student takes the state assessment, the enrolling local education provider shall assess the student in each instructional area for which there is a state test at the student's grade level. If, as part of a student's individualized education program, the student attends part-time a school or program away from the school in which the student is enrolled, the local education provider that enrolls a student, or the administrative unit that the local education provider is a member of, may designate either the school of residence or the school of attendance as the school to which the department of education must assign the student's scores for purposes of measuring the levels of attainment on the performance indicators specified in section 22-11-204, determining accreditation categories pursuant to section 22-11-208, and measuring public school performance pursuant to section 22-11-210. If a student who has an individualized education program attends school in an administrative unit other than the student's administrative unit of residence, and there is a contract between the two administrative units, the administrative units must specify in the contract the public school to which the department shall assign the student's scores for purposes of measuring the levels of attainment on the performance indicators, determining accreditation categories, and measuring public school performance.

(4) (a) (I) The department of education in collaboration with local education providers shall administer the English versions of the state assessments and may administer an assessment adopted by the state board in languages other than English, as may be appropriate for English language learners; except that a student who has participated in an English language proficiency program, as provided in article 24 of this title, for more than a total of three school years is ineligible to take the state assessments in a language other than English.

(II) Notwithstanding the provisions of subparagraph (I) of this paragraph (a) to the contrary, a local education provider may administer an assessment adopted by the state board in a language other than English for up to five years to a student who is an English language learner if allowed by a waiver received from the federal department of education pursuant to paragraph (c) of this subsection (4).

(b) The state board shall revise as necessary and the department of education shall administer reading and writing assessments in Spanish for students enrolled in the third and fourth grades.

(c) As soon as practicable after May 20, 2015, the department of education shall submit to the federal department of education a request for a waiver of federal law to enable a local education provider to administer a state assessment in a language other than English for up to five school years to a student who is an English language learner.

(5) (a) Notwithstanding any provision of this section to the contrary, a student who is an English language learner, as defined in section 22-24-103, and who has been enrolled in a school in the United States for fewer than twelve months is not required to take the English language arts assessment required in subsection (1) of this section. The year in which the student does not take the English language arts assessment is included as one of the three or five years, as applicable, in which the student may take the state assessment in his or her native language as provided in subsection (4) of this section.

(b) If allowed by federal law or by a waiver of federal law received from the federal department of education pursuant to paragraph (c) of this subsection (5), in the first twenty-four months in which a student who is an English language learner is enrolled in a school in the United States and takes the English language arts assessment, the department of education shall not include the student's scores in calculating achievement of the performance indicators pursuant to part 2 of article 11 of this title for the local education provider that enrolls the student.

(c) As soon as practicable after May 20, 2015, the department of education shall submit to the federal department of education a request for a waiver of federal law as necessary to implement paragraph (b) of this subsection (5).

(6) The department of education, by policy, may determine whether the scores of one or more groups of students are not appropriate to be used in measuring the levels of attainment on the performance indicators, as defined in section 22-11-103. A policy that the department adopts pursuant to this subsection (6) must be in accordance with the requirements of federal statutes and regulations.

(7) (a) The department of education shall provide to each local education provider the results of all of the state assessments that the local education provider administers and make available to local education providers the state assessment data of individual students that is required to measure academic progress over time. The department shall align the disaggregation of state assessment results with the exclusion of scores permitted by subsection (6) of this section.

(b) The department of education shall release to the public only those state assessment results that the department deems valid. The department shall not rely on state assessment results that the department has deemed invalid in performance calculations when assigning accreditation levels or school plan types, as described in article 11 of this title, to a local education provider. At any time that the department releases state assessment results to the public, in addition to releasing the results of the English versions of the state assessments, the department shall release the results of any state assessments administered in languages other than English.

(c) At the request of a local education provider, the entity that is responsible for developing a state assessment must return to the local education provider the student responses to the essay portion and appropriate paragraphs that are released from the English language arts

portion of the state assessment and the results of all requested state assessments. The requesting local education provider must pay the entity for the actual cost of photocopying and mailing the English language arts portion of the state assessment. The requesting local education provider shall maintain the confidentiality of all state assessment results that it receives and may use the essay portion and appropriate paragraphs only to improve an individual student's writing skills.

(d) Each local education provider shall include the results of the state assessments administered pursuant to subsection (1) of this section on each student's final report card for the applicable school year and include the results in the student's permanent academic record; except that a local education provider may include state assessment data on a student's final report card only if the local education provider has sufficient time to process the state assessment results after they are released.

(8) (a) Each local education provider shall adopt policies to ensure that appropriate personnel within each school district and each institute charter school share with and explain to the parent or legal guardian of each student enrolled in the school district or the institute charter school the student's state assessment results returned to the student's public school pursuant to subsection (7) of this section.

(b) The department of education shall create, maintain, and make available to local education providers and parents or legal guardians, upon request, a list of resources and programs that public schools and parents or legal guardians may access to assist students in addressing specific learning issues identified by the state assessment results provided pursuant to this section.

(9) (a) The department of education shall permit a nonpublic school to administer the state assessments required by subsection (1) of this section and shall provide to the nonpublic school the results of any state assessments administered. The nonpublic school must pay all costs associated with administering and providing results for the state assessments.

(b) A local education provider, upon the request of the parent or legal guardian of a child who is participating in a nonpublic home-based educational program pursuant to section 22-33-104.5, must permit the child to take a state assessment required by subsection (1) of this section and must provide to the parent or legal guardian of the child the results of state assessments administered. The parent or legal guardian of the child must pay all costs associated with administering and providing results for the state assessments.

(10) For each fiscal year, the general assembly shall appropriate money in the annual general appropriation act to the department of education to fund administration of the state assessments as described in this section, including administration of the ninth-grade assessment, the tenth-grade assessment, and the curriculum-based, achievement college entrance exam described in subsection (2) of this section.

**Source: L. 2015:** Entire section added, (HB 15-1323), ch. 204, p. 703, § 1, effective May 20; IP(1)(a) amended and (1)(a)(III) added, (SB 15-056), ch. 203, p. 701, § 2, effective May 20. **L. 2016:** (2.5) added, (HB 16-1234), ch. 337, p. 1370, § 3, effective June 10. **L. 2017:** (1)(a)(I), (2)(a), and (10) amended, (1)(b) repealed, and (2)(a.5) added, (HB 17-1181), ch. 385, p. 1997, § 1, effective June 6. **L. 2020:** (1)(a)(III) amended, (HB 20-1135), ch. 284, p. 1385, § 1, effective September 14.

**Cross references:** For the legislative declaration in HB 16-1234, see section 1 of chapter 337, Session Laws of Colorado 2016.

**22-7-1006.5. Pilot program - alternative assessment.** (1) There is created a pilot program to allow local education providers to create or select assessments, which the local education provider may administer to prove the validity and reliability of the assessments and the comparability of the assessments with the state assessments. The goals of the pilot program are to provide more timely and relevant data to educators to inform instruction throughout the school year, while continuing to provide comparative data for state accountability purposes.

(2) (a) For a local education provider to participate in the pilot program as described in this section, the local school board or other governing body of the local education provider must first adopt a written resolution that authorizes the local education provider to participate in the pilot program.

(b) If authorized by its local school board or other governing body, a local education provider, individually or in combination with one or more other local education providers, may participate in the first phase of the pilot program by creating or selecting assessments that meet the requirements specified in subsection (3) of this section and administering those assessments for two school years to all or a portion of the students enrolled in at least one elementary grade, one middle school grade, and one high school grade. After administering the assessments for two school years, the local education provider must submit to the department of education the assessment results for each year in which they were administered and the local education provider's demonstration that the results are comparable to the results obtained on the state assessments administered in the same school years.

(c) A local education provider that is selected to participate in phase two of the pilot program pursuant to subsection (4) of this section shall administer its selected assessments for up to two years to students enrolled by the local education provider in grades three through eleven. The local education provider shall submit to the department the assessment results for each year in which they were administered and the local education provider's demonstration that the results are comparable to the results obtained on the state assessments administered in the same school years.

(d) A local education provider that participates in the pilot program must:

(I) Notify the department of education at the beginning of each school year in which it intends to administer assessments pursuant to this section and identify the assessments that the local education provider intends to administer;

(II) Notify the parents of the students enrolled by the local education provider at the beginning of each school year in which it intends to administer assessments pursuant to this section that the local education provider is choosing to administer assessments pursuant to this section; and

(III) If the local education provider is a school district, work with the school district's personnel performance evaluation council created pursuant to section 22-9-107 in selecting or creating and administering assessments pursuant to this section.

(3) The assessments that a local education provider chooses to administer pursuant to this section must:

(a) In phase one of the pilot program, assess students in each of the subject areas required in section 22-7-1006.3 in at least one elementary grade, one middle school grade, and one high school grade;

(b) In phase two of the pilot program, assess students in all of the subject areas and at all of the grade levels required in section 22-7-1006.3;

(c) Provide sufficient data each school year to disaggregate and report results for student groups as defined in section 22-11-103 (34); and

(d) Provide sufficient data each school year to measure, for each student enrolled in the grades that are assessed, the student's progress in meeting the state academic standards.

(4) (a) Each local education provider that participates in phase one of the pilot program shall submit the results of the local assessments to the department of education for analysis and evaluation. After the department receives the local assessment data from all participating local education providers, the department shall review the data to ensure that each assessment meets the requirements specified in subsection (3) of this section and that each assessment is valid and reliable. Based on the assessment data, the department shall recommend to the state board two of the local education providers to participate in phase two of the pilot program. The state board, taking into consideration the department's recommendations, shall select the two local education providers that may participate in phase two of the pilot program.

(b) Each local education provider that participates in phase two of the pilot program shall submit the results of the local assessments to the department of education for analysis and evaluation. After the department receives the local assessment data from all participating local education providers, the department shall review the data to ensure that each assessment meets the requirements specified in subsection (3) of this section and that each assessment is valid and reliable. Based on the assessment data, the department shall recommend to the state board one of the local assessments for approval as the new state assessment or recommend that the state continue administering the existing state assessments. The state board shall review the assessment data and, taking into account the department's recommendation, select the new state assessment or continue administering the existing state assessments. The department and the state board shall base the recommendation and selection on the validity, reliability, and comparability of the assessment and ensure that the selected assessment, if any, meets the goals of the pilot program stated in subsection (1) of this section.

(c) If the state board adopts a new state assessment, the state board shall notify the general assembly. Implementation of a new state assessment is conditional on the enactment of legislation that approves the use of the new assessment.

(d) As soon as possible after May 20, 2015, the department of education shall apply to the federal department of education for a waiver of federal statutory and regulatory requirements to the extent necessary to implement phase one of the pilot program, including a waiver of the requirement to administer a single statewide assessment as applied to the local education providers that participate in phase one and phase two of the pilot program. Before the beginning of phase two of the pilot program, the department shall apply to the federal department of education for a waiver of federal statutory and regulatory requirements to the extent necessary to implement phase two of the pilot program. If the state board adopts a new state assessment, the department shall apply to the federal department of education for a waiver of federal statutory and regulatory requirements as necessary to implement the new state assessment if adopted as provided in paragraph (b) of this subsection (4).

(e) Upon the request of a local education provider that participates in the pilot program, the department shall provide technical assistance to the local education provider in selecting local assessments and evaluating the assessment results.

(f) If the federal department of education requires a local education provider to administer the state assessments required in section 22-7-1006.3 while the local education provider is participating in the pilot program, the local education provider shall:

(I) Administer the state assessments as required in section 22-7-1006.3 in addition to the local assessments while participating in the pilot program; and

(II) Specify in the notice required in paragraph (d) of subsection (2) of this section that the local education provider is choosing to administer assessments through the pilot program in addition to the state assessments required in section 22-7-1006.3.

**Source: L. 2015:** Entire section added, (HB 15-1323), ch. 204, p. 703, § 1, effective May 20.

**22-7-1007. Postsecondary and workforce readiness assessments pilot program - rules. (Repealed)**

**Source: L. 2008:** Entire part added, p. 750, § 1, effective May 14. **L. 2009:** (2) and (3) amended, (HB 09-1046), ch. 35, p. 145, § 1, effective March 20; (2) amended, (SB 09-163), ch. 293, p. 1531, § 16, effective May 21. **L. 2015:** Entire section repealed, (HB 15-1323), ch. 204, p. 730, § 49, effective May 20.

**22-7-1008. Postsecondary and workforce readiness description - adoption - revision.** (1) (a) On or before December 15, 2009, the state board and the commission shall negotiate a consensus and adopt a description of postsecondary and workforce readiness. In describing postsecondary and workforce readiness, the state board and the commission shall, at a minimum:

(I) Describe the knowledge and skills that are required for a student to demonstrate postsecondary and workforce readiness;

(II) Ensure that postsecondary and workforce readiness includes demonstration of postsecondary planning skills and the ability to apply those skills;

(III) Describe the level of English language competency that a student must demonstrate in order to demonstrate postsecondary and workforce readiness;

(IV) Ensure that postsecondary and workforce readiness includes demonstration of a sufficiently high level of comprehension or skill to successfully complete, without need for remediation, the core academic courses identified by the commission pursuant to section 23-1-125 (3), C.R.S.; and

(V) Ensure that, to the extent practicable, postsecondary and workforce readiness requires a student to demonstrate creativity and innovation skills; critical-thinking and problem-solving skills; communication and collaboration skills; social and cultural awareness; civic engagement; initiative and self-direction; flexibility; productivity and accountability; character and leadership; information technology application skills; and other skills critical to preparing students for the twenty-first-century workforce and for active citizenship.

(b) The state board and the commission may modify the description of postsecondary and workforce readiness as necessary based on the recommendations received through the peer

review process on the amended state plan pursuant to section 22-7-1012 to ensure alignment of the postsecondary and workforce readiness description with the standards and assessments.

(2) The state board, in adopting state assessments pursuant to section 22-7-1006, shall ensure that the state assessments administered to students enrolled in high school are aligned with the Colorado academic standards and are sufficient to enable a student to demonstrate postsecondary and workforce readiness by the time the student graduates from high school.

(3) (a) On or before July 1, 2015, and on or before July 1 every six years thereafter, the state board and the commission shall review, negotiate a consensus, and adopt any appropriate revisions to the description of postsecondary and workforce readiness. The state board and the commission shall ensure that any revisions adopted pursuant to this paragraph (a) meet the requirements for the description of postsecondary and workforce readiness specified in subsection (1) of this section.

(b) Repealed.

**Source: L. 2008:** Entire part added, p. 752, § 1, effective May 14. **L. 2010:** (2)(a) and (3)(b), (HB 10-1013), ch. 399, p. 1909, § 26, effective June 10. **L. 2015:** (1)(b) and (2) amended and (3)(b) repealed, (HB 15-1323), ch. 204, p. 730, § 50, effective May 20.

**22-7-1009. Diploma endorsements - adoption - revisions.** (1) On or before July 1, 2011, or as soon thereafter as fiscally practicable, the state board shall adopt criteria that a local school board, BOCES, or institute charter high school may apply if the local school board, BOCES, or institute charter high school chooses to endorse high school diplomas to indicate that students have achieved postsecondary and workforce readiness. The criteria shall include, but need not be limited to, the required minimum level of postsecondary and workforce readiness that a student must achieve to receive a readiness endorsement on his or her diploma from the local school board, BOCES, or institute charter high school. In identifying the required minimum level of postsecondary and workforce readiness, the state board shall ensure that the minimum level of postsecondary and workforce readiness reflects the expectations for postsecondary and workforce readiness that are applied nationally and internationally.

(2) The state board shall also adopt criteria for an endorsement that a local school board, BOCES, or institute charter high school may choose to grant to graduating students that would indicate extraordinary academic achievement or exemplary demonstration by a student of postsecondary and workforce readiness.

(3) Following adoption of the criteria for diploma endorsements pursuant to subsections (1) and (2) of this section, the state board shall consult with the commission and the governing boards of the state institutions of higher education. The provisions of section 22-7-1017 (2) shall take effect only if the commission and the governing boards approve the criteria.

(4) The state board shall also consider and may adopt criteria for a range of additional endorsements that a school district, BOCES, or institute charter high school may choose to grant to graduating students to recognize concentrated focus and outstanding achievement in a variety of subject areas, including but not limited to visual arts, performing arts, career and technical education, history and civics, mathematics, and science.

(5) In adopting endorsement criteria pursuant to this section, the state board shall take into consideration any career and technical education standards that are adopted by the state board for community colleges and occupational education, created in section 23-60-104, C.R.S.

(6) Every six years after the adoption of criteria for endorsements pursuant to subsection (1) of this section, the state board shall revise and adopt any appropriate revisions to such criteria for endorsements.

**Source: L. 2008:** Entire part added, p. 754, § 1, effective May 14. **L. 2010:** (4) amended, (HB 10-1273), ch. 233, p. 1022, § 7, effective May 18; (1) and (6) amended, (HB 10-1013), ch. 399, p. 1909, § 27, effective June 10. **L. 2012:** (1) amended, (HB 12-1345), ch. 188, p. 729, § 18, effective May 19. **L. 2013:** (1) amended, (HB 13-1219), ch. 104, p. 362, § 7, effective August 7.

**Cross references:** For the legislative declaration in the 2010 act amending subsection (4), see section 1 of chapter 233, Session Laws of Colorado 2010. For the legislative declaration in the 2012 act amending subsection (1), see section 11 of chapter 188, Session Laws of Colorado 2012.

**22-7-1009.3. Diploma endorsement - science, technology, engineering, and mathematics - definitions.** (1) As used in this section, unless the context otherwise requires:

(a) "Granting local education provider" means a local school board, BOCES, district charter high school, or institute charter high school that chooses to grant a STEM diploma endorsement to a student who demonstrates mastery in the STEM disciplines as described in this section.

(b) "STEM" means the combination of the disciplines of science, technology, engineering, and mathematics.

(2) A local education provider may grant a diploma endorsement in STEM to a graduating high school student who demonstrates mastery in the STEM disciplines. To obtain an endorsement in STEM, a graduating student must:

(a) Meet the minimum high school graduation requirements at a high level of proficiency as specified by the granting local education provider;

(b) Successfully complete, with a grade point average of at least 3.5 on a 4.0 scale or the equivalent for a higher scale, a coherent sequence of at least four courses in the areas of science, technology, engineering, and mathematics as determined by the granting local education provider, which courses are in addition to the minimum graduation requirements in these areas;

(c) Demonstrate proficiency in mathematics by:

(I) Achieving a score of twenty-eight or higher on the mathematics portion of the ACT college readiness assessment;

(II) Achieving a score of six hundred or higher on the mathematics portion of the college readiness assessment provided by the College Board, commonly known as the SAT;

(III) Achieving a score of five or higher on the mathematics portion of the international baccalaureate test;

(IV) Achieving a score of four or higher on the advanced placement mathematics assessment;

(V) Achieving a score of one hundred or higher on the suite of tests that assesses reading, writing, mathematics, and computer skills provided by the College Board for college placement purposes, commonly known as the Accuplacer; or

(VI) Achieving a score of eighty-five or higher on the armed services vocational aptitude battery test used for military enlistment; and

(d) Successfully complete a final capstone project, which is a culminating exhibition of the student's project or experience that demonstrates academic and intellectual learning. To successfully complete a final capstone project, the student must achieve a high proficiency level of mastery, as set by the granting local education provider, for each of the following competencies:

(I) Inquiry-based learning, which is demonstrated through the capstone project by asking questions and defining problems;

(II) Creative problem-solving, which is demonstrated through the capstone project by developing and applying scientific and mathematical models to explain complex ideas and solutions;

(III) Experimentation, which is demonstrated through the capstone project by planning and carrying out investigations;

(IV) Critical thinking, which is demonstrated through the capstone project by analyzing and interpreting data and communicating conclusions;

(V) Deductive and inductive reasoning, which is demonstrated through the capstone project by using mathematics and computational thinking;

(VI) Understanding of engineering principles, which is demonstrated through the capstone project by constructing explanations and designing solutions; and

(VII) Effective communication skills, which are demonstrated through the capstone project by engaging in argument from evidence.

(3) Each granting local education provider shall work with STEM-related business and industrial leaders identified by the local education provider within the surrounding communities and with appropriate institutions of higher education to establish the high proficiency levels of mastery that a student must demonstrate in each of the competencies described in subsection (2)(d) of this section.

(4) Each granting local education provider shall annually provide to students enrolled in grades six through twelve and their parents information concerning the requirements for obtaining the STEM diploma endorsement.

**Source: L. 2017:** Entire section added, (HB 17-1201), ch. 211, p. 823, § 1, effective May 18.

**22-7-1009.5. Diploma endorsement - biliteracy - definitions.** (1) As used in this section, unless the context otherwise requires:

(a) "Advanced placement test" means the final test administered at the completion of a course that delivers a college-level curriculum in a particular world language and that may result in the awarding of college credit based on the score achieved on the final test.

(b) "International baccalaureate" means a program of international education offered through a local education provider by a nonprofit educational foundation.

(c) "World language" means a language other than English and includes American sign language.

(2) A local education provider may grant a diploma endorsement in biliteracy to a graduating high school student who attains proficiency or higher in one or more world languages in addition to attaining proficiency or higher in English. To obtain an endorsement in biliteracy, a graduating student must:

(a) Demonstrate proficiency or higher in English by:

(I) Completing all of the English language arts course requirements for graduation from high school with an overall grade point average of at least 3.0 in the required English language arts courses; and

(II) (A) Achieving a score that indicates proficiency or higher on the English language arts portion of the curriculum-based, achievement college entrance exam administered to eleventh-grade students pursuant to section 22-7-1006.3 (2); or

(B) Passing the English language arts advanced placement test with a score of three or higher or passing the English language arts portion of an international baccalaureate test with a score of four or higher; and

(b) Demonstrate proficiency or higher in one or more world languages by:

(I) Passing a world language advanced placement test with a score of three or higher or passing the world language portion of an international baccalaureate test with a score of four or higher;

(II) Successfully completing a four-year high school course of study in the world language and attaining an overall grade point average of at least 3.0 in the course of study; or

(III) Achieving a passing score on the world language portion of a nationally recognized test that is relied upon by institutions of higher education.

(3) (a) For each world language for which an advanced placement test is not available, the department of education may identify one or more summative tests in the world language that are comparable in rigor to an advanced placement test. The department may include in the list a summative test created or identified by a local education provider.

(b) Notwithstanding any provision of subsection (2)(b)(I) of this section to the contrary:

(I) A local education provider may use a test identified by the department of education in place of an advanced placement test for purposes of subsection (2)(b)(I) of this section;

(II) If an advanced placement test does not exist and the department has not identified a comparable test for the world language a student studies, the local education provider may create a test to administer to the student in place of an advanced placement test for purposes of subsection (2)(b)(I) of this section or may allow a student to submit a body of evidence that demonstrates the student's knowledge of the world language. If the local education provider chooses to create a test, it must certify to the department that the test assesses speaking, reading, and writing in the world language at a level that is comparable in rigor to an advanced placement test in a world language or comparable to the level of a summative assessment administered at the completion of a four-year high school course of study in the world language. The student must pass the test at the proficient level or higher. If the local education provider allows a student to submit a body of evidence, it must certify to the department that the evidence presented demonstrates the student's ability to speak, understand, read, and write the world language with a level of rigor that is comparable to an advanced placement test in a world language or comparable to the level of a summative assessment administered at the completion of a four-year high school course of study in the world language.

(III) If an advanced placement test exists or the department has identified a comparable test for a world language, and the local education provider creates and uses an alternative test for that world language, the department must approve the local education provider's test before the local education provider may use the test to determine a student's level of proficiency in the

world language in place of an advanced placement test for purposes of subsection (2)(b)(I) of this section.

(4) Each local education provider that creates a test for a world language or accepts a body of evidence to demonstrate the ability to speak, understand, read, and write a world language shall provide a copy of the test and a description of the body of evidence to the department of education. The department shall make the tests and descriptions available to local education providers upon request.

**Source: L. 2017:** Entire section added, (SB 17-123), ch. 84, p. 259, § 1, effective August 9.

**22-7-1010. State board - commission - public input - staff assistance.** (1) In fulfilling their duties pursuant to this part 10, the state board and the commission, at a minimum, shall:

(a) Meet with interested persons throughout the state, including but not limited to:

(I) Early care and education providers;

(II) Representatives of early childhood councils;

(III) Elementary and secondary teachers, specialists in special education services, counselors, and administrators;

(IV) Boards of cooperative services;

(V) Local school boards and governing boards of district charter schools and institute charter schools;

(VI) Parents and students;

(VII) Precollegiate and postsecondary service providers and concurrent enrollment program managers;

(VIII) Career and technical education faculty and administrators;

(IX) Postsecondary faculty and administrators;

(X) Governing boards of institutions of higher education; and

(XI) Employers and other members of the business community and labor, workforce, and economic development experts;

(b) Take into consideration the recommendations of and consult with the P-20 council;

(c) Solicit and take into consideration information from local boards of education specifically regarding the input received by the local boards from their respective communities in developing the blueprints for the education systems in their respective communities pursuant to section 22-32-109 (1)(kk);

(d) Take into consideration, as applicable, the recommendations of the state graduation guidelines development council made pursuant to section 22-7-414, as it existed prior to July 1, 2008;

(e) Consult and collaborate with state and national organizations of early care and education providers and experts, state and national organizations of educators, and other state, national, and international academic organizations that specialize in creation, maintenance, and implementation of relevant and rigorous education standards and curriculum and in alignment of standards and assessments from preschool through postsecondary education.

(2) (a) Staff from the department of education, the department of higher education, the state board for community colleges and occupational education, the division of child care, and the early childhood policy team in the office of the lieutenant governor shall provide technical

assistance and support for the state board and the commission in fulfilling their duties under this part 10.

(b) To further assist in fulfilling their duties under this part 10, the state board and the commission may appoint one or more task forces consisting of state, national, and international education experts.

(3) The department of education and the department of higher education are authorized to receive and expend gifts, grants, or donations of any kind from a public or private entity to carry out the purposes of this part 10, subject to the terms and conditions under which given; except that the department of education or the department of higher education may not accept a gift, grant, or donation if the conditions attached thereto require the use or expenditure thereof in a manner contrary to law.

**Source: L. 2008:** Entire part added, p. 755, § 1, effective May 14. **L. 2018:** IP(1) and (1)(a)(II) amended, (SB 18-099), ch. 90, p. 727, § 10, effective August 8; (1)(a)(II) amended, (HB 18-1141), ch. 59, p. 602, § 4, effective August 8.

**Cross references:** For the legislative declaration in SB 18-1141, see section 1 of chapter 59, Session Laws of Colorado 2018.

**22-7-1011. Regional educator meetings - purpose - recommendations.** (1) Beginning in the 2008-09 academic year, the commissioner and the executive director, at least annually, shall convene meetings of professional educators in preschool, elementary, secondary, and postsecondary education within each of the regional service areas created by the state board. In convening the regional educator meetings, the commissioner and the executive director shall work with:

(a) The president of the state system of community and technical colleges;

(b) One or more representatives of the local college districts;

(c) The chief academic officers or executive directors of the state institutions of higher education;

(d) The school district superintendents throughout the state; and

(e) Representatives of the division of child care and the early childhood policy team in the office of the lieutenant governor.

(2) At a minimum, the following persons shall be invited to attend the regional educator meetings in each regional service area:

(a) Early care and education providers;

(b) Members of the local school boards of the school districts included in the regional service area;

(c) The preschool, elementary, and secondary teachers, principals, administrators, counselors, and other special services providers employed by the local education providers located in the regional service area; and

(d) The postsecondary faculty, academic advisors, and administrators employed by the state institutions of higher education and local district colleges, if any, located in the regional service area.

(3) The commissioner and the executive director shall convene regional educator meetings for the purpose of collaborating in the planning, design, and implementation of the

alignment of the preschool through postsecondary public education systems, including but not limited to:

(a) Collaborating in the planning, design, and implementation of:

(I) The school readiness description, the preschool through elementary and secondary education standards, and the postsecondary and workforce readiness description;

(II) Programs of instruction for preschool, elementary, secondary, and postsecondary students; and

(III) Assessments that are aligned with the school readiness and postsecondary and workforce readiness descriptions and the preschool through elementary and secondary education standards;

(b) Collaborating in identification and provision of the supportive services that are necessary to implement the school readiness and postsecondary and workforce readiness descriptions, the preschool through elementary and secondary education standards, and the aligned assessments;

(c) Identifying and reviewing the levels of financial support needed to implement the school readiness and postsecondary and workforce readiness descriptions, the preschool through elementary and secondary education standards, and the aligned assessments, and formulating recommendations concerning the reallocation of state resources and the identification of additional state resources for said implementation; and

(d) Reviewing the school readiness description, the preschool through elementary and secondary education standards, the postsecondary and workforce readiness description, the assessments aligned with the descriptions and standards, and the criteria for diploma endorsements, and making recommendations for revisions to the state board and the commission.

(4) Each regional service area may submit to the state board and the commission the recommendations arising from the regional educator meetings held in the regional service area. The state board and the commission shall take the recommendations into account in fulfilling their duties pursuant to this part 10. In addition, a regional service area may submit any recommendations for legislative changes to the education committees of the house of representatives and the senate, or any successor committees.

**Source: L. 2008:** Entire part added, p. 756, § 1, effective May 14.

**22-7-1012. State plan - amendments - peer review - final adoption.**

(1) Repealed.

(2) (a) As soon as practicable under federal law, based on information received by the state board pursuant to section 22-7-1010 and on any information received from the regional educator meetings pursuant to section 22-7-1011, the department of education shall submit to the federal department of education amendments to the state plan for peer review and approval. The amendments, at a minimum, shall include:

(I) Amendments to incorporate the preschool through elementary and secondary education standards adopted by the state board pursuant to section 22-7-1005; and

(II) Amendments to incorporate the system of assessments adopted pursuant to section 22-7-1006.

(b) Notwithstanding any provision of this section to the contrary, in order to preserve flexibility and adaptability at the state level, the amended state plan shall include only those components of the aligned preschool through postsecondary public education systems that are required by or subject to approval under federal law and shall not include any components of the aligned preschool through postsecondary public education systems that are not required by or subject to approval under federal law.

(c) The limitations on the contents of the state plan specified in paragraph (b) of this subsection (2) shall not be construed to prohibit the state board and the commission from adopting, and the state board and the commission are encouraged to adopt, descriptions, standards, assessments, and other components of the aligned preschool through postsecondary public education systems that exceed the minimum requirements of federal law and that are comparable in scope, relevance, and rigor to the highest national and international standards that have been implemented successfully and are consistent with and relevant to achievement of the goals specified in section 22-7-1002.

(3) The department of education shall provide public notice of the amendments to the state plan, any comments and suggestions received through the peer review process, and any changes made to the amendments in response to the peer review comments.

**Source: L. 2008:** Entire part added, p. 758, § 1, effective May 14. **L. 2015:** (1) repealed and IP(2)(a) and (2)(a)(I) amended, (HB 15-1323), ch. 204, p. 731, § 51, effective May 20.

**22-7-1013. Local education provider - preschool through elementary and secondary education standards - adoption - academic acceleration.** (1) (a) On or before December 15, 2011, each local education provider shall review its preschool through elementary and secondary education standards in comparison with the preschool through elementary and secondary education standards adopted by the state board pursuant to section 22-7-1005. Following review, each local education provider shall revise its standards, as necessary, to ensure that:

(I) The standards meet or exceed the state preschool through elementary and secondary education standards; and

(II) The standards are aligned to ensure that a student who demonstrates attainment of the standards while advancing through preschool and elementary and secondary education will be able to demonstrate postsecondary and workforce readiness prior to or upon attaining a high school diploma.

(b) In revising its preschool through elementary and secondary education standards, each local education provider shall ensure that it adopts standards, at a minimum, in those subject matter areas that are included in the state preschool through elementary and secondary education standards, including but not limited to English language competency and visual arts and performing arts education.

(c) In revising its preschool through elementary and secondary education standards, a local education provider may choose to adopt the state preschool through elementary and secondary education standards.

(2) Following the review and revision of its preschool through elementary and secondary education standards, each local education provider shall adopt curricula that are aligned with the standards. The local education provider shall design the curricula to ensure that, beginning in preschool or kindergarten and continuing through elementary and secondary education, each

student receives a program of study that will enable the student to demonstrate attainment of each of the preschool through elementary and secondary education standards.

(2.5) (a) Each local education provider shall review its procedures concerning academic acceleration for students. Academic acceleration allows a student to progress through an education program at a rate faster or at ages younger than the student's peers. The local education provider shall consider procedures that may include, but need not be limited to, the following:

(I) The process for referral for academic acceleration and procedures that ensure the fair, objective, and systematic evaluation of the students referred;

(II) A decision-making process for accelerated placement that involves multiple persons, including a student's parents, rather than a sole decision-maker;

(III) Guidelines for the practice of academic acceleration, including the categories, forms, and types of academic acceleration and the award of credit;

(IV) Guidelines for preventing nonacademic barriers to the use of acceleration as an educational intervention; and

(V) An appeals process for decisions related to academic acceleration, as well as a process for evaluating the academic acceleration procedures and its effectiveness in successfully accelerating students.

(b) In designing and implementing the academic acceleration procedures, a school district may utilize any resources made available through the department of education and any national research containing recommendations for developing successful academic acceleration procedures.

(3) Each local education provider shall adopt assessments that are aligned with the local education provider's standards and curricula and that will adequately measure each student's progress toward and attainment of the local education provider's standards for the subject areas that are not assessed by the state through the system of assessments adopted by the state board pursuant to section 22-7-1006.

(4) A local education provider may allow a student who is receiving special education services to demonstrate attainment of the preschool through elementary and secondary education standards and postsecondary and workforce readiness through a differentiated plan if required in the student's individualized education program.

(5) On or before July 1, 2017, and on or before July 1 every six years thereafter, each local education provider shall review its preschool through elementary and secondary education standards and, taking into account any revisions to the state preschool through elementary and secondary education standards, shall revise and readopt its standards if necessary to ensure that they continue to meet or exceed the state preschool through elementary and secondary education standards. The local education provider shall revise its curricula accordingly to ensure that the curricula continue to align with the local education provider's preschool through elementary and secondary education standards.

(6) Each local education provider shall adopt and implement a written policy by which the local education provider will decide whether the students enrolled by the local education provider will use pencil and paper to complete any portion of a state assessment administered pursuant to section 22-7-1006.3 that the students would otherwise complete using a computer. The policy must ensure that the local education provider makes the decision in consultation with parents and, if the local education provider is a school district or board of cooperative services, the public schools that the local education provider operates. The local education provider may

decide that the students in one or more of the public schools, or in one or more of the classrooms of the public schools, operated by the local education provider will use pencil and paper to complete the computerized portions of a state assessment. Each year before the start of fall semester classes, the local education provider shall distribute copies of the policy to the parents of students enrolled in the local education provider and post a copy of the policy on the local education provider's website.

(7) (a) Each local education provider shall adopt and implement procedures by which the local education provider, or the public schools that the local education provider operates, shall annually distribute to the parents of students enrolled by the local education provider an assessment calendar. At a minimum, the assessment calendar must specify the estimated hours each testing day that specific classes or grades will take each assessment and identify whether the assessment is required by federal law or state law or selected by the local education provider. The procedures shall specify the timing for distribution of the calendar and require that the calendar is distributed to parents and posted on the local education provider's website.

(b) (I) In addition to the calendar described in paragraph (a) of this subsection (7), each local education provider shall provide written information to the parents of students enrolled by the local education provider that describes:

(A) The state and local assessments that the local education provider will administer during the school year, identifying the assessments that the local education provider is required by federal law to administer, any additional state assessments that the local education provider is required by section 22-7-1006.3 to administer, the assessments that the local education provider is required by other state law to administer, and the additional assessments that the local education provider chooses to administer;

(B) The anticipated calendar for administering the state and local assessments during the school year; and

(C) The purposes of the state assessments administered pursuant to section 22-7-1006.3 and any additional local assessments that the local education provider administers and the manner in which the department of education and the local education provider uses the assessment results.

(II) Each local education provider shall annually distribute the written information to parents as early in the school year as possible and shall post the written information on the local education provider's website.

(c) The provisions of this subsection (7) do not apply to course-specific assessments that are not adopted by the state board pursuant to section 22-7-1006 or to nonstandardized, classroom-based assessments that individual educators choose to administer to students.

(8) (a) Each local education provider shall adopt and implement a written policy and procedure by which a student's parent may excuse the student from participating in one or more of the state assessments administered pursuant to section 22-7-1006.3. The local education provider shall determine whether the process for excusing a student requires a student's parent to submit written notice to the local education provider.

(b) If a parent excuses his or her student from participating in a state assessment, a local education provider shall not impose negative consequences, including prohibiting school attendance, imposing an unexcused absence, or prohibiting participation in extracurricular activities, on the student or on the parent. If a parent excuses his or her student from participating in a state assessment, the local education provider shall not prohibit the student from

participating in an activity, or receiving any other form of reward, that the local education provider provides to students for participating in the state assessment.

(c) A local education provider shall not impose an unreasonable burden or requirement on a student that would discourage the student from taking a state assessment or encourage the student's parent to excuse the student from taking the state assessment.

(d) If the department of education or the state board receives a complaint from a parent concerning a local education provider's implementation of this subsection (8), the department shall notify the local education provider of the nature of the complaint.

**Source: L. 2008:** Entire part added, p. 759, § 1, effective May 14. **L. 2010:** (1)(b) amended, (HB 10-1273), ch. 233, p. 1022, § 8, effective May 18. **L. 2013:** (2.5) added, (HB 13-1023), ch. 57, p. 189, § 2, effective August 7. **L. 2015:** (6), (7), and (8) added, (HB 15-1323), ch. 204, p. 712, § 3, effective May 20. **L. 2018:** (8)(a) and (8)(b) amended and (8)(d) added, (SB 18-011), ch. 119, p. 820, § 1, effective August 8.

**Cross references:** For the legislative declaration in the 2010 act amending subsection (1)(b), see section 1 of chapter 233, Session Laws of Colorado 2010. For the legislative declaration in the 2013 act adding subsection (2.5), see section 1 of chapter 57, Session Laws of Colorado 2013.

**22-7-1014. Preschool individualized readiness plans - school readiness - assessments.** (1) (a) Beginning in the fall semester of 2013, each local education provider that provides a preschool or kindergarten program shall ensure that each student enrolled in a preschool or kindergarten program operated by the local education provider receives an individualized readiness plan that addresses the preschool standards or kindergarten standards, as appropriate, and knowledge and skill areas in which a student needs assistance to make progress toward school readiness. If a student is identified as having a significant reading deficiency as provided in section 22-7-1205, the local education provider shall include the student's READ plan created pursuant to section 22-7-1206 as a component of the student's individualized readiness plan.

(b) In creating and implementing the individualized readiness plans, a local education provider shall use assessment instruments that are research-based, valid, and reliable to facilitate the systematic measurement of a student's increasing knowledge, skills, and accomplishments within the classroom context. The purpose of the continuing assessments shall be to help direct teachers' practice within the classroom with each student and thereby maximize each students' progress toward demonstrating school readiness.

(2) (a) Beginning with students who enter kindergarten in the fall semester of 2013, each local education provider shall ensure that each student enrolled in a kindergarten program operated by the local education provider progresses toward demonstrating school readiness. Each local education provider shall administer the school readiness assessment within the first sixty days of the school year to each student enrolled in a kindergarten program operated by the local education provider to measure each student's level of school readiness. If the local education provider administers a reading assessment pursuant to section 22-7-1205 (1)(a.5) within the first sixty days of the school year to students enrolled in the kindergarten program, the local education provider is not required to administer the literacy component of the school

readiness assessment. The local education provider may choose to monitor a student's progress toward demonstrating school readiness by administering an approved school readiness assessment multiple times over the course of the school year.

(b) The results of the school readiness assessments shall not be used to deny a student admission or progression to first grade.

(3) The department of education, the division of child care, and the staff of the early childhood policy team in the lieutenant governor's office shall, upon request and subject to available appropriations, provide support to local education providers in implementing the preschool standards, individualized readiness plans, and school readiness assessments and in assisting students in progressing toward school readiness. Support may include, but need not be limited to:

(a) Assisting the local education provider in reviewing and revising curriculum;

(b) Communicating with early care and education providers, educators, local school board members, board of cooperative services members, charter school governing board members, school district and school administrators, and parents;

(c) Providing professional development for educators; and

(d) Collecting and making available a resource bank of examples of best practices in national, state, school district, school, and classroom reform efforts in early childhood and school readiness consistent with the intent of this part 10.

**Source: L. 2008:** Entire part added, p. 760, § 1, effective May 14. **L. 2010:** (1)(a) amended, (HB 10-1013), ch. 399, p. 1910, § 28, effective June 10. **L. 2015:** (1)(a) and (2)(a) amended, (HB 15-1323), ch. 204, p. 715, § 6, effective May 20.

**22-7-1015. Postsecondary and workforce readiness program - technical assistance.** (1) On or before December 15, 2011, each local education provider shall review the curricula provided by the public high schools operated by the local education provider in the subject matter areas included in postsecondary and workforce readiness. The local education provider shall revise its curricula, or adopt new curricula, as necessary to ensure that the curricula content for said subject matter areas are aligned with postsecondary and workforce readiness such that a student who successfully completes the curricula will be prepared to demonstrate postsecondary and workforce readiness prior to or upon attaining a high school diploma.

(2) (a) The revised or newly adopted curricula described in subsection (1) of this section shall constitute the postsecondary and workforce readiness program for each public high school operated by the local education provider. In revising or adopting the postsecondary and workforce readiness program, a local education provider is not required to base its courses or means of awarding course credits on Carnegie units. A local education provider may choose to base the awarding of course credits on a student's demonstration of attainment of the standards addressed by the course.

(b) A local education provider may accommodate the range of student interests and aspirations by adopting multiple curricula that, combined, create multiple postsecondary and workforce readiness programs within a school district or within a high school that are designed to prepare a student for differing post-graduation goals, including but not limited to immediate entry into the workforce or matriculation into career and technical education or higher education.

The local education provider shall ensure, however, that every postsecondary and workforce readiness program adopted by the local education provider:

(I) Is aligned with postsecondary and workforce readiness such that a student who successfully completes the program will be prepared to demonstrate postsecondary and workforce readiness prior to or upon attaining a high school diploma; and

(II) Includes courses in visual arts and performing arts.

(c) For purposes of this section, a district charter high school shall be deemed to be operated by the chartering local school board; except that the chartering local school board, by charter contract, may allow the district charter high school to adopt its own postsecondary and workforce readiness program, separate from that adopted by the local school board. Each district charter high school that adopts its own postsecondary and workforce readiness program shall ensure that the program is aligned with postsecondary and workforce readiness such that a student who successfully completes the postsecondary and workforce readiness program will be prepared to demonstrate postsecondary and workforce readiness prior to or upon attaining a high school diploma.

(3) (a) It is the intent of the general assembly that, on or before December 15, 2013, each student who enrolls in a public high school operated by a local education provider shall enroll in and successfully complete a postsecondary and workforce readiness program. Each local education provider shall require each high school student, beginning in ninth grade and continuing through twelfth grade, to enroll in the local education provider's postsecondary and workforce readiness program.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (3), a local education provider may allow a student who is receiving special education services to demonstrate attainment of postsecondary and workforce readiness through a differentiated plan for purposes of the postsecondary and workforce readiness program, if required in the student's individualized education program.

(4) The department of education, the department of higher education, and the state institutions of higher education, upon request, shall provide support to local education providers in implementing postsecondary and workforce readiness. Beginning with the 2009-10 budget year, the department of education and the department of higher education may include in their annual budget requests an amount necessary to offset the costs incurred in complying with this section. Support may include, but need not be limited to:

(a) Assisting the local education provider in reviewing and revising curriculum;

(b) Communicating with educators, local school board members, board of cooperative services board members, charter school governing board members, school district and school administrators, parents, and members of the business community;

(c) Providing professional development for educators; and

(d) Collecting and making available a resource bank of examples of best practices in national, state, school district, school, and classroom reform efforts consistent with the intent of this part 10.

**Source: L. 2008:** Entire part added, p. 761, § 1, effective May 14. **L. 2010:** (2)(b) amended, (HB 10-1273), ch. 233, p. 1022, § 9, effective May 18; (3)(a) amended, (HB 10-1013), ch. 399, p. 1910, § 29, effective June 10. **L. 2015:** (3)(b) amended, (HB 15-1323), ch. 204, p. 731, § 52, effective May 20.

**Cross references:** For the legislative declaration in the 2010 act amending subsection (2)(b), see section 1 of chapter 233, Session Laws of Colorado 2010.

**22-7-1016. Assessments in high school - transcripts - definition.** (1) Upon receiving the results following administration of the assessments administered pursuant to section 22-7-1006.3 to students enrolled in high school, the local education provider shall provide to each student a printed copy of the student's assessment results, and a teacher or counselor shall review each student's results with the student and, to the extent practicable, with the student's parent or legal guardian and determine the areas in which the student continues to need instruction in order to demonstrate postsecondary and workforce readiness prior to or upon attaining a high school diploma.

(2) (a) Each high school student's final transcript must describe the student's level of postsecondary and workforce readiness by indicating the student's level of performance in the postsecondary and workforce readiness program.

(b) (I) Notwithstanding any graduation requirement adopted by a local education provider, each high school student's transcript must not indicate the student's level of performance on a readiness assessment administered to the student pursuant to section 22-7-1006.3 in high school or on a national assessment.

(II) For purposes of this subsection (2)(b), "national assessment" means any assessment that is administered throughout the United States to measure postsecondary or workforce readiness.

(3) A local education provider, at its discretion, may choose to identify demonstration of postsecondary and workforce readiness as a graduation requirement for the school district or for the school.

(4) (a) A local education provider shall not apply a student's level of performance in the postsecondary and workforce readiness program or on the readiness assessments administered to the student pursuant to section 22-7-1006.3 in high school to prohibit the student from participating in any program operated by the local education provider through which the student may earn postsecondary or career and technical education course credits while enrolled in high school.

(b) A student who demonstrates attainment of postsecondary and workforce readiness while enrolled in any of grades nine through twelve shall be eligible to participate in a program through which the student may earn postsecondary or career and technical education course credits while enrolled in high school.

(5) (a) Beginning in the 2012-13 academic year, if an English language learner, as defined in section 22-24-103 (4), is enrolled in eleventh or twelfth grade and the student has not demonstrated attainment of the standard for English language competency and has not demonstrated postsecondary and workforce readiness, the local education provider with which the student is enrolled shall provide to the student additional services and supports as necessary to assist the student in attaining the standard.

(b) Following receipt of the cost study report delivered March 1, 2010, pursuant to section 22-7-1018 (2)(a), the general assembly shall address the services and resources necessary for implementation of paragraph (a) of this subsection (5).

**Source: L. 2008:** Entire part added, p. 763, § 1, effective May 14. **L. 2010:** (5)(a) amended, (SB 10-062), ch. 168, p. 594, § 9, effective April 29; (1) and (5)(a) amended, (HB 10-1013), ch. 399, p. 1910, § 30, effective June 10. **L. 2014:** (5)(a) amended, (HB 14-1298), ch. 244, p. 935, § 16, effective May 21. **L. 2015:** (1), (2)(b), and (4)(a) amended, (HB 15-1323), ch. 204, p. 732, § 53, effective May 20; (5)(a) amended, (SB 15-264), ch. 259, p. 954, § 47, effective August 5. **L. 2020:** (2) amended, (SB 20-175), ch. 256, p. 1245, § 1, effective July 8.

**Editor's note:** Amendments to subsection (5)(a) by Senate Bill 10-062 and House Bill 10-1013 were harmonized.

**22-7-1016.5. Exchange of student records.** (1) The department of education and the department of higher education shall establish a procedure that allows for the direct, electronic exchange of student unit record data for students enrolled in Colorado public high schools.

(2) Notwithstanding the provisions of section 22-2-111 (3)(a), the department of education, in collaboration with the department of higher education, shall identify the student data relevant to high school students' transitions to the postsecondary system to which the department of education has access and that shall be shared with the department of higher education.

(3) The department of education shall collect student authorization for the transfer of data where necessary and practicable through existing systems for the collection of student data.

(4) The implementation of the data exchange procedure established pursuant to this section and section 23-1-119.3, C.R.S., must utilize student unit record data collected and maintained by the department of education and must be administered at no charge to local education providers, public institutions of higher education, or students.

(5) The data exchange procedure established pursuant to this section and section 23-1-119.3 must ensure that the exchange of information is conducted in compliance with all state and federal laws and regulations concerning the privacy of information, including but not limited to the federal "Family Educational Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232g, as amended, and all federal regulations and applicable guidelines adopted in accordance therewith.

**Source: L. 2013:** Entire section added, (SB 13-053), ch. 112, p. 385, § 2, effective April 8. **L. 2017:** (5) amended, (SB 17-294), ch. 264, p. 1394, § 44, effective May 25.

**Cross references:** For the legislative declaration in the 2013 act adding this section, see section 1 of chapter 112, Session Laws of Colorado 2013.

**22-7-1017. High school diploma - endorsement - effect.** (1) (a) Following adoption by the state board, pursuant to section 22-7-1009, of the criteria for endorsing a diploma as reflecting postsecondary and workforce readiness, a local school board, a BOCES, or an institute charter high school may choose to grant a postsecondary and workforce readiness endorsement to each graduating high school student who meets the criteria.

(b) Following adoption by the state board of the criteria for endorsing a diploma as reflecting extraordinary academic achievement or exemplary demonstration by a student of postsecondary and workforce readiness, a local school board, a BOCES, or an institute charter

high school may choose to grant such an endorsement to each graduating high school student who meets the criteria.

(c) A local school board, a BOCES, or an institute charter high school may also choose to grant endorsements in specified areas of focus and achievement, following adoption of the criteria for said endorsements by the state board pursuant to section 22-7-1009.

(2) Following approval of the criteria by the commission and the governing boards of the state institutions of higher education, as provided in section 22-7-1009 (3), a student who graduates with a high school diploma that includes a postsecondary and workforce readiness endorsement shall be guaranteed:

(a) To meet minimum academic qualifications for admission to, and to be eligible, subject to additional institutional review of other admission and placement qualifications, for placement into credit-bearing courses at all open, modified open, or moderately selective public institutions of higher education in Colorado; and

(b) To receive priority consideration, in conjunction with additional admissions criteria, and to be eligible, subject to additional institutional review of other admission and placement qualifications, for placement into credit-bearing courses at all other public institutions of higher education in Colorado. The additional admissions criteria shall be determined by each institution of higher education.

**Source: L. 2008:** Entire part added, p. 764, § 1, effective May 14.

**22-7-1018. Cost study.** (1) (a) On or before September 15, 2009, the department of education, in consultation with the department of higher education, shall contract with an independent entity to conduct a study of the costs of implementing the provisions of this part 10. At a minimum, the study shall address the anticipated costs to be incurred by the department of education, the department of higher education, local education providers, and state institutions of higher education in implementing the provisions of this part 10.

(b) In selecting an independent entity to conduct the cost study, the department of education shall consult with the department of higher education and shall ensure that the selected entity has expertise in school finance and higher education finance statutes and issues in this state and nationally.

(c) At a minimum, the cost study shall address the costs associated with:

(I) Reviewing, adopting, and implementing standards and curricula to meet or exceed the newly adopted preschool through elementary and secondary education standards, including but not limited to implementing the English language competency standards and providing services and supports as required in section 22-7-1016 (5);

(II) Implementing the assessment system for the preschool through elementary and secondary education standards;

(III) Implementing the school readiness description and assessments, including creating and implementing individualized readiness plans;

(IV) Incorporating career and technical education standards into the curricula;

(V) Aligning the preschool, elementary, secondary, and postsecondary education curricula with the postsecondary and workforce readiness description;

(VI) Making changes to the postsecondary admissions processes and publications to take into account the postsecondary and workforce readiness description and the assessments administered pursuant to section 22-7-1006.3 to students enrolled in high school; and

(VII) Reviewing, adopting, and implementing standards in educator preparation programs to incorporate the preschool through elementary and secondary education standards, the school readiness description, the system of assessments, the individualized readiness plans, and the postsecondary and workforce readiness description.

(2) The entity selected to conduct the cost study shall submit reports to the department of education and the department of higher education in accordance with the following timeline:

(a) On or before March 1, 2010, a report of the costs pertaining to adoption and implementation of the school readiness description; the preschool through elementary and secondary education standards, including but not limited to the English language competency standards; and the postsecondary and workforce readiness description;

(b) On or before October 1, 2011, a report of the costs pertaining to implementation of the school readiness assessments and the system of assessments that is aligned with the preschool through elementary and secondary education standards; and

(c) On or before October 1, 2014, a report of the costs pertaining to implementation of the diploma endorsements.

(3) As soon as possible following receipt of each report specified in subsection (2) of this section, the department of education shall submit the report to the joint budget committee of the general assembly and to the education committees of the senate and the house of representatives, or any successor committees.

**Source: L. 2008:** Entire part added, p. 765, § 1, effective May 14. **L. 2010:** (2)(b) and (2)(c) amended, (HB 10-1013), ch. 399, p. 1911, § 31, effective June 10. **L. 2011:** (1)(c)(VII) amended, (SB 11-245), ch. 201, p. 849, § 8, effective August 10. **L. 2012:** (2)(c) amended, (HB 12-1240), ch. 258, p. 1309, § 5, effective June 4. **L. 2015:** (1)(c)(V), (1)(c)(VI), (1)(c)(VII), and (2)(b) amended, (HB 15-1323), ch. 204, p. 732, § 54, effective May 20.

**Cross references:** For the legislative declaration in the 2011 act amending subsection (1)(c)(VII), see section 1 of chapter 201, Session Laws of Colorado 2011.

**22-7-1019. Preschool to postsecondary and workforce readiness - progress reports - effectiveness reports.** (1) Notwithstanding section 24-1-136 (11)(a)(I), on or before February 15, 2009, and on or before February 15 each year thereafter, the department of education shall submit to the education committees of the senate and the house of representatives, or any successor committees, a report summarizing the actions taken by the state board, the commission, and local education providers in implementing the requirements specified in this part 10. The department may include in the report recommendations, as may be necessary, for legislative changes in the timeline for implementation of this part 10.

(2) Notwithstanding section 24-1-136 (11)(a)(I), on or before February 15, 2014, and on or before February 15 each year thereafter, the department of education shall submit to the education committees of the senate and the house of representatives, or any successor committees, a report concerning the results achieved through implementation of school

readiness, the preschool through elementary and secondary education standards, and postsecondary and workforce readiness.

(3) (a) At a minimum, the report shall include the following information for the preceding academic year:

(I) The levels of school readiness demonstrated by students enrolled in kindergarten;

(II) The number of students enrolling in the postsecondary and workforce readiness programs and the number of students making adequate longitudinal progress through and completing the postsecondary and workforce readiness programs;

(III) The levels of postsecondary and workforce readiness demonstrated by high school students; and

(IV) Beginning with the report submitted in 2016, the number of students receiving a high school diploma that includes an endorsement, identified by type of endorsement.

(b) The department of education shall present the information in the report on a statewide basis and shall disaggregate the information by school district, school, grade level, free or reduced-cost lunch eligibility status, gender, and ethnicity, and by any other characteristic deemed by the department to be meaningful.

(4) Each local education provider shall cooperate with the department of education in providing the information necessary for the reports prepared pursuant to this section.

**Source: L. 2008:** Entire part added, p. 767, § 1, effective May 14. **L. 2010:** (2) amended, (HB 10-1013), ch. 399, p. 1911, § 32, effective June 10. **L. 2017:** (1) and (2) amended, (HB 17-1267), ch. 242, p. 994, § 5, effective August 9.

## PART 11

## EDUCATIONAL SUCCESS TASK FORCE

**22-7-1101 to 22-7-1105. (Repealed)**

**Editor's note:** (1) This part 11 was added in 2011 and was not amended prior to its repeal in 2013. For the text of this part 11 prior to 2013, consult the 2012 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 22-7-1105 provided for the repeal of this part 11, effective July 1, 2013. (See L. 2011, p. 858.)

## PART 12

## COLORADO READ ACT

**22-7-1201. Short title.** This part 12 is known and may be cited as the "Colorado Reading to Ensure Academic Development Act" or "Colorado READ Act".

**Source: L. 2012:** Entire part added, (HB 12-1238), ch. 180, p. 646, § 2, effective July 1.

**22-7-1202. Legislative declaration.** (1) The general assembly finds that:

(a) All students can succeed in school if they have the foundational skills necessary for academic success. While foundational skills go beyond academic skills to include such skills as social competence and self-discipline, they must also include the ability to read, understand, interpret, and apply information.

(b) Colorado has prioritized early learning through its investments in the Colorado preschool program, established in 1988, and full-day kindergarten, and the general assembly recognizes that these investments can best be leveraged by adopting policies that support a continuum of learning from preschool through third grade and beyond;

(c) It is more cost-effective to invest in effective early literacy education rather than to absorb costs for remediation in middle school, high school, and beyond;

(d) A comprehensive approach to early literacy education can improve student achievement, reduce the need for costly special education services, and produce a better educated, more skilled, and more competitive workforce;

(e) An important partnership between a parent and child begins before the child enters kindergarten, when the parent helps the child develop rich linguistic experiences, including listening comprehension and speaking, that help form the foundation for reading and writing, which are the main vehicles for content acquisition;

(f) The greatest impact for ensuring student success lies in a productive collaboration among parents, teachers, and schools in providing a child's education, so it is paramount that parents are informed about the status of their children's educational progress and that teachers and schools receive the financial resources and other resources and support they need, including valid assessments, instructional programming that is proven to be effective, and training and professional development programs, to effectively teach the science of reading, assess students' achievement, and enable each student to achieve the grade level expectations for reading; and

(g) The state recognizes that the provisions of this part 12 are not a comprehensive solution to ensuring that all students graduate from high school ready to enter the workforce or postsecondary education, but they assist local education providers in setting a solid foundation for students' academic success and will require the ongoing commitment of financial and other resources from both the state and local levels.

(1.5) (a) The general assembly further finds that:

(I) Reading is a critical skill that every child must develop early in the child's educational career to be successful;

(II) Research shows that reading instruction that is focused around the foundational reading skills of phonemic awareness, phonics, vocabulary development, reading fluency including oral skills, and reading comprehension is highly effective in teaching young children to read;

(III) Section 15 of article IX of the state constitution grants to the elected board of education in each school district the authority to have control of instruction in the public schools of the school district, and section 16 of article IX of the state constitution prohibits the general assembly and the state board of education from prescribing the textbooks to be used in public schools;

(IV) However, section 2 of article IX of the state constitution requires the general assembly to provide for the establishment and maintenance of a thorough and uniform system of

free public schools throughout the state, and section 1 of article IX of the state constitution vests the general supervision of the public schools of the state in the state board of education;

(V) In interpreting these constitutional provisions, the Colorado supreme court has found that, because they are competing interests, none are absolute; these interests must be balanced to identify the contours of the responsibility assigned to each entity; and

(VI) It is the general assembly that initially strikes this balance.

(b) The general assembly finds, therefore, that ensuring that each child has access through the public schools to evidence-based reading instruction that is focused on developing the foundational reading skills of phonemic awareness, phonics, vocabulary development, reading fluency including oral skills, and reading comprehension is a significant component of ensuring that the system of free public schools throughout the state is thorough and uniform. In exercising its authority of general supervision of the public schools of the state, it is appropriate that the state board of education, supported by the department of education, hold local education providers accountable for demonstrating that the reading instruction they provide is focused on these five foundational reading skills. And, in maintaining control of the instruction in the classrooms of the public schools of their respective school districts, it is appropriate that each school district board of education select the core reading instructional programs and reading interventions to be used in those public schools, so long as they are focused on phonemic awareness, phonics, vocabulary development, reading fluency including oral skills, and reading comprehension to ensure that the students educated in the public schools throughout the state consistently receive evidence-based instruction that is proven to effectively teach children to read.

(2) It is therefore the intent of the general assembly that each local education provider that enrolls students in kindergarten or first, second, or third grade will work closely with the parents and teachers of these students to provide the students the instructional programming, intervention instruction, and support, at home and in school, necessary to ensure that students, by the completion of third grade, can demonstrate a level of competency in reading skills that is necessary to support them in achieving the academic standards and expectations applicable to the fourth-grade curriculum. It is further the intent of the general assembly that each local education provider adopt a policy whereby, if a student has a significant reading deficiency at the end of any school year prior to fourth grade, the student's parent and teacher and other personnel of the local education provider decide whether the student should or should not advance to the next grade level based on whether the student, despite having a significant reading deficiency, is able to maintain adequate academic progress at the next grade level.

(3) The general assembly further finds that:

(a) The purpose of this part 12 is to provide students with the necessary supports they need to be able to read with proficiency by third grade so that their academic growth and achievement is not hindered by low literacy skills in fourth grade and beyond;

(b) It is a priority in the public schools of Colorado to provide high-quality instruction that enables each student to attain proficiency in English, regardless of the student's native language;

(c) Research demonstrates that a person who has strong reading skills in one language will more easily learn and become literate in a second language; and

(d) While the "Colorado READ Act", this part 12, is not designed to measure or support a student's acquisition of English as a second language, ensuring that a student has strong

reading skills in his or her native language by third grade will help to ensure that the student will attain proficiency in English more quickly.

**Source: L. 2012:** Entire part added, (HB 12-1238), ch. 180, p. 646, § 2, effective July 1. **L. 2017:** (3) added, (HB 17-1160), ch. 389, p. 2009, § 1, effective June 6. **L. 2019:** (1.5) added, (SB 19-199), ch. 154, p. 1822, § 1, effective May 10.

**22-7-1203. Definitions.** As used in this part 12, unless the context otherwise requires:

(1) "Body of evidence" means a collection of information about a student's academic performance which, when considered in its entirety, documents the level of a student's academic performance. A body of evidence, at a minimum, shall include scores on formative or interim assessments and work that a student independently produces in a classroom, including but not limited to the school readiness assessments adopted pursuant to section 22-7-1004 (2)(a). A body of evidence may include scores on summative assessments if a local education provider decides that summative assessments are appropriate and useful in measuring students' literacy skills.

(2) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

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

(4) "Evidence based" means the instruction or item described is based on reliable, trustworthy, and valid evidence and has demonstrated a record of success in adequately increasing students' reading competency in the areas of phonemic awareness, phonics, vocabulary development, reading fluency, including oral skills, and reading comprehension.

(5) "Institute charter school" means a charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title.

(6) "Local education provider" means a school district, a board of cooperative services, a district charter school, or an institute charter school.

(7) "Master settlement agreement" means the master settlement agreement, the smokeless tobacco master settlement agreement, and the consent decree approved and entered by the court in the case denominated *State of Colorado, ex rel. Gale A. Norton, Attorney General v. R.J. Reynolds Tobacco Co.; American Tobacco Co., Inc.; Brown & Williamson Tobacco Corp.; Liggett & Myers, Inc.; Lorillard Tobacco Co., Inc.; Philip Morris, Inc.; United States Tobacco Co.; B.A.T. Industries, P.L.C.; The Council For Tobacco Research--U.S.A., Inc.; and Tobacco Institute, Inc.,* Case No. 97 CV 3432, in the district court for the city and county of Denver.

(7.5) "Multi-tiered systems of supports" means a systemic preventive approach that addresses the academic and social-emotional needs of all students at the universal, targeted, and intensive levels. Through the multi-tiered systems of supports, a teacher provides high-quality, scientifically based or evidence-based instruction and intervention that is matched to student needs; uses a method of monitoring progress frequently to inform decisions about instruction and goals; and applies the student's response data to important educational decisions.

(8) (a) "Parent" means a student's biological or adoptive parent, stepparent, foster parent, or legal guardian.

(b) As provided in section 2-4-102, C.R.S., the singular use of "parent" includes the plural, and local education providers shall, to the extent practicable, involve both of a student's parents, as defined in this subsection (8), in implementing the provisions of this part 12.

(9) "Per-pupil intervention money" means the money calculated and distributed to local education providers pursuant to section 22-7-1210.5.

(10) "Reading competency" means a student meets the grade level expectations in reading adopted by the state board.

(11) "Reading to ensure academic development plan" or "READ plan" means an intervention plan created pursuant to section 22-7-1206 to remediate a student's significant reading deficiency.

(12) Repealed.

(13) "School district" means a school district, other than a local college district, organized and existing pursuant to law.

(14) "Scientifically based" means that the instruction or item described is based on research that applies rigorous, systematic, and objective procedures to obtain valid knowledge that is relevant to reading development, reading instruction, and reading difficulties.

(15) "Significant reading deficiency" means that a student does not meet the minimum skill levels for reading competency in the areas of phonemic awareness, phonics, vocabulary development, reading fluency, including oral skills, and reading comprehension established by the state board pursuant to section 22-7-1209 for the student's grade level.

(16) "State board" means the state board of education created pursuant to section 1 of article IX of the state constitution.

(17) "Teacher" means the educator who is the main instructor for a class of students or an educator who provides specific literacy instruction to selected students.

**Source: L. 2012:** Entire part added, (HB 12-1238), ch. 180, p. 648, § 2, effective July 1. **L. 2019:** (7.5) added, (9) amended, and (12) repealed, (SB 19-199), ch. 154, p. 1823, § 2, effective May 10.

**22-7-1204. Early literacy education.** Each local education provider that enrolls students in kindergarten or first, second, or third grade shall provide to the students enrolled in said grades the instructional programming and services necessary to ensure to the greatest extent possible that students, as they progress through kindergarten, first, second, and third grade, develop the necessary reading skills to enable them to master the academic standards and expectations applicable to the fourth-grade curriculum and beyond. The instructional programming and services for teaching students to read must be evidence based and scientifically based and must focus on reading competency in the areas of phonemic awareness, phonics, vocabulary development, reading fluency including oral skills, and reading comprehension.

**Source: L. 2012:** Entire part added, (HB 12-1238), ch. 180, p. 649, § 2, effective July 1. **L. 2019:** Entire section amended, (SB 19-199), ch. 154, p. 1824, § 3, effective May 10.

**22-7-1205. Reading competency - assessments - READ plan creation - parental involvement.** (1) (a) Each local education provider that enrolls students in kindergarten or first, second, or third grade shall ensure that teachers measure each student's reading competency using interim reading assessments at least once during the spring semester of the 2012-13 school year and throughout the year in subsequent school years. A local education provider may also

administer a summative assessment to measure students' reading competency at the conclusion of kindergarten, first, and second grades. Each local education provider shall select from the list of approved assessments adopted by rule of the state board pursuant to section 22-7-1209 (1) those assessments it shall use to measure a student's reading competency. A local education provider may choose to use other reading assessments in addition to but not in lieu of the approved assessments.

(a.5) Each local education provider is required to administer a reading assessment to students enrolled in kindergarten during the first ninety days of the school year. If the local education provider administers the reading assessment within the first sixty days of the school year, it is not required to administer the literacy component of the school readiness assessment as provided in section 22-7-1014 (1)(a).

(a.7) (I) The local education provider shall determine whether a student who is an English language learner, as defined in section 22-24-103, and whose native language is Spanish, takes the reading assessments in English or in Spanish. If the student takes the reading assessments in Spanish, the local education provider may also administer a reading assessment in English to the student at the request of the student's parent. If the state board adopts a list of approved reading assessments pursuant to section 22-7-1209 that includes assessments in languages other than English or Spanish, the local education provider shall determine whether a student who is an English language learner and whose native language is not Spanish takes the reading assessments in English or in the student's native language if there is an approved reading assessment in the student's native language. If the student takes the reading assessments in the student's native language, the local education provider may also administer a reading assessment in English to the student at the request of the student's parent. If the local education provider decides that a student who is an English language learner must take the reading assessments in a language other than English, the local education provider shall determine, and communicate to the student's parent in a language the parent understands, if possible, the level of English language proficiency at which the student must take at least one of the reading assessments in English, as provided in subsection (1)(a.7)(II) of this section. If the student has a significant reading deficiency, the local education provider may communicate the information specified in this subsection (1)(a.7) to the student's parent with the information required in subsection (2) of this section.

(II) In determining whether a student must take the reading assessments in a language other than English as required in subsection (1)(a.7)(I) of this section, each local education provider shall review the student's score on the most recent annual assessment administered pursuant to the local education provider's English language proficiency program, as required in article 24 of this title 22. If the student scores within the range that the local education provider determines demonstrates partial proficiency in English or higher, the local education provider shall ensure that the student annually takes at least one of the reading assessments required in this subsection (1) in English.

(b) If a teacher finds, based on a student's scores on the approved reading assessments, that the student may have a significant reading deficiency, the teacher shall administer to the student one or more diagnostic assessments within sixty days after the previous assessment to determine the student's specific reading skill deficiencies. Each local education provider shall select from the list of approved assessments adopted by rule of the state board pursuant to section 22-7-1209 (1) those assessments it uses to determine a student's specific reading skill

deficiencies. A local education provider may choose to use other diagnostic reading assessments in addition to but not in lieu of the approved assessments.

(c) Beginning with the 2012-13 school year, each local education provider shall annually report to the department the state-assigned student identifier for each student who is identified pursuant to this subsection (1) as having a significant reading deficiency.

(d) If, based on a student's scores on the approved reading assessments in a specific school year, a teacher finds that a student demonstrates reading competency appropriate for his or her grade level, the local education provider is not required to administer the approved interim reading assessments to the student for the remainder of the specific school year.

(2) (a) Beginning no later than the 2013-14 school year, upon finding that a student has a significant reading deficiency, the local education provider shall ensure that the student receives a READ plan, as described in section 22-7-1206. The teacher and any other skilled school professionals the local education provider may choose to select shall, if possible, meet with the student's parent to communicate and discuss the information specified in paragraph (b) of this subsection (2) and jointly create the student's READ plan. Upon completion of the meeting or as soon as possible thereafter, the teacher or other personnel of the local education provider shall give the parent a written explanation of the information specified in paragraph (b) of this subsection (2) and a copy of the student's READ plan. To the extent practicable, the teacher and other personnel shall communicate with the parent, orally and in writing, in a language the parent understands.

(b) The teacher and the other personnel shall communicate and discuss with the parent the following information:

(I) The state's goal is for all children in Colorado to graduate from high school having attained skill levels that adequately prepare them for postsecondary studies or for the workforce, and research demonstrates that achieving reading competency by third grade is a critical milestone in achieving this goal;

(II) The nature of the student's significant reading deficiency, including a clear explanation of what the significant reading deficiency is and the basis upon which the teacher identified the significant reading deficiency;

(III) If the student enters fourth grade without achieving reading competency, he or she is significantly more likely to fall behind in all subject areas beginning in fourth grade and continuing in later grades. If the student's reading skill deficiencies are not remediated, it is likely that the student will not have the skills necessary to complete the course work required to graduate from high school.

(IV) Reading skills are critical to success in school. Under state law, the student qualifies for and the local education provider is required to provide targeted, scientifically based or evidence-based interventions to remediate the student's specific, diagnosed reading skill deficiencies, which interventions are designed to enable the student to achieve reading competency and attain the skills necessary to achieve the state's academic achievement goals;

(V) The student's READ plan will include targeted, scientifically based or evidence-based intervention instruction to address and remediate the student's specific, diagnosed reading skill deficiencies;

(VI) The parent plays a central role in supporting the student's efforts to achieve reading competency, the parent is strongly encouraged to work with the student's teacher in implementing the READ plan, and, to supplement the intervention instruction the student

receives in school, the READ plan will include strategies the parent is encouraged to use at home to support the student's reading success; and

(VII) There are serious implications to a student entering fourth grade with a significant reading deficiency and, therefore, if the student continues to have a significant reading deficiency at the end of the school year, under state law, the parent, the student's teacher, and other personnel of the local education provider are required to meet and consider retention as an intervention strategy and determine whether the student, despite having a significant reading deficiency, is able to maintain adequate academic progress at the next grade level.

(c) In addition to the information specified in paragraph (b) of this subsection (2), the teacher and the other personnel of the local education provider are encouraged to communicate and discuss information concerning resources that are available through the local education provider or through other entities within the community that may support the student in achieving reading competency.

(3) (a) If, after making documented attempts, the teacher is unable to meet with the student's parent to create the READ plan, the teacher and any other skilled school professionals the local education provider may choose to select shall create the student's READ plan and ensure that the student's parent receives the following information in a language the parent understands, if practicable:

(I) A written copy of the READ plan with a clear, written explanation of the scientifically based or evidence-based reading instructional programming and other reading-related services the student will receive under the plan and the strategies that the parent is encouraged to apply in assisting the student in achieving reading competency; and

(II) A written explanation of the information specified in paragraph (b) of subsection (2) of this section.

(b) At a parent's request, the teacher and any other skilled school professionals the local education provider may choose to select shall meet with the parent to provide a verbal explanation of the elements of the READ plan.

(4) The local education provider shall ensure that the parent of each student who has a READ plan receives ongoing, regular updates from the student's teacher, which may occur through existing methods of communication, concerning the results of the intervention instruction described in the plan and the student's progress in achieving reading competency. The student's teacher is encouraged to communicate with the parent concerning the parent's progress in implementing the home reading strategies identified in the student's READ plan. To the extent practicable, the teacher shall communicate with the parent in a language the parent understands.

**Source: L. 2012:** Entire part added, (HB 12-1238), ch. 180, p. 650, § 2, effective July 1. **L. 2015:** (1)(a.5) and (1)(d) added and (1)(b) amended, (HB 15-1323), ch. 204, p. 714, § 4, effective May 20. **L. 2017:** (1)(a.7) added, (HB 17-1160), ch. 389, p. 2010, § 2, effective June 6.

**22-7-1206. Reading to ensure academic development (READ) plan - contents - implementation.** (1) (a) A teacher, and other skilled school professionals that the local education provider may choose to select, shall create a READ plan for each student who has a significant reading deficiency. The teacher and any other personnel shall create the plan in collaboration with the student's parent, if possible, and as soon as possible after the student's significant reading deficiency is identified. The student, the student's teacher, and the student's

parent shall continue implementing the student's READ plan until the student demonstrates reading competency. The student's teacher shall review the student's READ plan at least annually and update or revise the READ plan as appropriate to facilitate the student's progress in demonstrating reading competency.

(b) Each local education provider shall ensure that a student's current READ plan, any earlier versions of the READ plan, and any supporting documentation for the plan and the body of evidence that demonstrates a student's progress in implementing the plan are included in the student's permanent academic record and are transferred if the student subsequently enrolls in another school.

(2) (a) If a student's reading skills are below grade-level expectations, as adopted by the state board, but the student does not have a significant reading deficiency, the local education provider shall ensure that the student receives appropriate interventions through the multi-tiered systems of supports or a comparable intervention system implemented by the local education provider. At a minimum, the local education provider shall ensure that the student receives educational services in a daily literacy block for the length of time identified as effective in research relating to best practices in teaching reading.

(b) If a student has a significant reading deficiency, the student's READ plan must include the intervention instruction that the local education provider provides through the multi-tiered systems of supports or a comparable intervention system implemented by the local education provider.

(3) Notwithstanding any provision of this part 12 to the contrary, if a student is identified as having a disability that impacts the student's progress in developing reading skills, the local education provider shall, as appropriate, integrate into the student's individualized education program created pursuant to section 22-20-108 intervention instruction and strategies to address the student's reading issues in lieu of a READ plan.

(4) If a student enrolled in kindergarten is identified as having a significant reading deficiency, the local education provider shall create the student's READ plan as a component of the student's individualized readiness plan created pursuant to section 22-7-1014. The local education provider may include components of the student's individualized readiness plan that apply to teaching literacy as part of the student's READ plan after the student completes kindergarten, so long as the local education provider administers an approved reading assessment to the student in grades one through three as required in section 22-7-1205 (1) and the student's READ plan meets the requirements specified in subsection (5) of this section.

(5) Each READ plan must include, at a minimum:

(a) The student's specific, diagnosed reading skill deficiencies that need to be remediated in order for the student to attain reading competency;

(b) The goals and benchmarks for the student's growth in attaining reading competency;

(c) The type of additional instructional services and interventions the student will receive in reading. At a minimum, the local education provider shall ensure that the student receives educational services in a daily literacy block for the length of time identified as effective in research relating to best practices in teaching reading.

(d) The scientifically based or evidence-based reading instructional programming the teacher will use to provide to the student daily reading approaches, strategies, interventions, and instruction, which programs at a minimum shall address the areas of phonemic awareness, phonics, vocabulary development, reading fluency, including oral skills, and reading

comprehension. The local education provider may choose to select the programs from among those included on the advisory list prepared by the department pursuant to section 22-7-1209;

(e) The manner in which the local education provider will monitor and evaluate the student's progress;

(f) The strategies the student's parent is encouraged to use in assisting the student to achieve reading competency that are designed to supplement the programming described in paragraph (d) of this subsection (5); and

(g) Any additional services the teacher deems available and appropriate to accelerate the student's reading skill development.

(6) Each local education provider shall ensure that a teacher continues to revise and implement a student's READ plan until the student attains reading competency, regardless of the student's grade level and regardless of whether the student was enrolled with the local education provider when the READ plan was originally created or the student transferred enrollment to the local education provider after the READ plan was created.

(7) (a) If a student is identified as having a significant reading deficiency for a second or subsequent consecutive school year, the local education provider shall ensure that, in the second or subsequent consecutive school year:

(I) The student's teacher revises the student's READ plan to include additional, more rigorous strategies and intervention instruction to assist the student in attaining reading competency, including increased daily time in school for reading instruction;

(II) The principal of the school in which the student is enrolled ensures that the student receives reading instruction in conjunction with and supported through the other subjects in which the student receives instruction during the school day; and

(III) If practicable, the student receives reading instruction from a teacher who is identified as effective or highly effective in his or her most recent performance evaluation and has expertise in teaching reading.

(b) In addition, with the approval of the student's parent, the local education provider may provide to the student mental health support from the school psychologist, school social worker, or school counselor.

**Source: L. 2012:** Entire part added, (HB 12-1238), ch. 180, p. 652, § 2, effective July 1. **L. 2019:** (2), (4), IP(5), and (5)(c) amended, (SB 19-199), ch. 154, pp. 1824, 1825, §§ 4,5, effective May 10.

**22-7-1207. Advancement - decision - parental involvement.** (1) Beginning no later than the 2013-14 school year, if, within forty-five days before the end of any school year prior to a student's fourth-grade year, a teacher finds that a student has a significant reading deficiency, personnel of the local education provider shall provide to the student's parent the written notice described in subsection (2) of this section; except that the provisions of this section shall not apply if:

(a) The student is a student with a disability who is eligible to take the alternative statewide assessment, or the student is identified as having a disability that substantially impacts the student's progress in developing reading skills, resulting in the student's significant reading deficiency;

(b) The student is an English language learner, as defined in section 22-24-103, and the student's significant reading deficiency is due primarily to the student's language skills; or

(c) The student is completing the second school year at the same grade level.

(2) The written notice that the personnel provides to a parent pursuant to subsection (1) of this section at a minimum shall state that:

(a) There are serious implications to a student entering fourth grade with a significant reading deficiency and, therefore, under state law, the parent, the student's teacher, and other personnel of the local education provider are required to meet and consider retention as an intervention strategy and determine whether the student, despite having a significant reading deficiency, is able to maintain adequate academic progress at the next grade level;

(b) Personnel of the student's school will work with the parent to schedule a date, time, and place for the meeting; and

(c) If the parent does not attend the meeting, the teacher and personnel of the local education provider will decide whether the student will advance to the next grade level in the next school year.

(3) After sending the written notice, personnel of the student's school shall contact the parent to schedule the meeting to decide whether the student will advance to the next grade level. If, after making documented attempts to schedule the meeting with the parent, personnel of the student's school are unable to schedule the meeting, or if the parent does not attend the scheduled meeting, the teacher and personnel selected by the local education provider shall decide, based on the student's body of evidence, whether the student will advance to the next grade level for the next school year.

(4) (a) At the meeting required by this section, the teacher and any other personnel selected by the local education provider shall, at a minimum, communicate to and discuss with the parent the following information:

(I) That there are serious implications to a student entering fourth grade with a significant reading deficiency and, therefore, under state law, the parent, the student's teacher, and other personnel of the local education provider are required to meet and consider retention as an intervention strategy and determine whether the student, despite having a significant reading deficiency, is able to maintain adequate academic progress at the next grade level;

(II) The importance of achieving reading competency by the end of third grade, because students who achieve reading competency by the end of third grade are more likely to graduate from high school and attain a postsecondary credential;

(III) The student's body of evidence and the likelihood that the student, despite having a significant reading deficiency, will be able to maintain adequate academic progress at the next grade level;

(IV) The increased level of intervention instruction the student will receive in the next school year regardless of whether the student advances to the next grade level; and

(V) The potential effects on the student if he or she does not advance to the next grade level.

(b) After discussing the issues specified in paragraph (a) of this subsection (4), the parent, the teacher, and the other personnel shall decide whether the student will advance to the next grade level in the next school year. If the parent, teacher, and other personnel are not in agreement, the parent shall decide whether the student will advance to the next grade level unless otherwise specified in the policy adopted by the local education provider.

(5) As soon as possible after the decision is made pursuant to subsection (3) of this section or at the conclusion of the meeting described in subsection (4) of this section, the personnel of the local education provider shall provide to the parent a written statement that the student will or will not advance to the next grade level in the next school year and the basis for the decision. The personnel shall also provide a copy of the statement to the school district superintendent, if the student is enrolled in a public school of a school district that is not a charter school, or to the school principal, if the student is enrolled in a district charter school, an institute charter school, or a public school operated by a board of cooperative services. The local education provider shall include the statement in the student's permanent academic record and shall remove the statement from the student's permanent academic record when the student achieves reading competency.

(6) Notwithstanding any provision of paragraph (b) of subsection (4) of this section to the contrary, beginning with the 2016-17 school year, if a student is completing third grade and the student's teacher and other personnel decide pursuant to subsection (3) of this section or the student's parent decides pursuant to subsection (4) of this section that the student will advance to fourth grade even though the student has a significant reading deficiency, the decision to advance the student is subject to approval of the school district superintendent or the superintendent's designee, if the student is enrolled in a public school of a school district that is not a charter school, or subject to approval of the school principal, if the student is enrolled in a district charter school, an institute charter school, or a public school operated by a board of cooperative services. If the superintendent, or his or her designee, or the principal, whichever is applicable, does not approve the decision to advance the student, the student shall not advance to fourth grade in the next school year. As soon as possible, the local education provider shall provide a written statement to the parent concerning the decision of the superintendent or designee or the principal and the basis for the decision. The local education provider shall include the statement in the student's permanent academic record and shall remove the statement from the student's permanent academic record when the student achieves reading competency.

(7) Each local education provider shall ensure that, to the extent practicable, all of the oral and written communications to a parent that are required in this section are delivered in a language the parent understands.

(8) The provisions of this section specify the circumstances under which a local education provider, in collaboration with a student's teacher and parent, is required to decide whether a student who has a significant reading deficiency should advance to the next grade level. The provisions of this part 12 do not limit the ability of a local education provider to decide, in accordance with policies and procedures of the local education provider, that a student at any grade level should not advance to the next grade level for any reason deemed sufficient by the local education provider.

**Source: L. 2012:** Entire part added, (HB 12-1238), ch. 180, p. 654, § 2, effective July 1. **L. 2014:** (1)(b) amended, (HB 14-1298), ch. 244, p. 935, § 17, effective May 21.

**22-7-1208. Local education providers - procedures - plans - training.** (1) Each local education provider shall adopt the procedures necessary to comply with the requirements specified in this part 12. In adopting procedures, a local education provider shall comply with

and may exceed the requirements of this part 12. Procedures may include, but need not be limited to, procedures for:

(a) Creating a READ plan and the contents of a READ plan;

(b) Effectively communicating with parents concerning the creation, contents, and implementation of READ plans; and

(c) Determining whether a student who has a significant reading deficiency will advance to the next grade level.

(2) A local education provider is not required to start a READ plan or convert an individual literacy plan to a READ plan for a student who is enrolled in fourth grade or higher as of the 2013-14 school year.

(3) Each local education provider is encouraged to report to the department the strategies and intervention instruction that the local education provider finds effective in assisting students to attain reading competency and to provide copies of effective materials to the department to assist the department in sharing with local education providers best practices in assisting students to attain reading competency.

(4) Local education providers are encouraged to provide parents opportunities to participate in parent reading workshops throughout the school year to assist parents in developing their own reading skills and in developing the skills necessary to assist their children in reading.

(5) (a) Beginning with the plans adopted for the 2020-21 school year, the plan that a local education provider must adopt based on its accreditation category pursuant to section 22-11-208 or as required pursuant to section 22-11-210, whichever is applicable, must include the following information concerning implementation of this part 12 as it applies to each of the schools operated by the local education provider:

(I) The core and supplemental reading curriculum used at each grade level, including kindergarten for each school that includes a kindergarten educational program. The core and supplemental reading curriculum must be designed around teaching the foundational reading skills of phonemic awareness, phonics, vocabulary development, reading fluency including oral skills, and reading comprehension.

(II) The targeted, evidence-based or scientifically based core and supplemental reading instructional programs and intervention reading instruction, services, and other supports, including those available through the multi-tiered systems of supports or a comparable intervention system implemented by the local education provider, that each school provides to students who are identified as having a significant reading deficiency or as reading below grade level;

(III) The assessments that each school uses at each grade level to meet the requirements specified in section 22-7-1205 (1); and

(IV) If the local education provider receives and uses per-pupil intervention money or money received through the early literacy grant program for professional development, the local education provider's plan for providing the professional development, which development must be targeted, evidence based or scientifically based, and aligned with the instruction, services, and other supports provided to students who are identified as having a significant reading deficiency or as reading below grade level.

(b) If a local education provider is authorized pursuant to section 22-11-303 (4) or 22-11-403 (5) to adopt and submit a plan every two years, the local education provider shall submit to the department the information described in subsection (5)(a) of this section annually.

(6) (a) By the beginning of the 2021-22 school year and continuing for each school year thereafter, each local education provider that receives per-pupil intervention money or a grant through the early literacy grant program in any budget year starting with the 2019-20 budget year shall ensure that each teacher employed to teach kindergarten or any of grades one through three successfully completes or has successfully completed evidence-based training in teaching reading. To comply with this subsection (6)(a), a local education provider must submit evidence, as described in subsection (6)(b) of this section, that each teacher employed to teach kindergarten or any of grades one through three has successfully completed evidence-based training in teaching reading that is:

(I) Included as a course in an approved program of preparation, as defined in section 22-60.5-103 (8), or an alternative teacher program, as defined in section 22-60.5-103 (5);

(II) Included as a course in a post-graduate degree program in teaching reading or literacy;

(III) Provided by the department or included on the advisory list of professional development programs provided by the department pursuant to section 22-7-1209 (2)(c); or

(IV) Provided by a local education provider or is appropriate for license renewal pursuant to section 22-60.5-110 (3).

(b) A teacher is deemed to have successfully completed evidence-based training in teaching reading if the local education provider submits to the department evidence that the teacher passed an end-of-course assessment of learning at the completion of the evidence-based training.

(c) At the request of a local education provider, the department shall provide, at no cost to the local education provider, evidence-based training in teaching reading to one or more of the teachers employed by the local education provider to teach kindergarten or any of grades one through three.

(d) Notwithstanding the provisions of subsection (6)(a) of this section, a local education provider that is not in compliance with the requirements of this subsection (6) as of the beginning of the 2021-22 school year or for a subsequent school year may request a one-year extension from the department based on a demonstration of good cause for inability to comply.

(e) A local education provider is strongly encouraged to make evidence-based training in teaching reading available to parents and members of the community in order to effectively partner with them in teaching early-grade reading.

(f) The state board may adopt rules as necessary to specify the time frames and procedures for complying with the requirements specified in subsection (6)(a) of this section and for applying for an extension pursuant to subsection (6)(d) of this section and the form in which a local education provider must submit evidence of the completion of an end-of-course assessment of learning as required in subsection (6)(b) of this section.

(7) Each local education provider is strongly encouraged to partner with adjacent public libraries to enhance the instructional programming and services in literacy provided by the local education provider and to provide access for students and their parents to reading materials for out-of-school literacy development.

**Source: L. 2012:** Entire part added, (HB 12-1238), ch. 180, p. 657, § 2, effective July 1. **L. 2019:** (5) to (7) added, (SB 19-199), ch. 154, p. 1825, § 6, effective May 10.

**22-7-1209. State board - rules - department - duties.** (1) The state board shall promulgate rules in accordance with the "State Administrative Procedure Act", article 4 of title 24, as necessary to implement the provisions of this part 12, which rules must include, but need not be limited to:

(a) The minimum reading competency skill levels in the areas of phonemic awareness, phonics, vocabulary development, reading fluency, including oral skills, and reading comprehension for kindergarten and first, second, and third grades. The state board shall base the minimum skill levels for second and third grades primarily on scores attained on the assessments approved by the state board pursuant to subsection (1)(b) of this section. The state board shall describe the minimum skill levels for students as they complete kindergarten and first grade using matrices of appropriate indicators, which indicators may include measures of students' social and emotional development, physical development, language and comprehension development, and cognition and general knowledge. The state board shall adopt the rules described in this subsection (1)(a) by March 31, 2013. The state board shall review the minimum reading competency skill levels on or before July 1, 2019, and every four years thereafter and update them as necessary.

(b) The list of approved evidence-based or scientifically based reading assessments, based on the recommendations of the department, that local education providers may use to meet the requirements specified in section 22-7-1205. The state board shall adopt the list of approved reading assessments by March 31, 2013. The state board shall review the list of approved reading assessments, on or before July 1, 2019, and every four years thereafter and update the list as necessary.

(c) Rules for approving one or more independent third-party evaluators to review reading assessments for inclusion on the approved list of assessments and to review instructional programming and professional development programs for inclusion on the advisory lists created by the department pursuant to subsections (2) and (3) of this section;

(d) Rules to provide notice and an appeals process, which may be a process for written appeals, for publishers and local education providers who submit materials for inclusion on the list of approved assessments and the advisory lists of instructional programming, and professional development programs. On appeal, the department and the state board must, at a minimum, consider any findings that an appellant may submit from a nationally recognized, evidence-based information clearinghouse that demonstrate that a program has achieved positive results for a substantially similar population of students who are identified as having significant reading deficiencies.

(d.5) The time frames and procedures for submitting information concerning the use of per-pupil intervention money;

(e) The time frames and procedures for reporting information concerning students' reading skills as described in section 22-7-1213; and

(f) Rules for implementing the early literacy grant program pursuant to section 22-7-1211.

(2) (a) (I) Using the procedure developed pursuant to subsection (3) of this section, the department shall review and recommend to the state board reading assessments, including

interim, summative, and diagnostic assessments, for kindergarten and first, second, and third grades that, at a minimum, meet the criteria specified in subsection (2)(a)(II) of this section. Following action by the state board to approve reading assessments pursuant to subsection (1)(b) of this section, the department shall create a list of the approved reading assessments for kindergarten and first, second, and third grades for use by local education providers. The department shall update the list of approved reading assessments on or before July 1, 2019, and every four years thereafter as necessary. The department shall work with the approved assessment publishers to better align, to the extent practicable, the minimum reading competency levels for third grade, which are based on the scores attained on the approved assessments, with the preschool through elementary and secondary education standards for third-grade reading adopted pursuant to section 22-7-1005.

(II) The department shall ensure that:

(A) Each of the recommended reading assessments is evidence-based or scientifically based and is aligned with the preschool through elementary and secondary education standards for reading adopted by the state board pursuant to section 22-7-1005;

(B) Each of the recommended reading assessments is valid and reliable and proven to effectively and accurately measure students' reading skills in the areas of phonemic awareness; phonics; vocabulary development; reading fluency, including oral skills; and reading comprehension;

(C) Each of the recommended reading diagnostics is proven to accurately identify students' specific reading skill deficiencies;

(D) At least one of the recommended reading assessments for kindergarten and first, second, and third grades is normed for the performance of students who speak Spanish as their native language, which assessment is available in both English and Spanish; and

(E) The list of recommended reading assessments and reading diagnostics includes at least one assessment and one diagnostic that a student can complete using pencil and paper rather than using a computer.

(b) Using the procedure developed pursuant to subsection (3) of this section, the department shall create an advisory list of evidence-based or scientifically based instructional programming in reading and supporting technologies, including software, for assessing and monitoring student progress that local education providers are encouraged to use, which programming and technology, including software, are aligned with the recommended reading assessments, including the assessment required in subsection (2)(a)(II)(D) of this section. The advisory list may include only programming and technology, including software, that, at a minimum:

(I) Have been proven to accelerate student progress in attaining reading competency;

(II) With regard to instructional programming, provides explicit and systematic skill development in the areas of phonemic awareness, phonics, vocabulary development, reading fluency including oral skills, and reading comprehension;

(II.5) With regard to instructional programming, is evidence based or scientifically based and is aligned with the preschool through elementary and secondary education standards for reading adopted by the state board pursuant to section 22-7-1005;

(III) With regard to instructional programming, includes evidence-based or scientifically based and reliable assessments;

(IV) Provide initial and ongoing analysis of the student's progress in attaining reading competency; and

(V) With regard to instructional programming, includes texts on core academic content to assist the student in maintaining or meeting grade-appropriate proficiency levels in academic subjects in addition to reading.

(c) Using the procedure developed pursuant to subsection (3) of this section, the department shall create an advisory list of rigorous professional development programs that are related to addressing significant reading deficiencies and to applying intervention instruction and strategies, in addition to programs related to teaching general literacy, that local education providers are encouraged to use. The department shall include on the advisory list professional development programs that are available online. The department shall ensure that each professional development program included on the advisory list is:

(I) Focused on or aligns with the science of reading, including teaching in the areas of phonemic awareness, phonics, vocabulary development, reading fluency including oral skills, and reading comprehension; and

(II) Includes rigorous evaluations of learning throughout and at the end of the course that a person taking the course must pass to successfully complete the course.

(d) The department shall make the approved list of assessments and the advisory lists of instructional programming and professional development programs, and subsequent updated lists, available on the department's website. The department is not required to provide copies of any reading assessments, instructional programming, or professional development programs that are included on the lists. If the department does provide copies of any materials that it acquires by purchase of a license for use by local education providers, the materials may be used only in accordance with the license.

(e) Each local education provider shall select from the list of approved reading assessments those reading assessments that it will administer to students in kindergarten and first, second, and third grades. Each local education provider is encouraged to use the instructional programming in reading and professional development programs included on the advisory lists. The department and each local education provider, in using the assessments, instructional programming in reading, and professional development programs that are included on the lists, shall comply with the federal copyright laws, 17 U.S.C. sec. 101 et seq.

(3) The department shall develop and implement a procedure for identifying the reading assessments it recommends to the state board for the approved list of reading assessments described in subsection (2)(a) of this section and for creating the advisory lists of instructional programming and professional development programs described in subsections (2)(b) and (2)(c) of this section. At a minimum, the procedure must include:

(a) Soliciting through public notice, accepting, and promptly reviewing assessments, instructional programming, and professional development programs from each local education provider and from publishers;

(b) Evaluating the assessments, instructional programming, and professional development programs that the department identifies or receives, which evaluation is based on the criteria specified in subsection (2) of this section and any additional criteria the state board may adopt by rule. The department may contract with an independent, third-party evaluator approved by the state board to evaluate the materials. The department shall recommend to the

state board the reading assessments that meet the requirements specified in paragraph (a) of subsection (2) of this section.

(c) Reviewing the list of approved assessments at least every four years and the advisory lists at least every two years to update the lists and add additional items, when appropriate. In reviewing and updating the list of approved assessments and the advisory lists, the department shall, at a minimum, comply with the procedures described in subsections (3)(a) and (3)(b) of this section.

(d) Publishing on the department's website the initial and updated approved list of reading assessments and advisory lists of instructional programming and professional development programs.

(3.5) In designing and periodically updating the procedure and the rubric of criteria for reviewing assessments and materials and creating the advisory lists, the department shall consult with local education providers, including those with high enrollments of students who are English language learners as defined in section 22-24-103, and with third-party experts as necessary. The department shall ensure that the procedure for reviewing the assessments and materials and creating the advisory lists is inclusive and transparent.

(4) The department shall specify the information that local education providers shall submit pursuant to section 22-7-1213 and shall analyze the information as necessary to make the determinations specified in section 22-7-1213. If another rule or statute requires local education providers to submit any portion of the specified information, the department shall not require local education providers to resubmit the information, but shall apply the information received pursuant to the other rule or statute in preparing the analysis required in section 22-7-1213.

(5) The department shall make available to local education providers any information and materials it receives pursuant to section 22-7-1208 (3) concerning strategies and intervention instruction that local education providers find effective in assisting students to achieve reading competency, including copies of any effective materials that the department receives.

(6) The department, upon request, may provide technical assistance to a local education provider in implementing the provisions of this part 12; except that, if a local education provider is accredited with turnaround plan pursuant to section 22-11-208 or required to adopt a turnaround plan pursuant to section 22-11-210, the department shall provide technical assistance to the local education provider in implementing the provisions of this part 12.

(7) Beginning in the 2019-20 budget year, the department shall contract with an entity to develop and implement a public information campaign to emphasize the importance of learning to read by third grade and to highlight the local education providers that are achieving high percentages of third-grade students who demonstrate reading competency. The public information campaign must be disseminated statewide and must emphasize the important roles that educators and parents have in teaching children to read and in providing a school and home environment that promotes reading. The department is encouraged to work with the public and private library agencies throughout the state in developing and implementing the public information campaign.

(8) (a) By October 1, 2019, the department shall issue a request for proposals to contract with an entity to act as an independent evaluator to provide independent evaluations of the use of per-pupil intervention money and money received through the early literacy grant program by local education providers and to conduct a multi-year evaluation to determine whether the

student outcomes achieved by local education providers in implementing this part 12 meet the goals of this part 12 as described in section 22-7-1202 (2) and (3)(a).

(b) The commissioner of education shall direct the process for reviewing the proposals received and for selecting the entity in accordance with the procurement laws applicable to the department. In selecting the entity, the commissioner shall ensure that:

(I) The selected entity demonstrates the ability and capacity to successfully complete the evaluation as described in subsection (8)(c) of this section within the specified time frame;

(II) The selected entity has expertise in reviewing and understanding the components of high-quality, effective reading curricula, education programs, instruction, strategies, and interventions;

(III) The selected entity has expertise in reviewing the implementation of English language development programs, especially with regard to teaching reading; and

(IV) The selected entity has expertise in understanding measurements of student learning and academic growth.

(c) The multi-year evaluation of the implementation of this part 12 must include:

(I) Review of the approved reading assessments and the items included on the advisory lists of instructional programming in reading and supporting technologies and of professional development programs to ensure that they meet the requirements specified in subsection (2) of this section and a review of the processes by which the department identifies assessments, instructional programming in reading, and professional development programs for inclusion on the lists;

(II) Evaluation of the effectiveness of the processes, procedures, methods, and strategies that local education providers use to implement the requirements of this part 12, including an inventory to establish a baseline indication of the teaching methods, strategies, and materials used by local education providers to teach reading in kindergarten and grades one through three;

(III) Measurement of the results attained that indicate the degree to which the goals of this part 12 have been met, including, at a minimum:

(A) The number of students annually identified as having significant reading deficiencies, including those initially identified and those who were identified in a previous school year;

(B) The amount of academic growth to standard in reading annually attained by students who are identified as having significant reading deficiencies and whether students identified as having significant reading deficiencies demonstrate sufficient, as determined by the department, growth to standard in reading over multiple years;

(C) Whether students identified as having significant reading deficiencies demonstrate grade-level reading competency by completion of third grade or by completion of a later grade;

(D) The number of students annually identified as reading below grade level; and

(E) The amount of academic growth to standard in reading annually attained by students who are reading below grade level and whether students identified as reading below grade level demonstrate sufficient, as determined by the department, growth to standard in reading over multiple years;

(IV) Identification of the effective processes, procedures, methods, and strategies used by local education providers that the independent evaluator identifies as achieving significant academic growth to standard in reading for students identified as having significant reading deficiencies and as reading below grade level;

(V) Establishment of a baseline indication of the level and quality of pre-service and in-service training in teaching reading received by each educator who is employed in a public school to teach kindergarten or one of grades one through three;

(VI) Evaluation of the degree to which local education providers effectively work with parents and members of the community to create partnerships for providing and encouraging reading instruction for students enrolled in kindergarten and grades one through three; and

(VII) Recommendations for legislative or regulatory changes regarding this part 12 or changes in implementation of the requirements of this part 12 to decrease the number of students identified as having significant reading deficiencies and increase to the greatest possible extent the number and overall percentage of students reading at grade level at the completion of kindergarten and grades one through three.

(d) In completing the multi-year evaluation, the independent evaluator shall take into account student mobility within, and the student demographics of, each local education provider, including at the school-building level. The independent evaluator shall work directly with the department, local education providers, and parents and community members in completing the evaluation.

(e) The independent evaluator contracted pursuant to this subsection (8) shall complete the evaluation of the implementation of this part 12 as described in subsection (8)(c) of this section by July 1, 2021. The department shall include a report of the evaluation in the hearing before the joint education committee held pursuant to section 2-7-203 in November or December 2021. The independent evaluator shall continue evaluations of the growth in reading achieved by local education providers' use of per-pupil intervention money and money received through the early literacy grant program.

**Source: L. 2012:** Entire part added, (HB 12-1238), ch. 180, p. 658, § 2, effective July 1. **L. 2015:** (2)(a)(II)(C) and (2)(a)(II)(D) amended and (2)(a)(II)(E) added, (HB 15-1323), ch. 204, p. 714, § 5, effective May 20. **L. 2018:** IP(1), (1)(a), (1)(b), (1)(d), (2)(a)(I), (2)(a)(II)(A), IP(2)(b), (2)(b)(III), (2)(d), IP(3), (3)(a), and (3)(c) amended and (2)(b)(II.5) and (3.5) added, (HB 18-1393), ch. 275, p. 1738, § 1, effective May 29. **L. 2019:** (1)(d.5), (7), and (8) added and (2)(a)(I), (2)(b), (2)(c), IP(3), and (6) amended, (SB 19-199), ch. 154, p. 1827, § 7, effective May 10.

**22-7-1210. Early literacy fund - created - repeal.** (1) The early literacy fund is hereby created in the state treasury and is referred to in this section as the "fund". The fund shall consist of:

(a) Any moneys remaining in the read-to-achieve cash fund as of June 30, 2012;

(b) and (c) Repealed.

(d) (I) For the 2013-14 budget year, an amount equal to sixteen million dollars from the state education fund, and for the 2014-15 budget year, and each budget year thereafter, an amount equal to thirty-four million dollars from the state education fund. On July 1, 2013, and on July 1 each year thereafter, the state treasurer shall transfer the appropriate amount from the state education fund to the early literacy fund.

(II) The general assembly hereby finds and declares that, for the purposes of section 17 of article IX of the state constitution, providing students enrolled in kindergarten, first, second, or third grade with the instructional programming, intervention instruction, and support

necessary to ensure that students, by the completion of third grade, can demonstrate a level of competency in reading skills that is necessary to support them in achieving the academic standards and expectations applicable to the fourth-grade curriculum is a program for accountable education reform and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

(e) Any other moneys that the general assembly may appropriate or transfer to the fund.

(2) The state treasurer may invest any moneys in the fund not expended for the purposes specified in subsection (4) of this section as provided by law. The state treasurer shall credit all interest and income derived from the investment and deposit of moneys in the fund to the fund. Any amount remaining in the fund at the end of any fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or to any other fund.

(3) Repealed.

(4) The money in the fund is subject to annual appropriation by the general assembly to the department. The department shall annually expend the money in the fund as follows:

(a) to (c) Repealed.

(d) (I) Beginning in the 2020-21 budget year and for budget years thereafter, the department shall annually expend the money credited to the early literacy fund for the following purposes:

(A) To implement the public information campaign to promote reading described in section 22-7-1209 (7);

(B) To contract with and pay the direct costs incurred in overseeing an independent evaluator as provided in section 22-7-1209 (8);

(C) To implement the early literacy grant program created in section 22-7-1211;

(D) To allocate per-pupil intervention money to local education providers as provided in section 22-7-1210.5; and

(E) To pay the costs incurred in providing to local education providers technical assistance in implementing this part 12 and training in teaching reading for teachers employed to teach kindergarten and grades one through three; monitoring the use of money received as per-pupil intervention money or grants through the early literacy grant program; and fulfilling the administrative requirements specified in this part 12.

(II) The general assembly shall annually appropriate in the general appropriations bill the amount that the department may expend for the purposes specified in subsection (4)(d)(I) of this section.

(5) and (6) Repealed.

(7) (a) Notwithstanding any provision of this section to the contrary, on July 1, 2020, the state treasurer shall transfer three million five hundred thousand dollars from the fund to the state education fund created in section 17 (4) of article IX of the state constitution.

(b) This subsection (7) is repealed, effective July 1, 2021.

**Source: L. 2012:** Entire part added, (HB 12-1238), ch. 180, p. 661, § 2, effective July 1. **L. 2013:** (1)(c) repealed, (1)(d) amended, and (1)(e) added, (SB 13-260), ch. 236, p. 1141, § 7, effective May 17. **L. 2014:** (1)(d)(I) amended, (HB 14-1292), ch. 243, p. 916, § 20, effective May 21; (1)(d)(I) amended, (HB 14-1298), ch. 244, p. 937, § 25, effective May 21; (5)(b)(III) amended and (5)(b)(III.5) added, (HB 14-1204), ch. 292, p. 1195, § 4, effective May 31. **L. 2016:** (1)(b) and (3) repealed, (HB 16-1408), ch. 153, p. 472, § 26, effective July 1; IP(5)(b) and

(5)(b)(III.5) amended, (HB 16-1440), ch. 316, p. 1278, § 6, effective August 10. **L. 2018:** IP(4), (4)(b), (5)(b), and (5)(c) amended and (6) added, (HB 18-1393), ch. 275, p. 1741, § 2, effective May 29. **L. 2019:** (4)(b)(IV) amended, (4)(c) and (4)(d) added, and (5) and (6) repealed, (SB 19-199), ch. 154, p. 1831, § 8, effective May 10; (5)(b)(I) repealed, (HB 19-1262), ch. 245, p. 2401, § 11, effective May 21. **L. 2020:** (7) added, (HB 20-1418), ch. 197, p. 945, § 19, effective June 30.

**Editor's note:** (1) Subsection (4)(a)(II) provided for the repeal of subsection (4)(a), effective July 1, 2013. (See L. 2012, p. 661.)

(2) Subsection (5)(a)(II)(B) provided for the repeal of subsection (5)(a)(II), effective July 1, 2014. (See L. 2012, p. 661.)

(3) Amendments to subsection (5) by SB 19-199 and HB 19-1262 were harmonized.

(4) Subsection (4)(c)(III) provided for the repeal of subsections (4)(b) and (4)(c), effective July 1, 2020. (See L. 2019, p. 1831.)

**Cross references:** (1) For the short title ("Student Success Act") in HB 14-1292, see section 1 of chapter 243, Session Laws of Colorado 2014.

(2) For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

**22-7-1210.5. Per-pupil intervention money - uses - distribution - monitoring - repeal.** (1) (a) To distribute the money appropriated pursuant to section 22-7-1210 (4) for per-pupil intervention money, the department shall annually calculate the per-pupil amount by dividing the amount of money available by the total number of students enrolled in kindergarten and first, second, and third grades in public schools in the state who were identified as having significant reading deficiencies and received instructional services pursuant to READ plans in the budget year preceding the year in which the money is distributed. Subject to the requirements of this section, a local education provider may receive per-pupil intervention money in an amount equal to the calculated per-pupil amount multiplied by the number of students enrolled in kindergarten and first, second, and third grades in public schools operated by the local education provider who were identified as having significant reading deficiencies and received instructional services pursuant to READ plans in the budget year preceding the year in which the money is distributed.

(b) (I) Notwithstanding the provisions of this section to the contrary, for the 2020-21 budget year, in distributing the money appropriated pursuant to section 22-7-1210 (4) for per-pupil intervention money, the department shall calculate the per-pupil amount for a local education provider using student enrollment numbers calculated for the local education provider for the 2018-19 budget year.

(II) This subsection (1)(b) is repealed, effective July 1, 2021.

(2) Before the beginning of each budget year, to receive a distribution of per-pupil intervention money, a local education provider must submit to the department by the date specified by state board rule:

(a) The number of students enrolled in kindergarten and first, second, and third grades in public schools operated by the local education provider who were identified as having significant

reading deficiencies and received instructional services pursuant to READ plans in the budget year preceding the year in which the money is distributed; and

(b) A budget, including a narrative explanation, for the use of the per-pupil intervention money in accordance with the uses described in subsection (4) of this section.

(3) (a) At the beginning of each budget year, the department shall distribute to a local education provider that meets the requirements specified in subsection (3)(b) of this section the amount of per-pupil intervention money calculated for the local education provider pursuant to subsection (1) of this section for the applicable budget year.

(b) To receive per-pupil intervention money in a budget year, a local education provider must meet the following requirements:

(I) The local education provider must submit the information described in subsection (2) of this section and in section 22-7-1213 (2);

(II) For the 2021-22 budget year and budget years thereafter, the local education provider must submit evidence that it is in compliance with the teacher training requirements specified in section 22-7-1208 (6);

(III) The department must approve the local education provider's proposed use of the per-pupil intervention money as being in compliance with the requirements in subsection (4) of this section;

(IV) For the preceding budget year, the local education provider must have used the money for one or more of the purposes specified in subsection (4) of this section; except that the provisions of this subsection (3)(b)(IV) do not apply if the local education provider did not receive a distribution of per-pupil intervention money in the preceding budget year; and

(V) If the local education provider is expecting to use the per-pupil intervention money for targeted intervention services as described in subsection (4)(d) of this section, the department reviewed and approved the services. The department shall not approve services that have not been implemented and proven to be successful with a student population and under circumstances that are comparable to those of the local education provider or that are not supported by valid research that suggests the services will be effective with the student population served by, and under the circumstances of, the local education provider.

(c) Throughout the budget year, the department shall monitor and, if deemed necessary by the department, audit each local education provider's use of the per-pupil intervention money it receives. The department may conduct site visits to the extent deemed necessary to adequately monitor a local education provider's use of per-pupil intervention money. Each local education provider shall provide, upon request by the department, information necessary for the department to comply with this subsection (3)(c).

(4) A local education provider may use the per-pupil intervention money only as follows:

(a) To operate a summer school literacy program as described in section 22-7-1212;

(b) To purchase core reading instructional programs that are included on the advisory list of instructional programming in reading and supporting technologies developed by the department pursuant to section 22-7-1209 (2)(b);

(c) To purchase tutoring services that focus on increasing students' foundational reading skills of phonemic awareness, phonics, vocabulary development, reading fluency including oral skills, and reading comprehension for students who are receiving instructional services pursuant to READ plans;

(d) To provide other targeted, evidence-based or scientifically based intervention services to students who are receiving instructional services, which may include services provided by a reading interventionist, pursuant to READ plans, which services are approved by the department;

(e) To provide technology, including software, which is included on the advisory list of instructional programming in reading and supporting technologies pursuant to section 22-7-1209 (2)(b), to assist in assessing and monitoring student progress toward reading competency, which may include providing professional development in the effective use of the technology or software;

(f) To purchase from a board of cooperative services the services of a reading specialist or reading interventionist who is trained in the science of reading and in teaching the foundational reading skills of phonemic awareness, phonics, vocabulary development, reading fluency including oral skills, and reading comprehension to provide educator professional development in teaching reading and other support in implementing the requirements of this part 12; or

(g) To provide professional development programming to support educators in teaching reading. Professional development programming authorized in this subsection (4)(g) may include hiring a reading coach who is trained in teaching the foundational reading skills of phonemic awareness, phonics, vocabulary development, reading fluency including oral skills, and reading comprehension to provide job-embedded, ongoing professional development to support kindergarten-through-third-grade teacher competence in teaching phonemic awareness, phonics, vocabulary development, reading fluency including oral skills, and reading comprehension. A local education provider that has not fully complied with section 22-7-1208 (6) is strongly encouraged to use per-pupil intervention money to ensure that all teachers employed by the local education provider to teach kindergarten or any of grades one through three successfully complete evidence-based training in teaching reading before using the money for other authorized purposes.

(5) In using the per-pupil intervention money distributed pursuant to this section, each local education provider shall ensure that some type of intervention, as described in subsection (4) of this section, is available to each student who is identified as having a significant reading deficiency and who is enrolled in kindergarten or first, second, or third grade in a school operated by the local education provider.

(6) (a) Each local education provider shall ensure that the per-pupil intervention money it receives in each budget year is used to improve the reading competency of students enrolled in kindergarten and grades one through three who are identified as having a significant reading deficiency or receive instructional services pursuant to READ plans and does not replace other money that would otherwise be used for this purpose.

(b) A local education provider may retain up to fifteen percent of the amount of per-pupil intervention money it receives in a budget year for use in accordance with this section in the next budget year. If a local education provider retains more than the amount authorized in this subsection (6)(b), the department shall reduce the amount of per-pupil intervention money that the local education provider is eligible to receive in the next budget year by the excess retention amount.

**Source: L. 2019:** Entire section added, (SB 19-199), ch. 154, p. 1834, § 9, effective May 10. **L. 2020:** (1) amended, (HB 20-1418), ch. 197, p. 956, § 40, effective June 30.

**Cross references:** For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

**22-7-1211. Early literacy grant program - created - definitions.** (1) (a) There is created in the department the early literacy grant program to provide money to local education providers to implement literacy support and intervention instruction programs, including but not limited to related professional development programs, to assist students in kindergarten and first, second, and third grades to achieve reading competency. The state board may award a grant to an applying local education provider that is a school district on a district-wide basis or to individual schools of the school district. A local education provider may apply individually or as part of a group of local education providers. The state board by rule shall establish the application timelines and the information to be included in each grant application. The state board shall not, as a condition of applying for or receiving a grant, restrict an applicant's ability to use any of the assessments included on the approved list of assessments adopted pursuant to section 22-7-1209 (1)(b).

(b) In adopting rules, the state board shall ensure that a local education provider that is a rural school district or a small rural school district, or a district charter school or an institute charter school that is located within the boundaries of a rural school district or small rural school district, may submit a simplified grant application. A rural school district that is a member of a board of cooperative services may seek assistance in writing the grant application from the board of cooperative services. A board of cooperative services may apply for a grant to provide instructional support in literacy for small rural school districts that are members of the board of cooperative services.

(2) The department shall review each grant application received and recommend to the state board whether to award the grant and the duration and amount of each grant. In making recommendations, the department shall consider the following factors:

(a) The percentage of kindergarten and first-, second-, and third-grade students enrolled by the applying local education provider or group of local education providers who have significant reading deficiencies and the percentage of kindergarten and first-, second-, and third-grade students who do not have significant reading deficiencies but who are not meeting the grade-level expectations in reading adopted by the state board;

(b) The instructional program that the applying local education provider or group of local education providers plans to implement using the grant money and whether it is an evidence-based program that is proven to be successful in other public schools in Colorado or in other states;

(b.3) Whether the local education provider or group of local education providers employs reading coaches or plans to use all or a portion of the grant money to employ reading coaches;

(b.5) The degree to which the instructional program incorporates the effective use of technology, including software, to assist in assessing and monitoring student progress toward reading competency;

(c) The cost of the instructional program that the applying local education provider or group of local education providers plans to implement using the grant moneys;

(c.5) In the case of a board of cooperative services that applies for a grant to provide instructional support in literacy, the number of small rural school districts, the number of kindergarten and first-, second-, and third-grade students enrolled in the small rural school districts, and the resources available to the small rural school districts that will receive instructional support as a result of the grant;

(d) Any additional factors the state board may require by rule.

(3) Based on the recommendations of the department, the state board shall award grants to applying local education providers or groups of local education providers, which grants are paid from money in the early literacy fund created in section 22-7-1210. Of the money allocated for the early literacy grant program pursuant to section 22-7-1210 (4), the state board shall annually:

(a) Award up to ten percent to applicants that have previously received a grant to fund school-wide literacy initiatives that have resulted in significant student academic growth toward reading competency, as determined by an independent evaluator as provided in section 22-7-1209 (8), and that are requesting an additional year of funding to assist the local education provider in sustainability planning for the initiatives, including the continuing use of literacy coaches;

(b) Award up to fifteen percent to fund professional development initiatives for local education providers that are already implementing evidence-based or scientifically based universal instruction and interventions that are resulting in significant student academic growth toward reading competency, as determined by an independent evaluator as provided in section 22-7-1209 (8); and

(c) Award the remainder to applicants that request funding for other evidence-based or scientifically based literacy support and intervention instruction programs to assist students in kindergarten and first, second, and third grades to achieve reading competency.

(3.5) (a) Upon completion of the term of a grant, if an independent evaluator, as provided in section 22-7-1209 (8), determines that the instructional program funded by the grant money has resulted in significant student academic growth toward reading competency, and if the local education provider requests an extension of the grant, the state board shall extend the grant for a period recommended by the department. The state board shall increase the amount of the grant if necessary to enable the local education provider to expand or enhance implementation of the instructional program.

(b) Upon completion of the term of a grant, if an independent evaluator, as provided in section 22-7-1209 (8), determines that the instructional program funded by the grant money has not resulted in significant academic student growth toward reading competency, the state board shall not extend or renew the grant.

(4) For purposes of this section:

(a) "Rural school district" means a school district in Colorado that the department of education determines is rural, based on the geographic size of the school district and the distance of the school district from the nearest large, urbanized area.

(b) "Small rural school district" means a rural school district that enrolls fewer than one thousand two hundred students in kindergarten through twelfth grade.

**Source: L. 2012:** Entire part added, (HB 12-1238), ch. 180, p. 664, § 2, effective July 1. **L. 2014:** (1) and (2)(c) amended and (2)(c.5) added, (HB 14-1204), ch. 292, p. 1196, § 5, effective May 31. **L. 2016:** (1) and (2)(c.5) amended and (4) added, (HB 16-1440), ch. 316, p. 1277, § 5, effective August 10. **L. 2018:** (1), (3), and (4) amended, (HB 18-1393), ch. 275, p. 1742, § 3, effective May 29. **L. 2019:** (1), (2)(a), (2)(b), IP(3), (3)(a), and (3)(b) amended and (2)(b.3), (2)(b.5), and (3.5) added, (SB 19-199), ch. 154, p. 1837, § 10, effective May 10.

**22-7-1212. Summer school literacy programs.** (1) A local education provider may choose to use per-pupil intervention money to provide an evidence-based or scientifically based summer school literacy program to assist students who are enrolled in kindergarten or first, second, or third grade and who have significant reading deficiencies to achieve reading competency. A local education provider may allow students who are below grade-level expectations in reading, but who do not have significant reading deficiencies, to participate in a summer school literacy program operated pursuant to this section if capacity remains after serving all of the students with significant reading deficiencies who choose to participate.

(2) A local education provider that intends to use per-pupil intervention money to operate a summer school literacy program shall annually provide to the department information concerning the summer school literacy program the local education provider intends to operate, which demonstrates that the summer school literacy program meets the requirements specified in subsection (3) of this section.

(3) The local education provider shall ensure that the program:

(a) Serves only students enrolled in kindergarten or first, second, or third grade who have significant reading deficiencies, except as specifically allowed in subsection (1) of this section for students who are below grade-level expectations in reading; and

(b) Uses scientifically based or evidence-based instructional programming in reading that:

(I) Has been proven to accelerate student progress in attaining reading competency;

(II) Provides explicit and systematic skill development in the areas of phonemic awareness; phonics; vocabulary development; reading fluency, including oral skills; and reading comprehension;

(III) Includes scientifically based and reliable assessments; and

(IV) Provides initial and ongoing analysis of the student's progress in attaining reading competency.

**Source: L. 2012:** Entire part added, (HB 12-1238), ch. 180, p. 665, § 2, effective July 1. **L. 2018:** Entire section amended, (HB 18-1393), ch. 275, p. 1743, § 4, effective May 29.

**22-7-1213. Reporting requirements.** (1) Each local education provider shall annually report to the department information necessary to determine:

(a) The prevalence of significant reading deficiencies among students in kindergarten and first through third grades;

(a.3) The amount of academic growth to standard in reading annually achieved by students who are enrolled in kindergarten and first through third grades and who are identified as having significant reading deficiencies;

(a.5) The amount of academic growth to standard in reading annually achieved by students who are enrolled in kindergarten and first through third grades and who are identified as reading below grade level;

(a.7) Whether the amount of academic growth to standard annually achieved by each student described in subsections (1)(a.3) and (1)(a.5) of this section demonstrates sufficient, as determined by the department, growth to standard in reading over multiple years;

(b) Whether students who have significant reading deficiencies and who advance to the next grade level attain reading competency and, if so, at what grade level;

(c) Whether students who have significant reading deficiencies and who do not advance to the next grade level attain reading competency within the school year during which they do not advance;

(d) Whether students who have significant reading deficiencies and who do not advance to the next grade level attain reading competency at a lower grade level than students who do advance; and

(e) Whether students who have significant reading deficiencies continue to advance to the next grade level despite having a continuing significant reading deficiency and the degree to which local education providers are recommending that said students do not advance.

(1.5) Each local education provider shall submit to the department and to the independent evaluator contracted pursuant to section 22-7-1209 (8) any information required by the department or the independent evaluator to complete the evaluation described in section 22-7-1209 (8). The local education provider, in providing information, and the department and the independent evaluator in receiving and using the information, shall comply with state and federal laws to protect the privacy of student information. The local education provider, the department, and the independent evaluator shall collaborate to minimize the impact on instructional time that may result from collecting and providing the information.

(2) Each local education provider that receives an early literacy grant pursuant to section 22-7-1211 or per-pupil intervention money shall, at the conclusion of each budget year in which it receives the grant or per-pupil intervention money, submit to the department information describing:

(a) In detail, the specific expenditures for which the local education provider used the grant or per-pupil intervention money;

(a.5) If the local education provider purchased instructional programming in reading using grant or per-pupil intervention money, the scores attained by students enrolled in kindergarten through third grade on the interim reading assessments administered pursuant to section 22-7-1205;

(b) The number and grade levels of students who participated in each of the types of programs or services provided; and

(c) The progress made by participating students in achieving reading competency.

(3) (a) The department shall annually analyze the information received pursuant to subsection (1) of this section and make the determinations described in subsection (1) of this section.

(b) Notwithstanding section 24-1-136 (11)(a)(I), the department shall annually submit to the state board, the governor, the president of the senate, the speaker of the house of representatives, and the education committees of the house of representatives and the senate, or any successor committees, and shall post on the department website a report that summarizes:

(I) The information received pursuant to subsection (1) of this section and the determinations made by the department based on the information;

(II) The implementation of the early literacy grant program in the preceding budget year, including the number of grants, the local education providers that received grants, and the amount of each grant; and

(III) The information received by the department pursuant to subsection (2) of this section.

(c) The department may provide the report described in paragraph (b) of this subsection (3) to committees of the general assembly in conjunction with the report required in section 2-7-203, C.R.S.

(4) The information provided in the report described in this section is intended to assist the department, the state board, the governor, the general assembly, and the public in monitoring the implementation of and identifying the results achieved in implementing this part 12.

**Source: L. 2012:** Entire part added, (HB 12-1238), ch. 180, p. 666, § 2, effective July 1. **L. 2017:** IP(3)(b) amended, (HB 17-1267), ch. 242, p. 995, § 6, effective August 9. **L. 2019:** (1)(a.3), (1)(a.5), (1)(a.7), and (1.5) added and (2) amended, (SB 19-199), ch. 154, p. 1839, § 11, effective May 10; IP(2) and (2)(a) amended, (HB 19-1262), ch. 245, p. 2400, § 10, effective May 21.

**Editor's note:** Amendments to subsection (2) by SB 19-199 and HB 19-1262 were harmonized.

**22-7-1214. READ plan evaluation working group - created - report - repeal. (Repealed)**

**Source: L. 2018:** Entire section added, (HB 18-1393), ch. 275, p. 1744, § 5, effective May 29.

**Editor's note:** Subsection (3) provided for the repeal of this section, effective July 1, 2020. (See L. 2018, p. 1744.)

## ARTICLE 8

Career Education

**22-8-101 to 22-8-108. (Repealed)**

**Source: L. 91:** Entire article repealed, p. 883, § 1, effective June 5.

**Editor's note:** This article was added in 1975. For amendments to this article prior to its repeal in 1991, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

## ARTICLE 9

Licensed Personnel Evaluations

**Law reviews:** For comment, "Who May Hire Teachers: How Mutual Consent Fits Into the Current Colorado Hiring Framework", see 85 U. Colo. L. Rev. 229 (2014); for article, "Overview of General Liability, Workers' Compensation, and Employment Law Issues in K-12 Educational Institutions", see 44 Colo. Law. 25 (Oct. 2015); for article, "Academic Freedom and Discharge From Public Employment: The Unsettled Debate", see 44 Colo. Law. 57 (Oct. 2015).

**22-9-101. Short title.** This article shall be known and may be cited as the "Licensed Personnel Performance Evaluation Act".

**Source: L. 84:** Entire article added, p. 585, § 1, effective May 14. **L. 2000:** Entire section amended, p. 1849, § 41, effective August 2.

**22-9-102. Legislative declaration.** (1) The general assembly hereby declares that:

(a) A system to evaluate the effectiveness of licensed personnel is crucial to improving the quality of education in this state and declares that such a system shall be applicable to all licensed personnel in the school districts and boards of cooperative services throughout the state; and

(b) The purposes of the evaluation shall be to:

(I) Serve as a basis for the improvement of instruction;

(II) Enhance the implementation of programs of curriculum;

(III) Serve as a measurement of the professional growth and development of licensed personnel;

(IV) Evaluate the level of performance based on the effectiveness of licensed personnel; and

(V) Provide a basis for making decisions in the areas of hiring, compensation, promotion, assignment, professional development, earning and retaining nonprobationary status, dismissal, and nonrenewal of contract.

(2) The general assembly further declares that a professionally sound and credible system to evaluate the effectiveness of licensed personnel shall be designed with the involvement of licensed personnel and citizens of the school district or board of cooperative services.

(3) The general assembly further declares that the involvement and support of parents of children in public schools, acting as partners with teachers and public school administrators, are key to the educational progress of their children.

**Source: L. 84:** Entire article added, p. 585, § 1, effective May 14. **L. 92:** Entire section amended, p. 471, § 2, effective April 29. **L. 2000:** Entire section amended, p. 1849, § 42, effective August 2. **L. 2010:** Entire section amended, (SB 10-191), ch. 241, p. 1053, § 1, effective May 20.

**22-9-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Board of cooperative services" shall have the same meaning as provided in section 22-5-103 (2).

(1.1) "Council" means the state council for educator effectiveness established pursuant to section 22-9-105.5.

(1.4) "Department" means the department of education created pursuant to section 24-1-115, C.R.S.

(1.5) "Licensed personnel" means any persons employed to instruct students or to administer, direct, or supervise the instructional program in a school in the state who hold a valid license or authorization pursuant to the provisions of article 60.5 of this title.

(2) "Local board of education" or "local board" means the board of education of the school district.

(2.5) "Performance standards" means the levels of effectiveness established by rule of the state board pursuant to section 22-9-105.5 (10).

(2.6) "Principal" means a person who is employed as the chief executive officer or an assistant chief executive officer of a school in the state and who administers, directs, or supervises the education program in the school.

(2.7) "Principal development plan" means a written agreement developed by a principal and district administration that outlines the steps to be taken to improve the principal's effectiveness. The principal development plan shall include professional development opportunities.

(2.9) "Quality standards" means the elements and criteria established to measure effectiveness as established by rule of the state board pursuant to section 22-9-105.5 (10).

(3) "School district" means any school district organized and existing pursuant to law but does not include a local college district.

(4) "State board" means the state board of education established by section 1 of article IX of the state constitution.

(5) "Teacher" means a person who holds an alternative, initial, or professional teacher license issued pursuant to the provisions of article 60.5 of this title and who is employed by a school district or a charter school in the state to instruct, direct, or supervise an education program.

(6) "Teacher development plan" means a written agreement mutually developed by a teacher and his or her principal that outlines the steps to be taken to improve the teacher's effectiveness. The teacher development plan may include but need not be limited to consideration of induction and mentorship programs, use of highly effective teachers as instructional leaders or coaches, and appropriate professional development activities.

**Source: L. 84:** Entire article added, p. 585, § 1, effective May 14. **L. 92:** (1) amended and (1.5) added, p. 471, § 3, effective April 29. **L. 2000:** (1.5) amended, p. 1849, § 43, effective August 2. **L. 2010:** (1.1), (1.4), (2.5), (2.6), (2.7), (2.9), (5), and (6) added, (SB 10-191), ch. 241, p. 1054, § 2, effective May 20.

**Editor's note:** Subsections (2.7), (2.9), (5), and (6) were numbered as subsections (3.5), (2.7), (6), and (5), respectively, in SB 10-191 but were renumbered on revision to place the definitions in alphabetical order.

**22-9-104. State board - powers and duties - rules.** (1) The state board shall promulgate guidelines relating to the planning, development, implementation, and assessment of a licensed personnel performance evaluation system that may be followed by each school district and board of cooperative services within the state. In promulgating said guidelines, the state board shall allow each school district and board of cooperative services to involve and consult with the licensed personnel and citizens of the school district or districts. Each school district and board of cooperative services shall have the flexibility needed to develop a system of personnel performance evaluation that is specifically designed to meet the individual needs of that school district and board of cooperative services.

(2) The state board shall:

(a) Provide training and leadership and give technical assistance to school districts and boards of cooperative services in the development of a licensed personnel performance evaluation system;

(b) Work and cooperate with the state's universities and colleges that have teacher, principal, or administrator education programs to assure that principals and administrators having evaluation responsibilities will receive adequate education and training that meets the requirements specified in section 22-9-108 and will enable them to make thorough, credible, fair, and professional quality evaluations of all licensed personnel whom those principals or administrators may be responsible for evaluating;

(c) Pursuant to section 22-9-105.5, work with the council to promulgate rules concerning the planning, development, implementation, and assessment of a system to evaluate the effectiveness of licensed personnel;

(d) Repealed.

(e) (Deleted by amendment, L. 2009, (SB 09-163), ch. 293, p. 1532, § 17, effective May 21, 2009.)

(f) (I) On or before September 1, 2011, the state board, pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., shall promulgate rules with regard to the issues specified in section 22-9-105.5 (10) using the recommendations from the council. If the council fails to make recommendations to the state board by March 1, 2011, with regard to one or more of the issues specified in section 22-9-105.5 (10), the state board, on or before September 1, 2011, shall promulgate rules concerning any issues in section 22-9-105.5 (10) that the council did not address. In promulgating rules pursuant to this paragraph (f), the state board shall conform to the timeline set forth in section 22-9-105.5.

(II) On or before February 15, 2012, the general assembly shall review the rules promulgated pursuant to subparagraph (I) of this paragraph (f), in a bill that is separate from the annual rule review bill introduced pursuant to section 24-4-103 (8)(d), C.R.S., and in accordance with the criteria and procedures specified in section 24-4-103 (8)(a) and (8)(d), C.R.S.; except that the general assembly reserves the right to repeal individual rules in the rules promulgated by the state board. If one or more rules are not approved by the general assembly pursuant to this subparagraph (II), the state board shall promulgate emergency rules pursuant to section 24-4-103 (6), C.R.S., on such issue or issues and resubmit to the general assembly on or before May 1, 2012. The general assembly shall review the emergency rules promulgated according to the process outlined in this subparagraph (II).

**Source: L. 84:** Entire article added, p. 586, § 1, effective May 14. **L. 92:** (1), (2)(a), and (2)(d) amended, p. 472, § 4, effective April 29. **L. 98:** (2)(b) amended, p. 285, § 3, effective July 1. **L. 2000:** (1), (2)(a), (2)(b), and (2)(c) amended, p. 1850, § 44, effective August 2. **L. 2004:** (2)(d) amended, p. 1285, § 15, effective May 28. **L. 2009:** (2)(c), (2)(d), and (2)(e) amended, (SB 09-163), ch. 293, p. 1532, § 17, effective May 21. **L. 2010:** (2)(c) and (2)(d) amended and (2)(f) added, (SB 10-191), ch. 241, p. 1055, § 3, effective May 20. **L. 2013:** (2)(d) repealed, (HB 13-1257), ch. 237, p. 1153, § 2, effective May 17.

**22-9-105. State licensed personnel performance evaluation council created - duties. (Repealed)**

**Source: L. 84:** Entire article added, p. 586, § 1, effective May 14. **L. 86:** (3) amended and (4) added, p. 411, § 16, effective March 26. **L. 90:** (3)(a)(II), (3)(b), and (4) repealed, p. 1099, § 64, effective May 31. **L. 92:** (3)(a)(I) amended, p. 472, § 5, effective April 29. **L. 2000:** (1), (2), and (3)(a)(I) amended, p. 1850, § 45, effective August 2. **L. 2010:** Entire section repealed, (SB 10-191), ch. 241, p. 1056, § 4, effective May 20.

**22-9-105.5. State council for educator effectiveness - legislative declaration - membership - duties - recommendations - rules.** (1) The general assembly hereby finds and declares that:

(a) On January 13, 2010, the governor established by executive order the governor's council for educator effectiveness;

(b) The executive order charged the council with, among other duties, considering options and providing recommendations concerning educator effectiveness and developing recommendations for definitions of principal and teacher effectiveness; and

(c) The general assembly further finds and declares that it is in the best interests of the people of the state of Colorado to codify in statute the governor's council for educator effectiveness because of the significant additional statutory duties and responsibilities that the general assembly is assigning to said council.

(2) (a) There is hereby created in the office of the governor the state council for educator effectiveness, referred to in this article as the "council".

(b) The members of the governor's council for educator effectiveness, created by executive order B 2010-001, shall serve on the council, as appointed by the governor, and shall include:

(I) The commissioner of education, or his or her designee;

(II) The executive director of the department of higher education, or his or her designee;

(III) Four teachers, selected with the advice of state associations that represent educators;

(IV) Two public school administrators and one local school district superintendent, each selected with the advice of a state association that represents school executives;

(V) Two members of local school boards, selected with the advice of a state association that represents school boards;

(VI) One charter school administrator or teacher, selected with the advice of a state advocacy group for charter schools;

(VII) One parent of a public school student, selected with the advice of a state parent and teachers association;

(VIII) A current student or recent graduate of a Colorado public school, selected with the advice of a statewide student coalition; and

(IX) One at-large member with expertise in education policy.

(c) The purpose of the council shall be the same as that of the governor's council for educator effectiveness established by executive order, and shall be to consider options and make recommendations to the state board and the general assembly that seek to ensure that all licensed personnel are:

(I) Evaluated using multiple fair, transparent, timely, rigorous, and valid methods, at least fifty percent of which evaluation is determined by the academic growth of their students;

(II) Afforded a meaningful opportunity to improve their effectiveness; and

(III) Provided the means to share effective practices with other educators throughout the state.

(3) The council shall have the following duties:

(a) On or before March 1, 2011, to provide the state board with recommendations that will ensure that every teacher is evaluated using multiple fair, transparent, timely, rigorous, and valid methods. The recommendations developed pursuant to this paragraph (a) shall require that at least fifty percent of the evaluation is determined by the academic growth of the teacher's students and that each teacher is provided with an opportunity to improve his or her effectiveness through a teacher development plan that links his or her evaluation and performance standards to professional development opportunities. The quality standards for teachers shall include measures of student longitudinal academic growth that are consistent with the measures set forth in section 22-11-204 (2) and may include interim assessment results or evidence of student work, provided that all are rigorous and comparable across classrooms and aligned with state model content standards and performance standards developed pursuant to article 7 of this title. For the purposes of quality standards, expectations of student academic growth shall take into consideration diverse factors, including but not limited to special education, student mobility, and classrooms with a student population in which ninety-five percent meet the definition of high-risk student as defined in section 22-7-604.5 (1.5). The quality standards for teachers shall be clear and relevant to the teacher's roles and responsibilities and shall have the goal of improving student academic growth. The council shall include in its recommendations a definition of effectiveness and its relation to quality standards. The definition of effectiveness shall include, but need not be limited to, criteria that will be used to differentiate between performance standards. The defined performance standards shall include, but need not be limited to, "highly effective", "effective", and "ineffective". The council shall consider whether additional performance standards should be established.

(a.5) On or before March 1, 2011, to provide the state board with recommendations that will ensure that every principal is evaluated using multiple fair, transparent, timely, rigorous, and valid methods. The recommendations pursuant to this paragraph (a.5) shall require that every principal is provided with a principal development plan. In making its recommendations, the council shall recognize that not all teachers and principals require the same amount of supervision and evaluation. As part of its recommendations to the state board, the council shall develop a process to enable a local school district to differentiate teacher and principal evaluations as part of its performance evaluation system.

(b) On or before March 1, 2011, to provide the state board with recommendations concerning the implementation and testing of the new performance evaluation system that is based on quality standards and with recommendations for the subsequent statewide implementation of the new performance evaluation system. The recommendations made pursuant to this paragraph (b) shall conform to the timeline set forth in subsection (10) of this section.

(b.5) On or before March 1, 2011, to make recommendations to the state board concerning the involvement and support of parents of children in public schools, to the effect that parents should act as partners with teachers and public school administrators;

(c) On or before March 1, 2011, to provide the state board with recommendations that will ensure development of a set of guidelines for establishing performance standards for each category of licensed personnel to be evaluated pursuant to this article. The guidelines shall outline criteria to be applied in assigning educators to appropriate performance standards, which shall include measures of student longitudinal academic growth.

(d) On or before March 1, 2011, to develop and recommend to the state board statewide definitions of principal effectiveness and teacher effectiveness, each of which shall be centered on an educator's demonstrated ability to achieve and sustain adequate student growth and shall include a set of professional skills and competencies related to improved student outcomes;

(e) On or before March 1, 2011, to develop and recommend to the state board guidelines for adequate implementation of a high-quality educator evaluation system that shall address, at a minimum, the following issues:

(I) Ongoing training on the use of the system that is sufficient to ensure that all evaluators and educators have a full understanding of the evaluation system and its implementation. The training may include such activities as conducting joint training sessions for evaluators and educators.

(II) Evaluation results that are normed to ensure consistency and fairness;

(III) Evaluation rubrics and tools that are deemed fair, transparent, rigorous, and valid;

(IV) Evaluations that are conducted using sufficient time and frequency, at least annually, to gather sufficient data upon which to base the ratings contained in an evaluation;

(V) Provision of adequate training and collaborative time to ensure that educators fully understand and have the resources to respond to student academic growth data;

(VI) Student data that is monitored at least annually to ensure the correlation between student academic growth and outcomes with educator effectiveness ratings; and

(VII) A process by which a nonprobationary teacher may appeal his or her second consecutive performance rating of ineffective and submit such process by the first day of convening of the first regular session of the sixty-ninth general assembly to the education committees of the house of representatives and the senate, or any successor committees.

(f) On or before March 1, 2011, to adopt and recommend to the state board a rubric for identifying multiple additional quality standards, in addition to student academic growth, that are rigorous, transparent, valid, and fair;

(g) On or before March 1, 2011, to make recommendations to the state board for policy changes, as appropriate, that will support local school districts' use of evaluation data for decisions in areas such as compensation, promotion, retention, removal, and professional development;

(h) On or before March 1, 2011, to make recommendations to the state board for policy changes, as appropriate, that will ensure that the standards and criteria applicable to teacher and principal licensure and the accreditation of preparation programs are directly aligned with and support the preparation and licensure of effective educators;

(i) On or before July 1, 2013, and July 1 each year thereafter during the implementation of the performance evaluation system, the department shall report to the council the results of the implementation and testing of the performance evaluation system. Based on the results of the reports, the council may make additional recommendations to be incorporated in the following stage of implementation.

(j) The council shall develop an implementation plan for its recommendations and will identify tasks and the associated costs at the state and district levels. The recommendations shall include an implementation cost analysis, including assessment changes, assessment pilot study, staff training, research, data review, and any other tasks included in the council's recommendations. It is incumbent on the council to consult with the department and expert practitioners familiar with school finance and to report by March 1, 2011, on the costs to implement the council's recommendations.

(3.5) The recommendations made by the council to the state board pursuant to this section shall reflect a consensus vote. For any issue that the council was unable to reach a consensus, the council shall provide to the state board the reasons it was unable to reach a consensus.

(4) The council's recommendations shall consist, at a minimum, of recommendations that are applicable to school principals and teachers.

(5) The council's recommendations may include changes to existing statutes or rules, if appropriate, as well as recommendations for local implementation.

(6) In making its recommendations, the council shall include the effect of district- and school-level conditions, as measured by the nine performance standards set forth in the comprehensive appraisal for the district improvement rubric and biannual teaching, empowering, leading, and learning initiative survey of school working conditions, as well as any additional methods of assessing such conditions identified by the council as valid, transparent, and reliable.

(7) The council may establish working groups, task forces, or other structures from within its membership or outside its membership as needed to address specific issues or to assist in its work.

(8) All recommendations made by the council pursuant to this section shall reflect a consensus of its members.

(9) Unless otherwise provided for, the office of the governor and the department shall provide the council with the support, information, data, analytical information, and administrative support necessary to do its work.

(10) (a) On or before September 1, 2011, the state board shall promulgate rules with regard to the issues specified in paragraphs (a) to (h) of subsection (3) of this section, using the recommendations from the council. If the council fails to make recommendations to the state board by March 1, 2011, with regard to the issues specified in paragraphs (a) to (h) of subsection (3) of this section, the state board shall, on or before September 1, 2011, promulgate rules concerning any issues in said paragraphs (a) to (h) that the council did not address. In promulgating rules pursuant to this subsection (10), the state board shall conform to the following timeline:

(I) Beginning with the 2011-12 school year, the department shall work with school districts and boards of cooperative services to assist with the development of performance evaluation systems that are based on quality standards.

(II) On or before January 15, 2012, the state board shall provide to the general assembly the rules promulgated pursuant to this subsection (10). On or before February 15, 2012, the general assembly shall review and approve such rules as provided for in paragraph (b) of this subsection (10).

(III) Beginning with the 2012-13 school year, if the general assembly approves the rules promulgated pursuant to this subsection (10), the new performance evaluation system that is based on quality standards shall be implemented and tested as recommended by the council pursuant to paragraph (b) of subsection (3) of this section.

(IV) (A) Beginning with the 2013-14 school year, if the general assembly approves the rules promulgated pursuant to this subsection (10), and based on the results of the first level of implementation in the 2012-13 school year, the new performance evaluation system that is based on quality standards shall be implemented statewide in a manner as recommended by the council pursuant to paragraph (b) of subsection (3) of this section.

(B) During the 2013-14 school year, teachers shall be evaluated based on quality standards. Demonstrated effectiveness or ineffectiveness shall begin to be considered in the acquisition of probationary or nonprobationary status.

(V) (A) Beginning with the 2014-15 school year, if the general assembly approves the rules promulgated pursuant to this subsection (10), and based on the results of the first and second levels of implementation in the 2012-13 and 2013-14 school years, the new performance evaluation system that is based on quality standards shall be finalized on a statewide basis.

(B) During the 2014-15 school year, teachers shall continue to be evaluated based on quality standards. Demonstrated effectiveness or ineffectiveness shall be considered in the acquisition or loss of probationary or nonprobationary status.

(b) On or before February 15, 2012, the general assembly shall review the rules promulgated pursuant to paragraph (a) of this subsection (10) in a bill that is separate from the annual rule review bill introduced pursuant to section 24-4-103 (8)(d), C.R.S., and in accordance with the criteria and procedures specified in section 24-4-103 (8)(a) and (8)(d), C.R.S.; except that the general assembly reserves the right to repeal individual rules contained in the rules promulgated by the state board. If one or more rules is not approved by the general assembly pursuant to this paragraph (b), the state board shall promulgate emergency rules pursuant to section 24-4-103 (6), C.R.S., on such issue or issues and resubmit to the general assembly on or before May 1, 2012. The general assembly shall review the emergency rules promulgated according to the process outlined in this paragraph (b).

(11) On or before November 1, 2011, the department shall create and make available to school districts and boards of cooperative services a resource bank that identifies assessments, processes, tools, and policies that a school district or board of cooperative services may use to develop an evaluation system that addresses the provisions of this section. The department shall include resources that are appropriate to school districts and boards of cooperative services of different sizes, demographics, and locations. The department shall update the resource bank at least annually to reflect new research and ongoing experience in Colorado.

(12) The department shall not be obligated to implement the provisions of this section until sufficient funds have been received and credited to the great teachers and leaders fund,

created in section 22-9-105.7. The department is hereby authorized to hire any employees necessary to carry out the provisions of this section. Any new positions created pursuant to this section shall be subject to the availability of funding and shall be eliminated at such time as moneys are no longer available in the great teachers and leaders fund. All position descriptions and notice to hire for positions created pursuant to this section shall clearly state that such position is subject to available funding.

**Source: L. 2010:** Entire section added, (SB 10-191), ch. 241, p. 1056, § 5, effective May 20.

**22-9-105.7. Great teachers and leaders fund - created - gifts, grants, and donations - legislative declaration - repeal.** (1) The department is authorized to seek, accept, and expend gifts, grants, and donations for the implementation of section 22-9-105.5; except that the department may not accept a gift, grant, or donation that is subject to conditions that are inconsistent with this or any law of the state. The department shall transmit all moneys received to the state treasurer, who shall credit the same to the great teachers and leaders fund, which fund is hereby created and referred to in this section as the "fund". Moneys in the fund are continuously appropriated to the department for the direct and indirect costs associated with implementing section 22-9-105.5.

(2) Any moneys in the fund not expended for the purposes of section 22-9-105.5 may be invested by the state treasurer, as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

(3) The general assembly hereby finds and declares that, for the purposes of section 17 of article IX of the state constitution, the implementation of the state council for educator effectiveness is a program for accountable education reform and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

(4) Nothing in this section shall be interpreted to require the department to solicit gifts, grants, or donations for the fund.

(5) (a) Notwithstanding any provision of this section to the contrary, on July 1, 2020, the state treasurer shall transfer all unexpended and unencumbered state money in the great teachers and leaders fund to the state education fund created in section 17 (4) of article IX of the state constitution.

(b) This subsection (5) is repealed, effective July 1, 2021.

**Source: L. 2010:** Entire section added, (SB 10-191), ch. 241, p. 1063, § 6, effective May 20. **L. 2012:** (1) amended, (HB 12-1240), ch. 258, p. 1310, § 6, effective June 4. **L. 2013:** (3) amended, (SB 13-260), ch. 236, p. 1142, § 8, effective May 17. **L. 2015:** (3) amended, (SB 15-264), ch. 259, p. 954, § 48, effective August 5. **L. 2020:** (5) added, (HB 20-1418), ch. 197, p. 947, § 24, effective June 30.

**Cross references:** For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

**22-9-106. Local boards of education - duties - performance evaluation system - compliance - rules.** (1) All school districts and boards of cooperative services that employ licensed personnel, as defined in section 22-9-103 (1.5), shall adopt a written system to evaluate the employment performance of school district and board of cooperative services licensed personnel, including all teachers, principals, and administrators, with the exception of licensed personnel employed by a board of cooperative services for a period of six weeks or less. In developing the licensed personnel performance evaluation system and any amendments thereto, the local board and board of cooperative services shall comply with the provisions of subsection (1.5) of this section and shall consult with administrators, principals, and teachers employed within the district or participating districts in a board of cooperative services, parents, and the school district licensed personnel performance evaluation council or the board of cooperative services personnel performance evaluation council created pursuant to section 22-9-107. The performance evaluation system shall address all of the performance standards established by rule of the state board and adopted by the general assembly pursuant to section 22-9-105.5, and shall contain, but need not be limited to, the following information:

(a) The title or position of the evaluator for each licensed personnel position to be evaluated;

(b) The licensed personnel positions to be evaluated, which shall include all licensed personnel, all part-time teachers as defined in section 22-63-103 (6), and all administrators and principals;

(c) The frequency and duration of the evaluations, which shall be on a regular basis and of such frequency and duration as to ensure the collection of a sufficient amount of data from which reliable conclusions and findings may be drawn. At a minimum, the performance evaluation system shall ensure that:

(I) Probationary teachers receive at least two documented observations and one evaluation that results in a written evaluation report pursuant to subsection (3) of this section each academic year. Probationary teachers shall receive the written evaluation report at least two weeks before the last class day of the school year.

(II) Nonprobationary teachers receive at least one observation each year and one evaluation that results in a written evaluation report pursuant to subsection (3) of this section every three years; except that, beginning with the 2012-13 academic year, nonprobationary teachers shall receive a written evaluation report pursuant to subsection (3) of this section each academic year according to the performance standards established by rule of the state board and adopted by the general assembly pursuant to section 22-9-105.5. Nonprobationary teachers shall receive the written evaluation report at least two weeks before the last class day of the school year.

(III) Principals shall receive one evaluation that results in a written evaluation report pursuant to subsection (3) of this section each academic year according to the performance standards established by rule of the state board and adopted by the general assembly pursuant to section 22-9-105.5.

(IV) (Deleted by amendment, L. 2010, (SB 10-191), ch. 241, p. 1063, § 7, effective May 20, 2010.)

(d) The purposes of the evaluation, which shall include but need not be limited to:

(I) Providing a basis for the improvement of instruction;

(II) Enhancing the implementation of programs of curriculum;

(III) Providing the measurement of satisfactory performance for individual licensed personnel and serving as documentation for an unsatisfactory performance dismissal proceeding under article 63 of this title;

(IV) Serving as a measurement of the professional growth and development of licensed personnel; and

(V) (A) Repealed.

(B) Measuring the level of effectiveness of all licensed personnel within the school district. This sub-subparagraph (B) shall take effect at such time as the performance evaluation system based on quality standards established pursuant to this section and the rules promulgated by the state board pursuant to section 22-9-105.5 has completed the initial phase of implementation and has been implemented statewide. The commissioner shall provide notice of such implementation to the revisor of statutes on or before July 1, 2014, and each July 1 thereafter until statewide implementation occurs.

(e) (I) Repealed.

(II) The standards set by the local board for effective performance for licensed personnel and the criteria to be used to determine whether the performance of each licensed person meets such standards and other criteria for evaluation for each licensed personnel position evaluated. One of the standards for measuring teacher effectiveness shall be directly related to classroom instruction and shall require that at least fifty percent of the evaluation is determined by the academic growth of the teacher's students. The district accountability committee shall provide input and recommendations concerning the assessment tools used to measure student academic growth as it relates to teacher evaluations. The standards shall include multiple measures of student performance in conjunction with student growth expectations. For the purposes of measuring effectiveness, expectations of student academic growth shall take into consideration diverse factors, including but not limited to special education, student mobility, and classrooms with a student population in which ninety-five percent meet the definition of high-risk student as defined in section 22-7-604.5 (1.5). The performance evaluation system shall also ensure that the standards and criteria are available in writing to all licensed personnel and are communicated and discussed by the person being evaluated and the evaluator prior to and during the course of the evaluation. This subparagraph (II) shall take effect at such time as the performance evaluation system based on quality standards established pursuant to this section and the rules promulgated by the state board pursuant to section 22-9-105.5 has completed the initial phase of implementation and has been implemented statewide. The commissioner shall provide notice of such implementation to the revisor of statutes on or before July 1, 2014, and each July 1 thereafter until statewide implementation occurs.

(f) The methods of evaluation, which shall include, but shall not be limited to, direct observations by the evaluator and a process of systematic data-gathering.

(1.5) (a) A local board or board of cooperative services may adopt the state model performance evaluation system established by the rules promulgated by the state board pursuant to section 22-9-105.5 or may develop its own local licensed personnel evaluation system that complies with the requirements established pursuant to this section and the rules promulgated by the state board. If a school district or board of cooperative services develops its own local licensed personnel evaluation system, the local board or board of cooperative services or any interested party may submit to the department, or the department may solicit and collect, data related to said personnel evaluation system for review by the department.

(b) The department shall monitor school districts' and boards of cooperative services' implementation of the requirements for local licensed personnel evaluation systems. If, upon initial review by the department, the data submitted or collected pursuant to paragraph (a) of this subsection (1.5) indicates that a school district or board of cooperative services is unable to implement a local licensed personnel evaluation system that meets the objectives of this article, the department shall conduct a more thorough review of the school district's or board of cooperative services' processes and procedures for said evaluation system to ensure that it is professionally sound; results in fair, adequate, and credible evaluations; satisfies the quality standards established by rule of the state board in a manner that is appropriate to the size, demographics, and location of the local board or board of cooperative services; and is consistent with the goals, objectives, and intent of this article.

(c) (I) Pursuant to section 22-11-206 (4)(b), if the department has reason to believe that a local licensed personnel evaluation system developed by a local board or board of cooperative services is not in substantial compliance with one or more of the applicable statutory or regulatory requirements of this article, the department shall notify the local board or board of cooperative services that it has ninety days after the date of the notice to bring its local licensed personnel evaluation system into compliance. The department shall work collaboratively with the school district or board of cooperative services during the ninety-day period to bring the local licensed personnel evaluation system into compliance with the applicable statutory or regulatory requirements.

(II) If, at the end of the ninety-day period, the department finds that the local licensed personnel evaluation system is not substantially in compliance with the applicable statutory or regulatory requirements, the department shall determine the appropriate remedies to correct the identified areas of noncompliance, including but not limited to:

(A) Extending the time frame for compliance;

(B) Imposing interventions specified in article 11 of this title; or

(C) As a last resort, requiring the school district or board of cooperative services to implement some or all of the state model system. A school district or board of cooperative services shall only be required to implement those aspects of the state model system that are deemed necessary to bring the local licensed personnel evaluation system into compliance.

(III) If the department determines that the noncompliance is substantial enough to call into question the validity of the educator evaluation ratings, the department may take appropriate action that may include invalidating the school district's or board of cooperative services' educator ratings for the evaluation cycles in question. If the department determines that the noncompliance requires invalidating the school district's or board of cooperative services' educator ratings:

(A) A teacher who received a rating of effective or highly effective shall retain that rating; and

(B) A teacher who received a rating of partially effective or ineffective shall receive a "no score" rating for the year in question. However, if in the following academic year, the department determines that the school district's or board of cooperative services' local licensed personnel evaluation system is compliant with the requirements of this article and the teacher receives a performance evaluation rating of ineffective or partially effective, this rating shall have the consequence of a second consecutive ineffective rating.

(d) The general assembly finds that, for purposes of section 17 of article IX of the state constitution, the review of local licensed personnel evaluation systems as provided for in this subsection (1.5) is an important component of an accountable program to meet state academic standards and, therefore, may be funded from moneys in the state education fund created in section 17 (4) of article IX of the state constitution.

(2) In implementing such evaluation system and procedures, the school district or board of cooperative services shall conduct all evaluations so as to observe the legal and constitutional rights of licensed personnel, and no evaluation information shall be gathered by electronic devices without the consent of the licensed personnel. No informality in any evaluation or in the manner of making or recording any evaluation shall invalidate such evaluation.

(2.5) (a) Repealed.

(b) (I) The council shall actively participate with the local board in developing written standards for evaluation that clearly specify performance standards and the quality standards and the criteria to be used to determine whether the performance of each licensed person meets such standards pursuant to paragraph (e) of subsection (1) of this section. Except as provided in subparagraph (II) of this paragraph (b), this paragraph (b) takes effect at such time as the performance evaluation system based on quality standards established pursuant to this section and the rules promulgated by the state board pursuant to section 22-9-105.5 has completed the initial phase of implementation and has been implemented statewide. The commissioner shall provide notice of such implementation to the revisor of statutes on or before July 1, 2014, and each July 1 thereafter until statewide implementation occurs.

(II) Repealed.

(c) Notwithstanding any provision of paragraph (e) of subsection (1) of this section or subsection (7) of this section to the contrary:

(I) A local board may use the results of the state assessments administered pursuant to section 22-7-1006.3 in the 2014-15 school year only as baseline data for measuring student academic growth in the 2015-16 school year and school years thereafter; and

(II) A local board may use the results of state assessments administered pursuant to section 22-7-1006.3 as a measure of student academic growth for evaluations prepared for the school year in which the assessments are administered only if the local board receives the results by the date by which probationary teachers and nonprobationary teachers must receive the written evaluation report as provided in paragraph (c) of subsection (1) of this section. If a local board does not receive the results of state assessments in time to use them in the written evaluation report prepared for the school year in which the assessments are administered, the local board shall use the results of the state assessments as measures of student academic growth for educator evaluations and professional development in the school year following the school year in which the assessments are administered. In any year in which a local board does not receive the state assessment results by the deadline for the written evaluation reports, the local board must use alternate measures of student academic growth, including the results of local assessments if available.

(3) An evaluation report shall be issued upon the completion of an evaluation made pursuant to this section and shall:

(a) Be in writing;

(b) Contain a written improvement plan, that shall be specific as to what improvements, if any, are needed in the performance of the licensed personnel and shall clearly set forth

recommendations for improvements, including recommendations for additional education and training during the teacher's or the principal's license renewal process;

(c) Be specific as to the strengths and weaknesses in the performance of the individual being evaluated;

(d) Specifically identify when a direct observation was made;

(e) Identify data sources;

(f) Be discussed and be signed by the evaluator and the person being evaluated, each to receive a copy of the report. The signature on the report of any person shall not be construed to indicate agreement with the information contained in the report. If the person being evaluated disagrees with any of the conclusions or recommendations made in the evaluation report, the person may attach any written explanation or other relevant documentation that the person deems necessary.

(g) Be reviewed by a supervisor of the evaluator, whose signature shall also appear on said report.

(3.2) (a) In addition to the items specified in subsection (3) of this section, the evaluation of a teacher may include any peer, parent, or student input obtained from standardized surveys.

(b) In addition to the items specified in subsection (3) of this section, each principal's evaluation shall include input from the teachers employed in the principal's school and may include input from the students enrolled in the school and their parents. Each school district shall specify the manner in which input from teachers and from students and parents, if any, is collected but shall ensure that the information collected remains anonymous and confidential.

(3.3) Each principal or administrator who is responsible for evaluating licensed personnel shall keep records and documentation for each evaluation conducted. Each principal and administrator who is responsible for evaluating licensed personnel shall be evaluated as to how well he or she complies with this section and with the school district's evaluation system.

(3.5) (a) Repealed.

(b) (I) A teacher or principal whose performance is deemed to be ineffective pursuant to paragraph (e) of subsection (1) of this section shall receive written notice that his or her performance evaluation shows a rating of ineffective, a copy of the documentation relied upon in measuring his or her performance, and identification of deficiencies.

(II) Repealed.

(III) This paragraph (b) shall take effect at such time as the performance evaluation system based on quality standards established pursuant to this section and the rules promulgated by the state board pursuant to section 22-9-105.5 has completed the initial phase of implementation and has been implemented statewide. The commissioner shall provide notice of such implementation to the revisor of statutes on or before July 1, 2014, and each July 1 thereafter until statewide implementation occurs.

(IV) Repealed.

(4) (a) Except as provided in paragraph (b) of this subsection (4), no person shall be responsible for the evaluation of licensed personnel unless the person has a principal or administrator license issued pursuant to article 60.5 of this title or is a designee of a person with a principal or administrator license and has received education and training in evaluation skills approved by the department of education that will enable him or her to make fair, professional, and credible evaluations of the personnel whom he or she is responsible for evaluating. No person shall be issued a principal or administrator license or have a principal or administrator

license renewed unless the state board determines that such person has received education and training approved by the department of education.

(b) A local board of education shall have the authority to evaluate the performance of the superintendent of the school district. The responsibility for conducting the performance evaluation of the superintendent shall rest exclusively with the local board of education.

(4.3) Notwithstanding any provision of this section to the contrary, a person who is employed in multiple roles simultaneously may receive a single evaluation that takes into account the person's performance of his or her responsibilities in each role. The person's supervisor shall conduct the evaluation or, if the person is employed as a school district superintendent, the local board of education shall conduct the person's evaluation.

(4.5) (a) Repealed.

(b) Any person whose performance evaluation includes a remediation plan shall be given an opportunity to improve his or her effectiveness through the implementation of the plan. If the next performance evaluation shows that the person is performing effectively, no further action shall be taken concerning the original performance evaluation. If the evaluation shows the person is still not performing effectively, he or she shall receive written notice that his or her performance evaluation shows a rating of ineffective, a copy of the documentation relied upon in measuring the person's performance, and identification of deficiencies. Each school district shall ensure that a nonprobationary teacher who objects to a rating of ineffectiveness has an opportunity to appeal that rating, in accordance with a fair and transparent process developed, where applicable, through collective bargaining. At a minimum, the appeal process provided shall allow a nonprobationary teacher to appeal the rating of ineffectiveness to the superintendent of the school district and shall place the burden upon the nonprobationary teacher to demonstrate that a rating of effectiveness was appropriate. The appeal process shall take no longer than ninety days, and the nonprobationary teacher shall not be subject to a possible loss of nonprobationary status until after a final determination regarding the rating of ineffectiveness is made. For a person who receives a performance rating of ineffective, the evaluator shall either make additional recommendations for improvement or may recommend the dismissal of the person, which dismissal shall be in accordance with the provisions of article 63 of this title if the person is a teacher. This paragraph (b) shall take effect at such time as the performance evaluation system based on quality standards established pursuant to this section and the rules promulgated by the state board pursuant to section 22-9-105.5 has completed the initial phase of implementation and has been implemented statewide. The commissioner shall provide notice of such implementation to the revisor of statutes on or before July 1, 2014, and each July 1 thereafter until statewide implementation occurs.

(5) The school district or board of cooperative services licensed personnel performance evaluation system, processes, and procedures must be in accord with the rules adopted by the state board. The system shall be developed after consultation with the school district or board of cooperative services licensed personnel performance evaluation council created pursuant to section 22-9-107 with regard to the planning, development, adoption, and implementation of such system, and said council shall conduct a continuous evaluation of said system.

(6) Pursuant to subsection (1.5) of this section, the department shall approve any school district's or board of cooperative services' local licensed personnel performance evaluation system and related processes and procedures to determine whether such system, processes, and procedures are consistent with this article.

(7) Every principal shall be evaluated using multiple fair, transparent, timely, rigorous, and valid methods. The recommendations developed pursuant to this subsection (7) shall require that at least fifty percent of the evaluation is determined by the academic growth of the students enrolled in the principal's school. For principals, the quality standards shall include, but need not be limited to:

(a) Achievement and academic growth for those students enrolled in the principal's school, as measured by the Colorado growth model set forth in section 22-11-202;

(b) The number and percentage of licensed personnel in the principal's school who are rated as effective or highly effective; and

(c) The number and percentage of licensed personnel in the principal's school who are rated as ineffective but are improving in effectiveness.

(8) On or before August 1, 2014, each local board of education shall develop, in collaboration with a local teachers association or, if none exists, with teachers from the district, an incentive system, the purpose of which shall be to encourage effective teachers in high-performing schools to move to jobs in schools that have low performance ratings.

**Source: L. 84:** Entire article added, p. 587, § 1, effective May 14. **L. 90:** IP(1), (1)(b) to (1)(e), (3)(b), and (4) amended and (2.5), (3.5), and (4.5) added, p. 1128, § 3, effective May 31; (4.5) amended, p. 1846, § 38, effective July 1. **L. 92:** IP(1), (1)(d), (2), (2.5), (3.5), (5), and (6) amended, p. 472, § 6, effective April 29. **L. 98:** (1), (2.5), (3), (4), and (4.5) amended and (3.2) and (3.3) added, p. 286, §§ 4, 5, effective July 1. **L. 2000:** IP(1), (1)(a), (1)(b), (1)(d)(III), (1)(d)(IV), (1)(d)(V), (1)(e), (2), (2.5), (3)(b), (3.3), (4), and (5) amended, p. 1851, § 46, effective August 2. **L. 2001:** (4) amended, p. 52, § 1, effective August 8. **L. 2004:** (6) amended, p. 1285, § 16, effective May 28. **L. 2006:** (1)(c), (3)(b), (3.2), (3.5), and (4.5) amended, p. 1241, § 6, effective May 26. **L. 2010:** IP(1), (1)(c), (1)(d)(V), (1)(e), (2.5), (3.3), (3.5), (4)(a), and (4.5) amended and (7) and (8) added, (SB 10-191), ch. 241, p. 1063, § 7, effective May 20. **L. 2013:** IP(1), (5), and (6) amended and (1.5) added, (HB 13-1257), ch. 237, p. 1151, § 1, effective May 17. **L. 2014:** (2.5)(b) amended, (SB 14-165), ch. 161, p. 569, § 1, effective May 9. **L. 2015:** (2.5)(b)(II)(A) amended and (2.5)(c) added, (HB 15-1323), ch. 204, p. 717, § 10, effective May 20; (4.3) added, (HB 15-1321), ch. 217, p. 799, § 8, effective May 22. **L. 2016:** (3.5)(b)(IV) repealed, (SB 16-189), ch. 210, p. 762, § 35, effective June 6.

**Editor's note:** (1) (a) The revisor of statutes received the notices referred to in former subsections (1)(d)(V)(A), (1)(e)(I), (2.5)(a), (3.5)(a), and (4.5)(a) that caused the repeal of those provisions, effective June 27, 2013.

(b) The revisor of statutes received the notices referred to in subsections (1)(d)(V)(B), (1)(e)(II), (2.5)(b), (3.5)(b), and (4.5)(b) that allowed those provisions to become effective June 27, 2013.

(2) Subsection (3.5)(b)(IV) provided for the repeal of subsection (3.5)(b)(II), effective February 15, 2013. (See L. 2010, p. 1063.)

(3) (a) Subsection (2.5)(b)(II)(B) provided for the repeal of subsection (2.5)(b)(II), effective July 1, 2015. (See L. 2014, p. 569.)

(b) Subsection (2.5)(b)(II)(A) was amended in HB 15-1323. Those amendments were superseded by the repeal of subsection (2.5)(b)(II), effective July 1, 2015. For the amendments

to subsection (2.5)(b)(II)(A) in effect from May 20, 2015, to July 1, 2015, see chapter 204, Session Laws of Colorado 2015. (See. L. 2015, p. 717.)

**22-9-107. School district personnel performance evaluation councils - duties.** (1) Every school district and board of cooperative services in the state subject to the provisions of this article shall have an advisory school district personnel performance evaluation council or advisory board of cooperative services personnel performance evaluation council, which shall, at a minimum, consist of the following members to be appointed by the local board of education or board of cooperative services:

(a) In the case of a school district, one teacher, one administrator, and one principal from the school district; one resident from the school district who is a parent of a child attending a school within said district; and one resident of the school district who is not a parent with a child in the district; or

(b) In the case of a board of cooperative services, one teacher, one administrator, and one principal representative of the school district or districts participating in the board of cooperative services; one person employed by the board of cooperative services who is defined as licensed personnel pursuant to section 22-9-103 (1.5); one resident who is a parent of a child attending a school within said district or districts; and one resident representative of the school district or districts participating in the board of cooperative services who is not a parent with a child in said district or districts.

(1.5) If a school district does not employ a principal and an administrator, but employs a single person as both principal and administrator, the school district is in compliance with paragraph (a) of subsection (1) of this section if the person employed as both principal and administrator serves on the advisory school district personnel performance evaluation council in addition to the required teacher and residents of the school district.

(2) Said council shall consult with the local board or board of cooperative services as to the fairness, effectiveness, credibility, and professional quality of the licensed personnel performance evaluation system and its processes and procedures and shall conduct a continuous evaluation of said system.

(3) The council for a school district may be composed of any other school district committee having proper membership, as defined in subsection (1) of this section.

**Source: L. 84:** Entire article added, p. 588, § 1, effective May 14. **L. 92:** Entire section amended, p. 474, § 7, effective April 29. **L. 2000:** (1)(b) and (2) amended, p. 1853, § 47, effective August 2. **L. 2015:** (1.5) added, (HB 15-1321), ch. 217, p. 800, § 9, effective May 22.

**22-9-108. Evaluator training - universities and colleges - duties.** (1) (a) The general assembly finds that credible, fair, and professional evaluations of licensed personnel depend upon high quality, effective training for principals and administrators that is consistent across the state. Therefore, the state board, in evaluating and approving educator preparation programs pursuant to section 22-2-109, and in approving evaluator training programs provided by a school district or a board of cooperative services, shall ensure that said programs meet the requirements specified in this section.

(b) Every university and college within the state that has a principal or administrator preparation program shall ensure that the program includes training in the evaluation of licensed

personnel that meets the requirements specified in this section. In addition, the university or college shall cooperate with the state board in connection with the state board's duties under sections 22-9-104 and 22-2-109.

(c) Every school district and board of cooperative services that provides training in the evaluation of licensed personnel shall ensure that such training meets the requirements specified in this section.

(2) Each university or college that offers a principal or administrator preparation program or school district or board of cooperative services that provides evaluator training shall structure the evaluator training program on a standards-based skill outcome model that takes into account research concerning evaluation of licensed personnel. At a minimum, each evaluator training program shall include standards-based performance assessments of each participant, demonstrated competency, and certification by the university, college, school district, or board of cooperative services of the skills mastered by each participant. The university, college, school district, or board of cooperative services shall work collaboratively with principals and administrators who are responsible for evaluating licensed personnel to develop research-based standards for assessing and certifying evaluator skills. The university, college, school district, or board of cooperative services shall regularly review both the model for the evaluator training program and the program performance standards to ensure that they continue to reflect research concerning evaluation of licensed personnel.

(3) At a minimum, each evaluator training program shall include training in the following areas:

(a) Teaching and learning styles;

(b) Student performance and student assessment;

(c) Data collection and documentation; and

(d) School district standards and state mandates.

**Source: L. 84:** Entire article added, p. 589, § 1, effective May 14. **L. 98:** Entire section R&RE, p. 284, § 1, effective July 1. **L. 2000:** (1) and (2) amended, p. 1853, § 48, effective August 2.

**22-9-109. Exemption from public inspection.** (1) Notwithstanding the provisions of section 24-72-204 (3), C.R.S., the evaluation report and all public records as defined in section 24-72-202 (6), C.R.S., used in preparing the evaluation report shall be confidential and shall be available only to the licensed person being evaluated, to the duly elected and appointed public officials who supervise his or her work, and to a hearing officer conducting a hearing pursuant to the provisions of section 22-63-302 or the court of appeals reviewing a decision of the board of education pursuant to the provisions of section 22-63-302; except that:

(a) The evaluation report of the chief executive officer of any school district, as it relates to the performance of the chief executive officer in fulfilling the adopted school district objectives, fiscal management of the district, district planning responsibilities, and supervision and evaluation of district personnel, must be open for inspection by any person at reasonable times; and

(b) Evaluation reports and all public records as defined in section 24-72-202 (6), C.R.S., used in preparing the evaluation reports are available to individuals responsible for reviewing an appeal made by a nonprobationary teacher pursuant to section 22-9-106 (4.5)(b).

(2) Nothing in this section shall prevent a school district or a board of cooperative services from collecting information concerning an individual educator's performance evaluation ratings and student assessment results linked to the individual educator. A school district or board of cooperative services may use the information collected to fulfill its duties as required by law, including reporting this information in the aggregate at the state, district, or school level. In such instances, the identity of individual educators or students, including but not limited to student assessments results linked to the individual educator, must otherwise remain confidential and must not be published or publicly disclosed in any way that would identify an individual educator.

(3) Nothing in this section shall prevent the use of data collected by the department for bona fide research, when the data is obtained pursuant to the department's protocols for release of data for research purposes and is used in a manner that protects the identity of individual educators and adheres to the applicable provisions of the federal "Family Education Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232 g.

**Source: L. 86, 2nd Ex. Sess.:** Entire section added, p. 58, § 1, effective August 21. **L. 90:** Entire section amended, p. 1129, § 4, effective July 1. **L. 2000:** Entire section amended, p. 1854, § 49, effective August 2. **L. 2013:** Entire section amended, (HB 13-1220), ch. 163, p. 522, § 1, effective May 3.

## ARTICLE 9.5

Principal Development Scholarship Program

**Cross references:** For the legislative declaration contained in the 2006 act enacting this article, see section 7 of chapter 270, Session Laws of Colorado 2006.

**22-9.5-101. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Scholarship program" means the principal development scholarship program created in section 22-9.5-102.

(2) "State board" means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

**Source: L. 2006:** Entire article added, p. 1243, § 8, effective May 26.

**22-9.5-102. Principal development scholarship program - creation - eligibility.** There is hereby created in the department of education the principal development scholarship program. Subject to available appropriations, the scholarship program shall award stipends to assist persons employed as principals in offsetting the costs incurred in obtaining on-going professional development. The state board shall award stipends on a need basis, based on the criteria specified in section 22-9.5-103. The scholarships shall be paid from any moneys available in the principal development scholarship fund created in section 22-9.5-104.

**Source: L. 2006:** Entire article added, p. 1243, § 8, effective May 26.

**22-9.5-103. Scholarship program - rules - criteria for awards.** (1) The state board, by rule, shall establish the procedures by which a person may apply for a stipend through the scholarship program. At a minimum, the rules shall specify the information a person shall submit and the deadlines for submitting the application.

(2) The state board shall award stipends to applying persons based on the following criteria:

(a) A person's demonstrated degree of financial need, based on the resources of the employing school district and the applying person, and the cost of the professional development program for which the person requests a stipend;

(b) A person's demonstrated degree of professional need, based on the applying person's performance evaluations conducted pursuant to the district's licensed personnel performance evaluation system;

(c) The quality of the professional development program or activity for which the person requests a stipend; and

(d) Any other criteria adopted by rule of the state board to identify persons in the greatest need of assistance in obtaining high-quality professional development programs and activities to improve their performance as principals.

(3) The state board shall set the amount of each stipend awarded based on the person's degree of need, the cost of the professional development program or activity for which the person requests a stipend, the amount available in the principal development scholarship fund for the applicable budget year, and the anticipated number of persons who will apply to the scholarship program in the course of the applicable budget year.

**Source: L. 2006:** Entire article added, p. 1243, § 8, effective May 26.

**22-9.5-104. Principal development scholarship fund - created.** (1) There is hereby created in the state treasury the principal development scholarship fund, referred to in this section as the "fund", that shall consist of any moneys that may be credited to the fund pursuant to subsection (2) of this section. The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs associated with the implementation of this article. Any moneys in the fund not expended for the purpose of this article may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

(2) The department is authorized to accept gifts, grants, or donations from any public or private entity to carry out the purposes of this article, subject to the terms and conditions under which given; except that the department shall not accept a gift, grant, or donation if the conditions attached thereto require the use or expenditure thereof in a manner contrary to law. The department shall transmit to the state treasurer any gifts, grants, or donations received pursuant to this subsection (2), and the state treasurer shall credit the same to the fund.

(3) The department may expend up to one percent of the moneys annually appropriated from the fund to offset the costs incurred in implementing this article.

**Source: L. 2006:** Entire article added, p. 1244, § 8, effective May 26.

## ARTICLE 9.7

Early Childhood Educator Development
Scholarship Program

**22-9.7-101. Early childhood educator development scholarship program - creation - eligibility.** Subject to the receipt of sufficient moneys pursuant to section 22-9.7-103, there is hereby created in the department of education, referred to in this article as the "department", the early childhood educator development scholarship program, referred to in this article as the "scholarship program", to award stipends to assist persons employed in early childhood education in offsetting the costs incurred in obtaining an associate of arts degree in early childhood education. The department shall award stipends on a need basis, based on the criteria specified in section 22-9.7-102. The stipends shall be awarded on a yearly basis, and recipients shall reapply each year that they are enrolled in the associate of arts degree program. The scholarships shall be paid from any moneys available in the early childhood educator development scholarship fund created in section 22-9.7-103.

**Source: L. 2010:** Entire article added, (HB 10-1030), ch. 115, p. 388, § 1, effective August 11. **L. 2011:** Entire section amended, (HB 11-1303), ch. 264, p. 1160, § 43, effective August 10.

**22-9.7-102. Scholarship program - rules - criteria for awards.** (1) The department, by rule, shall collaborate with the department of human services, the Colorado community college system, and the office of information technology, to establish the procedures by which a person may apply for a stipend through the scholarship program. At a minimum, the rules shall specify the information a person shall submit and the deadlines for submitting the application.

(2) The department shall award stipends to an applicant based on the following criteria:

(a) The applicant's demonstrated degree of financial need, based on the resources of the applying person and the cost of the associate of arts degree program for which the applicant requests a stipend;

(b) The applicant's demonstrated degree of professional need;

(c) The quality of the associate of arts degree program for which the applicant requests a stipend;

(d) The applicant's commitment to teach in early childhood education for at least two years after receiving the associate of arts degree;

(e) The applicant's current employment in an early childhood capacity; and

(f) Any other criteria adopted by rule of the department to identify applicants in the greatest need of assistance in obtaining a regionally accredited associate of arts degree to improve their performance as early childhood educators.

(3) The department shall set the amount of each stipend awarded based on the applicant's degree of need, the cost of the associate of arts degree program for which the applicant requests a stipend, the amount available in the early childhood educator development scholarship fund for the applicable budget year, and the anticipated number of persons who will apply to the scholarship program in the course of the applicable budget year.

(4) Repealed.

**Source: L. 2010:** Entire article added, (HB 10-1030), ch. 115, p. 388, § 1, effective August 11. **L. 2013:** (4) repealed, (HB 13-1300), ch. 316, p. 1679, § 42, effective August 7.

**22-9.7-103. Early childhood educator development scholarship fund - created.** (1) It is the intent of the general assembly that any costs associated with implementing this article shall be paid for by the receipt of any available federal moneys or other gifts, grants, or donations and that no additional general fund moneys be appropriated for the implementation of the grant program.

(2) The department is authorized to seek, accept, and expend any federal moneys or other gifts, grants, or donations for the purposes of this article. If necessary, any gifts, grants, or donations shall be transmitted to the state treasurer who shall credit them to the early childhood educator development scholarship fund, which fund is hereby created and referred to in this section as the "fund".

(3) The moneys in the fund shall be continuously appropriated to the department for the direct and indirect costs associated with implementing this article. Any moneys in the fund not expended for the purpose of this article may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

(4) The department shall retain only the actual amount of direct and indirect costs necessary to implement this article.

**Source: L. 2010:** Entire article added, (HB 10-1030), ch. 115, p. 389, § 1, effective August 11.

**22-9.7-104. Repeal of article.** (1) (a) On or before July 1, 2011, or July 1 of any year thereafter, the executive director of the department shall notify the revisor of statutes in writing if federal moneys are not received and allocated to the department or if gifts, grants, and donations are not received by the department to provide for the award of grants pursuant to this article.

(b) If the revisor of statutes does not receive notice pursuant to paragraph (a) of this subsection (1), on July 1, 2011, or on July 1 of any year thereafter, the executive director of the department shall notify the revisor of statutes in writing if federal moneys or gifts, grants, or donations are not available to continue to provide for the award of grants pursuant to this article.

(2) This article is repealed, effective the July 1 following the receipt of the notice by the revisor of statutes pursuant to paragraph (a) or (b) of subsection (1) of this section.

**Source: L. 2010:** Entire article added, (HB 10-1030), ch. 115, p. 390, § 1, effective August 11.

**Editor's note:** As of the date of publications, the revisor of statutes has not received the notices referred to in subsection (1)(a) or (1)(b) that would cause the repeal of this article.

## ARTICLE 10

**Editor's note:** This article was added in 1989. It was repealed in 1994 and was subsequently recreated and reenacted in 2014, resulting in the addition, relocation, or elimination of sections as well as subject matter. For amendments to this article prior to 1994, consult the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

**22-10-101. Short title.** The short title of this article 10 is the "Adult Education and Literacy Act".

**Source: L. 2014:** Entire article RC&RE, (HB 14-1085), ch. 343, p. 1526, § 1, effective June 5. **L. 2020:** Entire section amended, (SB 20-009), ch. 253, p. 1231, § 1, effective July 8.

**22-10-102. Legislative declaration.** (1) The general assembly finds that:

(a) Increased educational attainment is a proven pathway out of poverty. In general, research shows that average annual earnings increase and unemployment rates decrease with each successive level of education or training that a person achieves.

(b) Postsecondary education and credential attainment are increasingly central to a person's ability to earn family-sustaining wages, participate more fully in Colorado's twenty-first-century workforce, and contribute to the state's economic health and vitality;

(c) Both nationally and in Colorado, projections indicate that by 2025, two-thirds of all jobs will require some level of postsecondary education or technical skill training;

(d) Colorado has a substantial "middle-skill gap" in its workforce. Middle-skill jobs require some postsecondary education or training but less than a four-year degree. These positions make up approximately forty-seven percent of the state's jobs, but only thirty-six percent of Colorado workers have the training necessary to fill them.

(e) Before Colorado can meet its workforce, educational attainment, and poverty-reduction goals, the state must address the need for adult education. A significant percentage of the state's working-age population lacks a high school diploma or its equivalent. Many of these individuals do not have basic literacy or numeracy skills and are unprepared for participation in postsecondary education and for participation in the twenty-first-century workforce. Further, these individuals are unprepared to provide the learning support and advocacy that their own children or the children they care for require.

(e.5) Literacy and level of educational attainment not only impact an individual's ability to gain employment at a self-sufficiency level, but extensive research shows that they are also key determining factors in the educational success and future employment potential of the individual's children or children for whom the individual is a caregiver. A two-generation approach to increasing literacy and numeracy skills is essential for the workforce of today and tomorrow and for helping to break the cycle of poverty.

(e.7) While some adults require educational programs that will improve their literacy or numeracy skills to gain higher-paying levels of employment, many adults have not completed ninth grade or may otherwise be identified as lowest-level learners. Before these adults can aspire to higher-level employment, they require more basic educational programs that specialize in English language skills and assistance in obtaining a high school equivalency certificate.

(f) Effectively addressing the need for adult education requires the appropriation of state money to fund adult education and literacy programs that participate in workforce development partnerships or education attainment partnerships and that enable individuals to acquire the basic and more advanced skills needed to function effectively as parents, caregivers, employees, and citizens of the United States. Although there are several postsecondary programs that focus on workforce development and skills acquisition, these programs typically assume that participants are or have been in the workforce in some capacity and have already attained a base level of literacy and numeracy. Adult education and literacy programs, however, are typically designed for adults who have been unable to enter the workforce in a meaningful capacity or are limited in their ability to support their children's education or participate in society due to a lack of basic literacy and numeracy skills.

(g) In return for state investment in adult education and literacy programs, these programs must refocus their mission to ensure that more low-skilled, low-income adults attain the basic literacy and numeracy skills that they lack so that they may improve their own and the next generation's ability to participate in the current and future in-demand sectors of employment, function effectively in supporting and advocating for their children's education, and actively participate in society; and

(h) Successfully refocusing the mission of adult education and literacy programs requires the active collaboration and coordination of a variety of state agencies and organizations that are involved in adult education and literacy; elementary, secondary, and postsecondary education; training and credential attainment; workforce development; economic development; and human services.

(2) The general assembly finds, therefore, that it is in the best interests of the state to establish an adult education and literacy grant program to provide state funding for public and private nonprofit adult education and literacy programs. Investing in these programs will enable them to serve a larger share of the state's eligible adult population and ensure that more adults can reach and complete the next level of education and training, thereby leading to better employment outcomes that enable more low-income, low-literacy adults to ultimately achieve economic self-sufficiency and leading to an adult population that is better prepared to support the educational attainment of the next generation and actively participate as citizens in a democratic society.

**Source: L. 2014:** Entire article RC&RE, (HB 14-1085), ch. 343, p. 1526, § 1, effective June 5. **L. 2020:** (1)(e), (1)(f), (1)(g), (1)(h), and (2) amended and (1)(e.5) and (1)(e.7) added, (SB 20-009), ch. 253, p. 1231, § 2, effective July 8.

**22-10-103. Definitions.** As used in this article 10, unless the context otherwise requires:

(1) "Adult education and literacy programs" means programs that provide adult basic education, adult education leading to a high school equivalency credential, English as a second language instruction, or integrated basic education and skills training.

(1.5) "Adult education provider" means one of the following entities that the department recognizes as providing appropriate and effective adult education and literacy programs:

(a) A secondary or postsecondary, public or private, nonprofit educational entity, including but not limited to a school district, charter school, board of cooperative services, state institution of higher education, local district college, and area technical college;

(b) A community-based nonprofit agency or organization;

(c) An Indian tribe or nation;

(d) A library;

(e) A literacy council or other literacy institute;

(f) A business or business association that provides adult education and literacy programs either on site or off site;

(g) A volunteer literacy organization;

(h) A local work force board, as defined in section 8-83-203, that oversees a work force development program described in the "Colorado Career Advancement Act", part 2 of article 83 of title 8;

(i) A one-stop partner, as described in section 8-83-216, under the "Colorado Career Advancement Act", part 2 of article 83 of title 8; or

(j) A consortia of entities described in this subsection (1.5).

(2) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(2.5) "Education attainment partnership" means a collaboration that assists adults in attaining basic literacy and numeracy skills that lead to additional skill acquisition and may lead to postsecondary credentials and employment. At a minimum, an education attainment partnership must consist of at least one adult education provider that is not listed in subsection (1.5)(a) of this section that partners with at least one elementary or secondary school or school district, a public or private institution of higher education, a local district college, or an area technical college.

(3) "Eligible adult" means a person who:

(a) Is at least seventeen years of age;

(b) Is not enrolled in a public or private secondary school; and

(c) (I) Lacks a high school diploma or its equivalent; or

(II) Is in need of English language instruction; or

(III) Lacks sufficient mastery of the basic literacy and numeracy skills necessary to enable the person to function effectively in the workplace.

(4) "English language instruction" means instruction that is designed to assist a person with limited English proficiency to achieve competence in the English language, thus allowing the person to understand and navigate governmental, educational, and workplace systems.

(5) "Grant program" means the adult education and literacy grant program created in section 22-10-104.

(6) "Literacy" means a person's ability to read, write, and speak English at levels of proficiency that are necessary to function on the job and in society, achieve the person's goals, and develop the person's knowledge and potential.

(7) Repealed.

(8) "Numeracy" means a person's ability to compute and solve mathematical problems at levels of proficiency that are necessary to function on the job and in society, achieve the person's goals, and develop the person's knowledge and potential.

(9) "Office" means the office within the department that is responsible for adult education.

(10) "State board" means the state board of education created in section 1 of article IX of the state constitution.

(11) (a) "Workforce development partnership" means a collaboration that assists adults in attaining basic literacy and numeracy skills leading to additional skill acquisition, postsecondary credentials, and employment. At a minimum, a workforce development partnership must include at least one adult education provider, at least one postsecondary education or training provider, and at least one workforce development provider.

(b) For purposes of this subsection (11), a postsecondary education or training provider includes, but need not be limited to:

(I) A state institution of higher education, local district college, or area technical college;

(II) An apprenticeship program;

(III) An entity that provides accelerated education and skills training certificate programs created pursuant to part 9 of article 60 of title 23, C.R.S.;

(IV) An entity that operates programs through the manufacturing career pathway pursuant to part 10 of article 60 of title 23, C.R.S., or another career pathway pursuant to section 24-46.3-104, C.R.S.; and

(V) A community-based workforce development program that is operated through the Colorado customized training program created in section 23-60-306, C.R.S.

(c) For purposes of this subsection (11), a work force development provider includes, but need not be limited to:

(I) A work force development program described in the "Colorado Career Advancement Act", part 2 of article 83 of title 8, C.R.S.; and

(II) A program that is supported by the state work force development council created in article 46.3 of title 24, C.R.S.

**Source: L. 2014:** Entire article RC&RE, (HB 14-1085), ch. 343, p. 1528, § 1, effective June 5. **L. 2015:** (11)(b)(IV) amended, (HB 15-1274), ch. 196, p. 665, § 2, effective August 5. **L. 2016:** (7)(g), (7)(h), and (11)(c)(I) amended, (HB 16-1302), ch. 183, p. 646, § 29, effective May 19; (7)(a) and (11)(b)(I) amended, (HB 16-1082), ch. 58, p. 140, § 4, effective August 10. **L. 2020:** IP and (11)(a) amended; (1.5) and (2.5) added; and (7) repealed, (SB 20-009), ch. 253, p. 1233, § 3, effective July 8.

**22-10-104. Adult education and literacy grant program - created - rules.** (1) (a) There is created in the office the adult education and literacy grant program to provide funding for adult education providers that are members of workforce development partnerships, through which eligible adults receive basic education in literacy and numeracy that leads to additional skills acquisition, postsecondary credential attainment, and employment, or education attainment partnerships that assist adults in attaining basic literacy and numeracy skills that lead to additional skill acquisition, and may lead to postsecondary credentials and employment, for the participating adults and their children or the children for whom they provide care.

(b) An adult education provider may apply to the office to receive a grant pursuant to this article 10 in accordance with the rules, procedures, forms, and timelines adopted by the state board. The office shall review each application and recommend appropriate grant recipients to the state board.

(c) Subject to available appropriations, the state board, taking into consideration the recommendations of the office, shall award adult education and literacy grants to adult education providers. In awarding grants payable from state appropriations, the state board may give

preference to adult education programs that serve populations that are underserved by federal funding. The grants awarded are payable from appropriations from the general fund and from the adult education and literacy grant fund created in section 22-10-107. The state board shall establish the amount and duration of each grant awarded and may award a grant for multiple fiscal years, subject to annual renewal. A grant recipient that receives a multi-year grant must annually submit to the office the necessary information to determine whether the grant recipient is making sufficient progress toward achieving the goals of the adult education and literacy program that were specified in the grant application. If the office finds that a grant recipient is not making sufficient progress toward achieving the goals, the state board shall not renew the grant for subsequent fiscal years.

(d) An adult education provider may use grant money received pursuant to this article 10 in combination with any money received from other public or private sources. An adult education provider may use grant money received pursuant to this article 10 on behalf of a student who lacks basic literacy or numeracy skills or who is enrolled in or has completed the adult education and literacy program or is receiving training from a postsecondary education or training provider or from a workforce development provider that participates in a workforce development partnership with the adult education provider.

(2) The state board, in accordance with the "State Administrative Procedure Act", article 4 of title 24, shall promulgate rules to implement the grant program, which rules must include:

(a) The time frames for submitting applications, reviewing applications, and awarding grants;

(b) The grant application requirements. At a minimum, each applicant must:

(I) Demonstrate that it is an experienced adult education provider with a strong record of providing education, career, and supportive service navigation to assist adult learners in attaining employment, enrolling in postsecondary education, engaging in civic activities, or supporting their own children or children for whom they provide care in achieving academic success;

(II) Demonstrate that it is an active member of a workforce development partnership or an education attainment partnership; and

(III) Specify the measurable goals of the adult education and literacy program that the applying adult education provider expects to achieve using the grant money;

(c) Any factors in addition to those listed in subsection (3) of this section that the office may consider in recommending grant recipients to the state board and that the state board may consider in awarding grants;

(d) The basis for establishing the amount and duration of each grant;

(e) The information that each grant recipient must submit to the office to evaluate the recipient's use of the grant and to prepare the report required in section 22-10-105; and

(f) Any additional rules that the state board finds are necessary to implement the grant program.

(3) The office, in evaluating grant applications, and the state board, in awarding grants, may consider, at a minimum, the following factors:

(a) The percentage of eligible adults expected to be enrolled in the adult education and literacy programs funded by the grant who are members of minority groups;

(a.5) The percentage of adults in the area to be served using grant money who have not completed ninth grade and are not enrolled in or have not completed adult education and literacy programs;

(b) The percentage of eligible adults in the area to be served using grant moneys who do not have high school diplomas or the equivalent and who are not currently enrolled in adult education and literacy programs;

(c) (I) The percentage of eligible adults expected to be enrolled in the adult education and literacy programs funded by the grant who are receiving either state or federal public assistance; or

(II) The percentage of eligible adults in the area to be served who are unemployed workers;

(c.5) Whether the adult education provider serves eligible adults who have not completed ninth grade or may otherwise be identified as lowest-level learners and the adult education provider's demonstrated success in serving these learners; and

(d) The demonstrated success of the adult education provider in enabling adults to attain basic literacy and numeracy skills and in assisting them to attain additional skills, postsecondary credentials, employment, and increased capacity to support the academic achievement of their own children or children for whom they provide care.

**Source: L. 2014:** Entire article RC&RE, (HB 14-1085), ch. 343, p. 1530, § 1, effective June 5. **L. 2015:** (1)(c) amended, (SB 15-108), ch. 12, p. 27, § 1, effective March 13. **L. 2020:** (1), IP(2), (2)(b), (3)(c)(II), and (3)(d) amended and (3)(a.5) and (3)(c.5) added, (SB 20-009), ch. 253, p. 1234, § 4, effective July 8.

**22-10-105. Evaluation of grants - report.** (1) (a) The office shall annually review the information received from adult education and literacy grant recipients to evaluate the effectiveness of the programs that receive grants in meeting the goals set for the programs in the grant applications. The office shall report its conclusions to the state board for purposes of evaluating ongoing grants.

(b) The department may audit the records and accounts of grant recipients relating to grants awarded pursuant to this article 10. An adult education provider shall make the records and accounts available to the department upon request.

(c) Upon completing an adult education and literacy program funded, in whole or in part, by a grant awarded pursuant to this article 10, an adult education provider shall report to the department information concerning the state-funded program that the department specifically requests from the information required by Title II of the federal "Workforce Innovation and Opportunity Act", as amended, 29 U.S.C. sec. 3101 et seq., for federally funded programs. The department may request such additional information as may be required by rule of the state board.

(2) (a) The office shall prepare an annual report concerning the grant program that, at a minimum, addresses the use, allocation, and outcomes of the grant money, including the effectiveness of each program that receives a grant and the continuing level of unmet need for adult education within the state. In evaluating program outcomes, the office may consider, but need not be limited to considering, student participation, completion, educational attainment, employment, and poverty-reduction data and analysis. The report must also include an overview of the collaboration efforts of the office, the department of higher education, the department of labor and employment, the community college system, other adult education providers, other

postsecondary education or training providers, and other workforce development providers in meeting the state's need for adult education and literacy programs and workforce development.

(b) Notwithstanding section 24-1-136 (11)(a)(I), the office shall submit the report to the governor's office; the state board; the joint budget committee of the general assembly; the education committees of the senate and the house of representatives, or any successor committees; the business, labor, and technology committee of the senate, or any successor committee; and the business, labor, economic, and workforce development committee of the house of representatives, or any successor committee. The office shall also post the report on the department's website for public viewing.

**Source: L. 2014:** Entire article RC&RE, (HB 14-1085), ch. 343, p. 1532, § 1, effective June 5. **L. 2017:** (2)(b) amended, (HB 17-1267), ch. 242, p. 995, § 7, effective August 9. **L. 2020:** (1)(b), (1)(c), and (2)(a) amended, (SB 20-009), ch. 253, p. 1236, § 5, effective July 8.

**22-10-106. Adult education and literacy - workforce development - meetings.** (1) The office shall convene periodic meetings of representatives of, at a minimum, the department of higher education, the department of labor and employment, the community college system, other adult education providers, other postsecondary education or training providers, and other workforce development providers to discuss, at a minimum:

(a) Ways to increase the communication and collaboration among adult education and literacy programs, elementary and secondary education programs, postsecondary education or training programs, and workforce development programs within the state; and

(b) The state's workforce development needs and the levels of unmet need for adult education within the state, including identifying particular areas of the state with significant unmet adult education needs.

**Source: L. 2014:** Entire article RC&RE, (HB 14-1085), ch. 343, p. 1533, § 1, effective June 5. **L. 2020:** IP(1) and (1)(a) amended, (SB 20-009), ch. 253, p. 1237, § 6, effective July 8.

**22-10-107. Adult education and literacy grant fund - created.** (1) (a) There is created in the state treasury the adult education and literacy grant fund, referred to in this section as the "fund", consisting of any moneys received by the department pursuant to subsection (2) of this section.

(b) The moneys in the fund are subject to annual appropriation by the general assembly to the department for the direct and indirect costs associated with implementing this article.

(c) Notwithstanding any provision of this article to the contrary, the department, the office, and the state board are not required to implement the provisions of this article unless the general assembly appropriates sufficient state moneys to the fund to offset the costs of implementing the article.

(d) The state treasurer may invest, as provided by law, any moneys in the fund not expended for the purpose of this article. The state treasurer shall credit all interest and income derived from the investment and deposit of moneys in the fund to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year must remain in the fund and shall not be credited or transferred to the general fund or another fund.

(e) Repealed.

(2) The department may receive and expend gifts, donations, or grants of any kind from any public or private entity to carry out the purposes of this article, subject to the terms and conditions under which given; except that the department shall not accept a gift, donation, or grant if the conditions attached to the gift, donation, or grant require the use or expenditure of the gift, donation, or grant in a manner contrary to law. The department shall transmit to the state treasurer any gifts, donations, or grants received pursuant to this subsection (2), and the state treasurer shall credit these amounts to the fund. Implementation of the grant program is not conditioned on the receipt of gifts, donations, or grants pursuant to this subsection (2).

**Source: L. 2014:** Entire article RC&RE, (HB 14-1085), ch. 343, p. 1533, § 1, effective June 5. **L. 2015:** (1)(a) amended and (1)(e) added, (SB 15-108), ch. 12, p. 27, § 2, effective March 13.

**Editor's note:** Subsection (1)(e)(II) provided for the repeal of subsection (1)(e), effective July 1, 2016. (See L. 2015, p. 27.)

## ARTICLE 10.3

Workforce Diploma Pilot Program

**22-10.3-101. Legislative declaration.** (1) The general assembly finds and declares that:

(a) In Colorado, approximately three hundred fifty thousand adults do not have a high school credential;

(b) Research shows that as many as eighty percent of the individuals who left high school without a diploma did so for nonacademic reasons, including the need to work to support themselves or their families; becoming parents; bullying or social anxiety; or falling too far behind to graduate on time;

(c) Education is a significant economic driver; according to Columbia university economist, Henry Levin, the average cost to the state for a student who drops out of high school is two hundred fifty-eight thousand two hundred forty dollars in social services, incarceration expenses, and lost income from taxes over the individual's lifetime; and

(d) When combined with lost wages, the total opportunity cost for one high school dropout is seven hundred fifty-five thousand nine hundred dollars.

(2) Therefore, the general assembly declares that by creating a workforce diploma pilot program that provides Colorado adults with the opportunity to complete a high school diploma, while transferring the risk to providers who receive performance payments only when those students meet performance milestones, the state can better meet its workforce goals for future economic growth.

**Source: L. 2019:** Entire article added, (HB 19-1236), ch. 410, p. 3609, § 1, effective June 1.

**22-10.3-102. Definitions.** As used in this article 10.3, unless the context otherwise requires:

(1) "Department" means the department of education created and existing pursuant to section 24-1-115.

(2) "Eligible student" means a student who:

(a) Is at least twenty-one years of age;

(b) Is a resident of the state of Colorado; and

(c) Lacks a high school diploma.

(3) "Program" means the workforce diploma pilot program created in section 22-10.3-103.

(4) "Qualified provider" means a provider that meets the criteria set forth in section 22-10.3-103 (3) and that:

(a) Is a public, nonprofit, or private accredited, diploma-granting institution with at least two years of experience providing adult dropout recovery services, including recruitment, learning plan development, and proactive coaching and mentoring; or

(b) Is an adult education provider, as defined in section 22-10-103 (1.5).

**Source: L. 2019:** Entire article added, (HB 19-1236), ch. 410, p. 3610, § 1, effective June 1. **L. 2020:** (4)(b) amended, (SB 20-009), ch. 253, p. 1237, § 7, effective July 8.

**22-10.3-103. Workforce diploma pilot program - creation - payments - rules.** (1) There is created in the department, in the office within the department that is responsible for adult education, the workforce diploma pilot program to provide performance payments to qualified providers for eligible students enrolled in a qualified provider's programs who attain certain outcomes, as described in subsection (5) of this section.

(2) On or before August 15 in any fiscal year in which the general assembly appropriates money for the program, the department shall issue a request for qualifications for providers to participate in the program as qualified providers.

(3) The criteria necessary to be a qualified provider includes:

(a) Experience providing dropout recovery services, as provided in section 22-10.3-102 (4);

(b) The ability to provide academic skill intake assessment and transcript evaluations;

(c) The ability to develop a learning plan that integrates academic requirements and career goals;

(d) The ability to provide all instruction necessary to meet or exceed the state board of education's high school graduation guidelines to achieve a high school diploma;

(e) The ability to provide remedial course work in literacy and numeracy;

(f) The ability to provide a research-validated academic resiliency assessment and intervention;

(g) The ability to provide employability skills development aligned to employer needs;

(h) The ability to provide career pathways course work;

(i) The ability to provide preparation for industry-recognized credentials;

(j) The ability to provide career placement services; and

(k) High school diploma accreditation by a recognized regional accrediting body or a consolidation of one or more regional accrediting bodies.

(4) (a) The department shall review qualifications from providers submitted pursuant to subsection (2) of this section to determine whether the provider meets the criteria to be a

qualified provider under the program. Within sixty days after submission of qualifications pursuant to subsection (2) of this section, the department shall publish a list of providers that meet the criteria for a qualified provider pursuant to subsection (3) of this section. A qualified provider is eligible for program payments for outcomes achieved thirty or more days after the department publishes the list of qualified providers.

(b) Once the department determines that a provider is a qualified provider under the program, the provider remains a qualified provider without the need to reapply annually, unless the provider is removed by the department from the list of qualified providers pursuant to subsection (7) of this section.

(5) (a) Except as provided in subsection (5)(b) of this section, in any fiscal year in which the general assembly appropriates money for the program, the department shall disburse payments to qualified providers in the following amounts for each eligible student's completion or attainment of the following outcomes:

(I) Two hundred fifty dollars for completion of each half-credit;

(II) One thousand dollars for completion of an accredited high school diploma;

(III) Two hundred fifty dollars for completion of an employability skills certification program equal to at least one Carnegie unit;

(IV) Two hundred fifty dollars for attainment of an industry-recognized credential requiring up to fifty hours of training;

(V) Five hundred dollars for attainment of an industry-recognized credential requiring between fifty-one and one hundred hours of training; and

(VI) Seven hundred fifty dollars for attainment of an industry-recognized credential requiring more than one hundred hours of training.

(b) (I) The total amount of payments disbursed to one or more qualified providers must not exceed seven thousand dollars for an individual eligible student.

(II) A qualified provider that receives tuition or other payment from or on behalf of an eligible student shall not also receive a payment from the program on behalf of the eligible student for the same course or program.

(6) (a) Qualified providers shall submit invoices on an ongoing basis to the department for payments for student completion or attainment of goals set forth in subsection (5) of this section. The department shall determine the submission dates for the invoices. Subject to available appropriations, qualified providers who submit invoices on or before the dates determined by the department shall receive payments. If available appropriations are insufficient to satisfy all invoices received by the submission date, the department shall reduce all payments by the same percentage until the money is exhausted.

(b) The department shall publish monthly reports for qualified providers indicating the total amount of payments disbursed pursuant to the program and the total number of students enrolled in the program.

(7) (a) (I) The department shall review data from each qualified provider to ensure the programs offered by each qualified provider are meeting minimum program performance standards, including a minimum fifty percent high school graduation rate from the qualified provider's programs, calculated one year in arrears.

(II) For purposes of subsection (7)(a)(I) of this section:

(A) The high school graduation rate for a qualified provider is determined by dividing the total number of high school graduates for the cohort year by the total number of all students for the cohort year for which the qualified provider has received payments; and

(B) The qualified provider's cost per graduate is not more than seven thousand dollars, determined by dividing the total payments received by the qualified provider for the cohort year divided by the total number of students earning a high school diploma.

(b) The department shall place a qualified provider that does not meet the program performance standards established in this section on probationary status for the remainder of the state fiscal year.

(c) The department shall remove a qualified provider from the list of qualified providers if the provider does not meet the performance standards for two consecutive years.

(8) The state board of education may adopt rules for the implementation of the program.

**Source:** Entire article added, (HB 19-1236), ch. 410, p. 3610, § 1, effective June 1.

**22-10.3-104. Pilot program reporting.** (1) On or before August 15 of each year in which program payments were disbursed for the prior state fiscal year, each qualified provider that received payments pursuant to section 22-10.3-103 under the pilot program for the preceding state fiscal year shall report the following information to the department:

(a) The total number of eligible students for whom the qualified provider has received payments;

(b) The total number of credits earned by eligible students for whom the qualified provider is receiving payments;

(c) The total number of employability skills certifications issued to eligible students for whom the qualified provider is receiving payments;

(d) The total number of industry-recognized credentials earned for each tier of funding described in section 22-10.3-103 (5)(a) by eligible students for whom the qualified provider is receiving payments; and

(e) The total number of eligible students for whom the qualified provider is receiving payments who receive high school diplomas.

(2) On or before October 15 of each year in which program payments were disbursed for the prior state fiscal year, the department shall submit to the education and the business affairs and labor committees of the house of representatives, or any successor committees; and to the education and the business, labor, and technology committees of the senate, or any successor committees, a report listing program qualified providers and summarizing the information received from qualified providers pursuant to subsection (1) of this section, and other workforce and postsecondary outcomes, including employment and college enrollment.

**Source: L. 2019:** Entire article added, (HB 19-1236), ch. 410, p. 3613, § 1, effective June 1.

**22-10.3-105. Repeal of article.** This article 10.3 is repealed, effective July 1, 2022.

**Source: L. 2019:** Entire article added, (HB 19-1236), ch. 410, p. 3614, § 1, effective June 1.

## ARTICLE 11

Accreditation

**Editor's note:** This article was added in 1998. This article was repealed and reenacted in 2009, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 2009, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

### PART 1

### GENERAL PROVISIONS

**22-11-101. Short title.** This article shall be known and may be cited as the "Education Accountability Act of 2009".

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1459, § 1, effective May 21.

**22-11-102. Legislative declaration.** (1) The general assembly hereby finds that an effective system of statewide education accountability is one that:

(a) Focuses the attention of educators, parents, students, and other members of the community on maximizing every student's progress toward postsecondary and workforce readiness and postgraduation success;

(b) Reports information concerning performance at the state level, school district or institute level, and individual public school level that is perceived by educators, parents, and students as fair, balanced, cumulative, credible, and useful;

(c) Provides more academic performance information, and fewer labels, to move from a punitive accountability system to one that is positive and focused on learning and achieving high levels of academic performance; and

(d) Holds the state, school districts, the institute, and individual public schools accountable for performance on the same set of indicators and related measures statewide, ensures that those indicators and measures are aligned through a single accountability system, to the extent possible, that objectively evaluates the performance of the thorough and uniform statewide system of public education for all groups of students at the state, school district or institute, and individual public school levels, and, as appropriate, rewards success and provides support for improvement at each level.

(2) The general assembly further finds that an effective education accountability system will be built around implementation of the Colorado growth model that:

(a) Uses a common measure to describe in plain language how much academic growth each student needs to make and how much growth the student actually makes in one year toward proficiency on state content standards;

(b) Incorporates a complete history of each student's assessment scores in calculating the student's needed and achieved academic growth;

(c) Focuses the attention of educators, parents, and students on maximizing students' academic growth and achievement over time and reveals where, and among which groups of students, the strongest academic growth is occurring and where it is not;

(d) Assists the state in closing the achievement gaps that plague the public education system by spotlighting the gaps in students' academic growth rates and ensuring that educators have the data necessary to assist the neediest students in making more than a year's academic growth in a year's time so that these students can catch up to the academic performance levels of their peers; and

(e) Provides data that are recognized by educators, parents, students, the higher education community, the business community, and other stakeholders as fair, balanced, objective, and transparent to support individual school, school district, institute, state, and federal education accountability purposes.

(3) The general assembly concludes, therefore, that it is in the best interests of the state to adopt an aligned education accountability system for public education in this state that:

(a) Holds the state, school districts, the institute, and public schools accountable on statewide performance indicators supported by consistent, objective measures;

(b) Incorporates input from parents, educators, administrators, and the community in establishing clearly defined statewide academic performance objectives;

(c) Reports performance in clear, readily understandable terms;

(d) Is adaptable to accommodate and include additional data that become available as the state implements the "Preschool to Postsecondary Education Alignment Act", part 10 of article 7 of this title, including but not limited to data concerning school readiness and postsecondary success;

(e) Recognizes and rewards areas of success, while also identifying and compelling effective change for areas in need of improvement; and

(f) Ensures the availability of technical assistance, services, and support for public schools, school districts, and the institute to improve students' academic performance.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1459, § 1, effective May 21.

**22-11-103. Definitions.** As used in this article 11, unless the context otherwise requires:

(1) "Accreditation" means certification by the state board that a school district and the public schools of the school district, or the institute and the institute charter schools, meet the requirements established by this article and the rules promulgated pursuant to this article. "Accreditation" includes the process for accrediting school districts and the institute and reviewing the performance of public schools as provided in part 2 of this article and the rules promulgated pursuant to this article.

(2) "Accreditation contract" means:

(a) The contract between the state board and a school district, as described in section 22-11-206, that includes, but is not limited to, the school district's obligation to manage the accreditation of the public schools of the school district consistent with the provisions of this article; or

(b) The contract between the state board and the institute, as described in section 22-11-206, that includes, but is not limited to, the institute's obligation to manage the accreditation of the institute charter schools consistent with the provisions of this article.

(3) "Achievement and growth gaps" means differences among student groups in the levels of academic achievement attained by the student groups on the statewide assessments and differences among student groups in the levels of academic growth attained by the student groups.

(4) "Achievement level" or "performance level" means the level of proficiency a student demonstrates on a statewide assessment.

(5) "Alternative education campus" means a public school that receives a designation pursuant to section 22-7-604.5.

(6) Repealed.

(6.5) "Career and technical education course" means a postsecondary course that, upon successful completion, results in postsecondary course credit toward a career and technical education credential or associates degree in applied science.

(7) Repealed.

(8) "Colorado growth model" means a scientifically rigorous statistical model that the department uses to calculate students' annual academic growth in the subjects included in the statewide assessments based on students' scores on the annual statewide assessments, which model is adopted by the state board pursuant to section 22-11-202.

(9) "Commissioner" means the office of the commissioner of education created and existing pursuant to section 1 of article IX of the state constitution.

(9.5) "Concurrent enrollment" means that a student, while enrolled in high school, enrolls in postsecondary courses as provided in article 35 of this title 22.

(10) "Data portal" means the internet-based electronic data delivery system developed and maintained by the department pursuant to section 22-11-502.

(10.5) "Demonstration options" means the methods by which a high school student may demonstrate college and career readiness as recommended in the high school graduation guidelines adopted by the state board pursuant to section 22-2-106 (1)(a.5) and as specifically selected by the local school board of the school district in which a student is enrolled or by the district charter high school or institute charter high school in which a student is enrolled.

(11) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(11.5) "Developmental education courses" has the same meaning as provided in section 23-1-113 (11)(b).

(12) "District charter school" means a charter school that is authorized by a school district pursuant to the provisions of part 1 of article 30.5 of this title.

(13) "District public school" means a public school of a school district, including but not limited to a district charter school.

(13.5) "General education core courses" means the postsecondary general education core courses in reading, writing, and mathematics identified pursuant to section 23-1-125 (3).

(14) "Improvement plan" means:

(a) The plan described in and adopted by a school district pursuant to section 22-11-304, in which case it may also be referred to more specifically as a "district improvement plan";

(b) The plan described in and adopted by the institute pursuant to section 22-11-304, in which case it may also be referred to more specifically as an "institute improvement plan"; or

(c) The plan described in and adopted by a public school pursuant to section 22-11-404, in which case it may also be referred to more specifically as a "school improvement plan".

(15) "Institute" means the state charter school institute created pursuant to section 22-30.5-503.

(16) "Institute board" means the governing board of the state charter school institute appointed pursuant to section 22-30.5-505 (2).

(17) "Institute charter school" means a charter school that is authorized by the institute pursuant to the provisions of part 5 of article 30.5 of this title.

(18) Repealed.

(19) "Local school board" means the board of education of a school district. "Local school board" also includes the governing board of a board of cooperative services created pursuant to article 5 of this title if the board of cooperative services is operating a public school.

(20) "Measure" means a method of assessing or a means to assess the level of attainment on a performance indicator.

(21) "Median student growth" means, in a ranking of individual student growth scores from highest to lowest, the middle student growth score attained.

(22) Repealed.

(23) "Performance indicators" means the indicators specified in section 22-11-204 for measuring the performance of the state public education system, including each public school, each school district, the institute, and the state as a whole.

(24) "Performance plan" means:

(a) The plan described in and adopted by a school district pursuant to section 22-11-303, in which case it may also be referred to more specifically as a "district performance plan";

(b) The plan described in and adopted by the institute pursuant to section 22-11-303, in which case it may also be referred to more specifically as an "institute performance plan"; or

(c) The plan described in and adopted by a public school pursuant to section 22-11-403, in which case it may also be referred to more specifically as a "school performance plan".

(24.5) "Performance watch" means:

(a) For a school district or the institute, the period of five years during which the school district or institute performs at a level that results in being accredited with priority improvement plan or lower as described in section 22-11-207 (4)(a); and

(b) For a public school, the period of five years during which the public school performs at a level that results in being required to adopt a priority improvement or turnaround plan as described in section 22-11-210 (1)(d)(I).

(25) "Postsecondary and workforce readiness" shall have the same meaning as provided in section 22-7-1003 (15).

(26) Repealed.

(27) "Priority improvement plan" means:

(a) The plan described in and adopted by a school district pursuant to section 22-11-305, in which case it may also be referred to more specifically as a "district priority improvement plan";

(b) The plan described in and adopted by the institute pursuant to section 22-11-305, in which case it may also be referred to more specifically as an "institute priority improvement plan"; or

(c) The plan described in and adopted by a public school pursuant to section 22-11-405, in which case it may also be referred to more specifically as a "school priority improvement plan".

(28) "Public school" has the same meaning as provided in section 22-1-101 and includes, but is not limited to, a district charter school, an institute charter school, and an online school, as defined in section 22-30.7-102 (9.5).

(29) "School district" means a school district authorized by section 15 of article IX of the state constitution and organized pursuant to article 30 of this title. "School district" also includes a board of cooperative services created pursuant to article 5 of this title if it is operating a public school.

(30) "School readiness" shall have the same meaning as provided in section 22-7-1003 (21).

(31) "State board" means the state board of education established pursuant to section 1 of article IX of the state constitution.

(32) "State review panel" means the panel of education experts appointed by the commissioner pursuant to section 22-11-205 to assist the department and the state board in implementing the provisions of this article.

(33) "Statewide assessments" means the assessments administered pursuant to section 22-7-1006.3.

(34) "Student groups" means the grouping of students based on sex, socioeconomic status, race and ethnicity, disability, English language proficiency, and gifted and talented status, as said groups are described by state board rule and federal requirements, and any additional student groups that the state board may describe by rule to align with changes to federal requirements or to provide additional data for analysis of student learning.

(34.3) "Student populations that are significantly represented within the school" means student populations that each constitute at least ten percent of the total population of students in the school, which student populations may include, but need not be limited to, the student populations described in section 22-11-301 (3).

(34.5) "Student populations that are significantly represented within the school district" means student populations that each constitute at least ten percent of the total population of students in the school district, which student populations may include, but need not be limited to, the student populations described in section 22-11-301 (3).

(35) "Target" means a specific, quantifiable outcome that establishes the desired level of attainment on a measure.

(36) "Technical advisory panel" means the panel of state and national experts on the longitudinal measurement of academic growth for accountability purposes appointed by the commissioner pursuant to section 22-11-202 (2).

(37) "Turnaround plan" means:

(a) The plan described in and adopted by a school district pursuant to section 22-11-306, in which case it may also be referred to more specifically as a "district turnaround plan";

(b) The plan described in and adopted by the institute pursuant to section 22-11-306, in which case it may also be referred to more specifically as an "institute turnaround plan"; or

(c) The plan described in and adopted by a public school pursuant to section 22-11-406, in which case it may also be referred to more specifically as a "school turnaround plan".

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1461, § 1, effective May 21. **L. 2010:** (28) amended, (HB 10-1422), ch. 419, p. 2076, § 39, effective August 11. **L. 2012:** (34.3) and (34.5) added, (SB 12-160), ch. 204, p. 813, § 3, effective May 24; (28) amended, (HB 12-1240), ch. 258, p. 1314, § 22, effective June 4; (6) amended, (HB 12-1155), ch. 255, p. 1280, § 5, effective August 8. **L. 2014:** (28) amended, (HB 14-1078), ch. 15, p. 128, § 1, effective February 27. **L. 2015:** (26) repealed and (33) amended, (HB 15-1323), ch. 204, pp. 733, 722, §§ 56, 26, effective May 20. **L. 2017:** IP amended and (6.5), (9.5), (10.5), and (13.5) added, (SB 17-272), ch. 297, p. 1630, § 2, effective August 9. **L. 2018:** (4) amended, (7), (18), and (22) repealed, and (24.5) added, (HB 18-1355), ch. 324, p. 1949, § 8, effective May 30. **L. 2019:** (6) repealed and (11.5) added, (HB 19-1206), ch. 133, p. 599, § 6, effective April 25.

**Cross references:** For the legislative declaration in SB 17-272, see section 1 of chapter 297, Session Laws of Colorado 2017. For the legislative declaration in HB 19-1206, see section 1 of chapter 133, Session Laws of Colorado 2019.

**22-11-104. Rules - college and career readiness achievement standards.** (1) The state board shall promulgate rules pursuant to the "State Administrative Procedure Act", article 4 of title 24, as required in this article 11 and may promulgate such additional rules as it finds necessary for the implementation of this article 11, including but not limited to rules establishing a numbering system to uniquely identify individual students, including students enrolled in the Colorado preschool program created pursuant to section 22-28-104.

(2) (a) For each of the demonstration options by which a high school student may demonstrate college and career readiness, as recommended by the state board in the high school graduation guidelines adopted pursuant to section 22-2-106 (1)(a.5), the state board shall adopt achievement standards that indicate that a student has demonstrated a level of college and career readiness sufficient for high school graduation and higher achievement standards that indicate that a student is prepared, without needing remediation, to enroll in general education core courses. At a minimum, the higher achievement standards must include:

(I) Specified, higher scores on the assessments included in the demonstration options, which scores indicate a student is prepared to enroll in general education core courses without need for remediation; and

(II) Receipt of college course credits for concurrent enrollment in career and technical education courses or general education core courses or higher-level courses.

(b) Subsection (2)(a) of this section does not affect the authority of the Colorado commission on higher education and governing boards of the institutions of higher education to establish and implement the academic admission standards for students for all state-supported institutions of higher education and the policies and procedures for determining a student's need for additional supports to be successful in gateway courses in English and mathematics as provided in section 23-1-113.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1465, § 1, effective May 21; (2)(e) amended, (HB 09-1319), ch. 286, p. 1317, § 4, effective May 21. **L. 2017:** Entire

section amended, (SB 17-272), ch. 297, p. 1631, § 3, effective August 9. **L. 2019:** (2)(b) amended, (HB 19-1206), ch. 133, p. 599, § 7, effective April 25.

**Editor's note:** Subsection (2)(e) was amended in House Bill 09-1319, effective May 21, 2009. However, those amendments were superseded by the repeal and reenactment of this article by Senate Bill 09-163, effective May 21, 2009.

**Cross references:** For the legislative declaration in SB 17-272, see section 1 of chapter 297, Session Laws of Colorado 2017. For the legislative declaration in HB 19-1206, see section 1 of chapter 133, Session Laws of Colorado 2019.

**22-11-105. Funding.** (1) The department is authorized to seek, accept, and expend public and private gifts, grants, and donations for the implementation of this article; except that the department shall not accept a gift, grant, or donation if it is subject to conditions that are inconsistent with this article or any other law of the state.

(2) The general assembly hereby declares that, for purposes of section 17 of article IX of the state constitution, implementation of an aligned education accountability system for public education pursuant to this section is an important element in implementing accountable education reform and accountable programs to meet state academic standards and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

(3) The general assembly anticipates that the department may receive significant amounts of federal moneys that may appropriately be used to implement this article and strongly encourages the department to apply said federal moneys to the greatest extent possible in implementing this article.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1465, § 1, effective May 21.

PART 2

STATE ACCOUNTABILITY

**22-11-201. State public education system - annual performance review - targets for improvement.** (1) (a) The state board shall annually review the performance of the statewide public education system, including but not limited to reviewing the levels of attainment on the performance indicators demonstrated by each public school, each school district, and the institute. Following said review, the state board shall set, reaffirm, or revise, as appropriate, ambitious but attainable statewide targets for the measures used to determine the levels of attainment of the performance indicators for the coming academic year with the goal of raising the level of academic performance in the public schools throughout the state. In setting the targets, the state board shall, to the extent possible, ensure that the targets meet federal law requirements.

(b) In adopting the targets required by paragraph (a) of this subsection (1), the state board shall adopt a set of targets for grades three through twelve.

(2) In adopting the targets required by subsection (1) of this section, the state board shall consider any information provided by public schools, local school boards, the institute, school administrators, teachers and teachers' associations, parents and parents' associations, and institutions of higher education related to the academic performance of the public education system in Colorado.

(3) The state board shall adopt and publish on the data portal the annual statement of targets in accordance with time frames set by state board rule.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1466, § 1, effective May 21.

**22-11-202. Colorado growth model - technical advisory panel - rules.** (1) (a) The state board, by rule, shall adopt, and revise as necessary, the Colorado growth model, which shall be a student longitudinal academic growth model that is available in the public domain. In adopting and revising the Colorado growth model, the state board shall consider recommendations from the technical advisory panel convened pursuant to subsection (2) of this section.

(b) In adopting and revising the Colorado growth model, the state board shall ensure that the model:

(I) Reflects best practices, as acknowledged in the scientific literature, in measuring student longitudinal academic growth with high precision;

(II) To the greatest extent possible, uses a method that will support the academic improvement of public schools, school districts, and the institute;

(III) Can measure a student's progress toward meeting each of the performance levels identified by state board rule on the statewide assessments;

(IV) Can gauge each student's success in making one year's academic growth or more in one year's time;

(V) Provides results that are meaningful, reliable, and valid, given their intended purposes, to enable parents, teachers, and administrators to identify individual students or groups of students who are or are not making adequate academic growth;

(VI) Recognizes the improvement of a student whose scores on the statewide assessments increase even if the increase is not sufficient for the student to attain a higher performance level;

(VII) Uses individual student scores achieved on the statewide assessments;

(VIII) Is described in a publicly available document that sets forth the mathematical equations used in the model and that fully and accurately explains the methods used to complete the records for students with incomplete data; and

(IX) Can treat the analysis and reporting of data electronically and produces student, public school, school district, institute, and state reports that the department provides to school districts, the institute, public schools, and the public through the data portal.

(c) Repealed.

(2) (a) To assist the department in implementing the Colorado growth model, the commissioner shall appoint a technical advisory panel of state and national experts on the longitudinal measurement of academic growth for accountability purposes. The members of the

technical advisory panel shall serve at the will of the commissioner and shall not receive compensation or reimbursement for expenses.

(b) The department shall convene meetings of the technical advisory panel as necessary and within existing appropriations to review the Colorado growth model and make recommendations to the state board. All meetings of the technical advisory panel shall be open.

(c) The department and the state board shall consult with the technical advisory panel concerning:

(I) The scores on the kindergarten and first, second, and third grade reading assessments approved pursuant to section 22-7-1209 (1)(b) that will identify, as required in section 22-7-1209 (1)(a), the minimum reading competency skill levels in the areas of phonemic awareness, phonics, vocabulary development, reading fluency, including oral skills, and reading comprehension for kindergarten and first, second, and third grades;

(II) The amount of additional credit toward accreditation that each local education provider may receive pursuant to section 22-11-204 (3)(b); and

(III) Methods of including in the accreditation process consideration of student progress in attaining reading competency, as defined in section 22-7-1203 (10), in kindergarten and first and second grade.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1466, § 1, effective May 21. **L. 2012:** (2)(c) added, (HB 12-1238), ch. 180, p. 667, § 3, effective July 1. **L. 2015:** (1)(c) repealed, (HB 15-1323), ch. 204, p. 733, § 57, effective May 20. **L. 2018:** (1)(b)(III) and (1)(b)(VI) amended, (HB 18-1355), ch. 324, p. 1949, § 9, effective May 30.

**22-11-203. Student longitudinal academic growth - calculation - data - research.** (1) (a) Each school year by a date established in state board rules, the department shall calculate, to the extent practicable, what will constitute adequate longitudinal academic growth for each student for that school year in each subject that is included in the statewide assessments.

(b) The department shall use data available for longitudinal analysis to review and revise the calculation of adequate longitudinal academic growth as necessary.

(c) and (d) Repealed.

(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) Repealed.

(4) The department, school districts, the institute, and public schools shall maintain the confidentiality of each student's statewide assessment scores consistent with the federal "Family Educational Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232g, and all federal regulations and applicable guidelines adopted in accordance therewith.

(5) The school district or the district charter school or institute charter school in which a student is enrolled shall maintain the academic growth information received from the department pursuant to subsection (2) of this section in the student's individual student record maintained by the school district or by the district charter school or institute charter school.

(6) The department shall provide technical assistance and training to school districts, the institute, and public schools to assist school district, institute, and public school personnel in interpreting, using, and communicating to parents the academic growth information provided pursuant to subsection (2) of this section. The department shall pay the costs of providing technical assistance and training pursuant to this subsection (6) within existing appropriations or from any gifts, grants, or donations received for implementing this section.

(7) The department, upon request, shall make available to qualified researchers the entire longitudinally linked dataset created pursuant to section 22-11-202 and used for generating academic growth information pursuant to this section and for awarding the governor's distinguished improvement awards. For purposes of this subsection (7), qualified researchers shall include, but need not be limited to, institutions of higher education, school districts, and public policy research and advocacy organizations. The department shall provide the data in a format that allows the data to be linked with other publicly available data in the state and shall include all available data regarding student demographics, the state's school identification numbers, and student-level performance data, while protecting the privacy of individual students in a manner consistent with the federal "Family Educational Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232g, and all federal regulations and applicable guidelines adopted in accordance therewith.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1468, § 1, effective May 21. **L. 2011:** (2) and (3) amended, (HB 11-1277), ch. 306, p. 1474, § 3, effective August 10. **L. 2018:** (1)(a) amended and (1)(c), (1)(d), and (3) repealed, (HB 18-1355), ch. 324, p. 1950, § 10, effective May 30.

**22-11-204. Performance indicators - measures - repeal.** (1) (a) The department shall annually determine the level of attainment of each public school, each school district, the institute, and the state as a whole on each of the following performance indicators:

(I) Student longitudinal academic growth, based on students' academic progress, relative to student peers and across school years, toward meeting the state standards adopted pursuant to section 22-7-1005, as measured by students' scores on the statewide assessments administered pursuant to section 22-7-1006.3;

(II) Student academic achievement, based on students' academic performance relative to the grade-level state standards adopted pursuant to section 22-7-1005, as measured by performance on the statewide assessments administered pursuant to section 22-7-1006.3; and

(III) Student academic growth to standards, based on students' progress toward meeting the state standards adopted pursuant to section 22-7-1005 or, for students who meet grade-level expectations on the state standards, progress toward higher levels of achievement, if available, as measured by the statewide assessments administered pursuant to section 22-7-1006.3.

(b) In addition, the department shall annually determine the level of attainment of each public high school, each school district, the institute, and the state as a whole on the postsecondary and workforce readiness performance indicator, based on the measures specified in subsection (4) of this section.

(c) The state board, after considering the recommendations of the technical advisory panel, shall by rule specify how the performance of each public school, each school district, the institute, and the state as a whole is calculated for the performance indicators described in subsection (1)(a) of this section.

(d) For purposes of calculating performance for the performance indicator concerning student academic achievement, the state board shall ensure that the calculation includes consideration of the academic achievement of students enrolled in third and fourth grade who are identified as having significant reading deficiencies and provides additional credit for public schools, school districts, and the institute that demonstrate higher levels of performance on the state reading assessment or the statewide English language arts assessment by said students.

(2) and (3) Repealed.

(4) The department shall determine the level of attainment of each public high school, each school district, the institute, and the state as a whole on the postsecondary and workforce readiness indicator by using, at a minimum, the following measures:

(a) For each public high school, the department shall calculate:

(I) The percentages of students enrolled in the eleventh grade in the public high school who score at each achievement level on the standardized, curriculum-based, achievement, college entrance examination administered as a statewide assessment or the percentages of students enrolled in each of the grade levels included in the public high school who score at each achievement level on the assessments administered pursuant to section 22-7-1006.3 by the public high school;

(II) As soon as the data is available, the percentage of students graduating from the public high school who receive a diploma that includes a postsecondary and workforce readiness endorsement as described in section 22-7-1009 (1) and the percentage who receive a diploma that includes an endorsement for exemplary demonstration of postsecondary and workforce readiness as described in section 22-7-1009 (2);

(III) (A) The graduation and dropout rates, as defined by rule of the state board.

(B) Beginning in the 2020-21 school year, for purposes of this subsection (4)(a)(III), a student who is enrolled in special education services, as defined in section 22-20-103 (23), must be counted in the public high school's graduation rate in the school year in which the student completes the minimum graduation requirements. Nothing in this subsection (4)(a)(III)(B) limits the right to a free appropriate public education for a student as provided by the federal "Individuals with Disabilities Education Act", 20 U.S.C. sec. 1400 et seq., as amended; the "Exceptional Children's Educational Act", article 20 of this title 22; or any other federal or state law or rule.

(IV) Beginning in the 2016-17 school year, the percentages of students graduating from the public high school who, in the school year immediately following graduation from high

school, enroll in a career and technical education program, community college, or four-year institution of higher education. The department shall weight each postsecondary enrollment option equally in determining a public high school's level of attainment of this measure.

(IV.5) Beginning in the 2018-19 school year, or in the first school year for which data is available, the percentage of students graduating from the public high school who, in the school year immediately following graduation from high school, enlist in the military. The department shall weight military enlistment equally with the postsecondary enrollment options described in subsection (4)(a)(IV) of this section in determining a public high school's level of attainment on the postsecondary and workforce readiness indicator.

(V) Beginning in the 2020-21 school year, the percentage of students enrolled in the public high school who demonstrate college and career readiness, based on the demonstration options available to the students enrolled in the public high school, at the higher achievement level adopted by the state board that indicates a student is prepared, without needing remediation, to enroll in general education core courses;

(VI) Beginning in the 2020-21 school year, the percentage of students enrolled in the public high school who successfully complete an advanced placement course in a subject other than English language arts or math and earn a score of three or higher on the end-of-course advanced placement exam, the percentage of students who successfully complete a concurrent enrollment course in a subject other than English language arts or math and earn a grade of "B" or higher in the course, and the percentage of students who successfully complete an international baccalaureate course in a subject other than English language arts or math and earn a score of four or higher.

(b) For each school district and the institute, the department shall calculate:

(I) The overall percentages of students enrolled in the eleventh grade in all of the district public high schools or all institute charter high schools who score at each achievement level on the standardized, curriculum-based, achievement, college entrance examination administered as a statewide assessment or the percentages of students enrolled in each of the grade levels included in the public high schools who score at each achievement level on the assessments administered pursuant to section 22-7-1006.3 by the public high schools;

(II) Beginning with the first school year for which criteria are adopted pursuant to section 22-7-1009 (1) for awarding diplomas that are endorsed for postsecondary and workforce readiness and for each school year thereafter, the overall percentage of all students graduating from the district public high schools or from the institute charter high schools who receive diplomas that are endorsed for postsecondary and workforce readiness as described in section 22-7-1009 (1) and the percentage who receive diplomas that are endorsed for exemplary demonstration of postsecondary and workforce readiness as described in section 22-7-1009 (2);

(III) (A) The overall graduation and dropout rates, as defined by rule of the state board, for the district public high schools or the institute charter high schools.

(B) Beginning in the 2020-21 school year, for purposes of this subsection (4)(b)(III), a student who is enrolled in special education services, as defined in section 22-20-103 (23), must be counted in the school district's and the institute's graduation rate in the school year in which the student completes the minimum graduation requirements. Nothing in this subsection (4)(b)(III)(B) limits the right to a free appropriate public education for a student as provided by the federal "Individuals with Disabilities Education Act", 20 U.S.C. sec. 1400 et seq., as

amended; the "Exceptional Children's Educational Act", article 20 of this title 22; or any other federal or state law or rule.

(IV) Beginning in the 2016-17 school year, the overall percentages of students graduating from all of the district public high schools or all institute charter high schools who, in the school year immediately following graduation from high school, enroll in a career and technical education program, community college, or four-year institution of higher education. The department shall weight each postsecondary enrollment option equally in determining a school district's or the institute's level of attainment of this measure.

(IV.5) Beginning in the 2018-19 school year, or in the first school year for which data is available, the overall percentages of students graduating from all of the district public high schools or all institute charter high schools who, in the school year immediately following graduation from high school, enlist in the military. The department shall weight military enlistment equally with the postsecondary enrollment options described in subsection (4)(b)(IV) of this section in determining a school district's or the institute's level of attainment on the postsecondary and workforce readiness indicator.

(V) Beginning in the 2020-21 school year, the overall percentage of students enrolled in the district public high schools or all of the institute charter high schools who demonstrate college and career readiness, based on the demonstration options offered by the district charter high schools, the school district, or the institute charter high schools, at the higher achievement level adopted by the state board that indicates a student is prepared, without needing remediation, to enroll in general education core courses;

(VI) Beginning in the 2020-21 school year, the overall percentage of students enrolled in the district public high schools or institute charter high schools who successfully complete an advanced placement course in a subject other than English language arts or math and earn a score of three or higher on the end-of-course advanced placement exam, the percentage of students who successfully complete a concurrent enrollment course in a subject other than English language arts or math and earn a grade of "B" or higher in the course, and the percentage of students who successfully complete an international baccalaureate course in a subject other than English language arts or math and earn a score of four or higher.

(c) For the state, the department shall calculate:

(I) The percentages of students enrolled in the eleventh grade in public high schools statewide who score at each achievement level on the standardized, curriculum-based, achievement, college entrance examination administered as a statewide assessment or the percentages of students enrolled in each of the grade levels included in the public high schools statewide who score at each achievement level on the assessments administered pursuant to section 22-7-1006.3 by the public high schools;

(II) Beginning with the 2011-12 school year and for each school year thereafter, the overall percentage of all students graduating from the public high schools in the state who receive diplomas that are endorsed for postsecondary and workforce readiness as described in section 22-7-1009 (1) and the percentage who receive diplomas that are endorsed for exemplary demonstration of postsecondary and workforce readiness as described in section 22-7-1009 (2);

(III) (A) The statewide graduation and dropout rates, as defined by rule of the state board, for the public high schools in the state.

(B) Beginning in the 2020-21 school year, for purposes of this subsection (4)(c)(III), a student who is enrolled in special education services, as defined in section 22-20-103 (23), must

be counted in the statewide graduation rate in the school year in which the student completes the minimum graduation requirements. Nothing in this subsection (4)(c)(III)(B) limits the right to a free appropriate public education for a student as provided by the federal "Individuals with Disabilities Education Act", 20 U.S.C. sec. 1400 et seq., as amended; the "Exceptional Children's Educational Act", article 20 of this title 22; or any other federal or state law or rule.

(IV) Beginning in the 2016-17 school year, the percentages of students graduating from public high schools statewide who, in the school year immediately following graduation from high school, enroll in a career and technical education program, community college, or four-year institution of higher education. The department shall weight each postsecondary enrollment option equally in determining the state's level of attainment of this measure.

(IV.5) Beginning in the 2018-19 school year, or in the first school year for which data is available, the percentage of students graduating from public high schools statewide who, in the school year immediately following graduation from high school, enlist in the military. The department shall weight military enlistment equally with the postsecondary enrollment options described in subsection (4)(c)(IV) of this section in determining the state's level of attainment on the postsecondary and workforce readiness indicator.

(V) Beginning in the 2020-21 school year, the overall percentage of students enrolled in the public high schools statewide who demonstrate college and career readiness, based on the demonstration options available to the students enrolled in each public high school, at the higher achievement level adopted by the state board that indicates a student is prepared, without needing remediation, to enroll in general education core courses;

(VI) Beginning in the 2020-21 school year, the overall percentage of students enrolled in the public high schools of the state who successfully complete an advanced placement course in a subject other than English language arts or math and earn a score of three or higher on the end-of-course advanced placement exam, the percentage of students who successfully complete a concurrent enrollment course in a subject other than English language arts or math and earn a grade of "B" or higher in the course, and the percentage of students who successfully complete an international baccalaureate course in a subject other than English language arts or math and earn a score of four or higher.

(5) In measuring the performance of a public school, a school district, the institute, or the state on each of the performance indicators, the department shall disaggregate the measures for each indicator by student group. The department shall separately account for the performance of each student group in determining the overall performance on a performance indicator by a public school, a school district, the institute, or the state.

(6) Notwithstanding any provision of this section to the contrary:

(a) In calculating the levels of attainment of the performance indicators, the department shall ensure compliance with the federal statutes and regulations and may adjust the calculation methods as necessary to ensure said compliance;

(b) To comply with the privacy requirements of the federal "Family Educational Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232g and any other federal requirements, the department may forego the calculations required in this section for a public school or a grade level in which the number of enrolled students is less than a minimum number determined by department policy. If the department does not calculate the levels of attainment of the performance indicators as provided in this section for a public school, the department shall determine an alternate method of measuring the public school's performance that is comparable

to the provisions of this section and complies with the requirements of federal statutes and regulations.

(c) The department may adjust the calculations specified in this section as necessary to take into account students for whom no score is recorded on the statewide assessments or the standardized, curriculum-based, achievement, college entrance examination.

(7) The department shall report on the data portal the levels of attainment on the performance indicators, as measured pursuant to this section, for each public school in the state, each school district, the institute, and the state as a whole; except that, in reporting data disaggregated by student groups, the department shall not report data for any student group that is smaller than the minimum number of students necessary to protect student privacy, as determined by the department.

(8) (a) Notwithstanding the provisions of this section to the contrary, as a result of the suspension of normal in-person learning in Colorado schools due to the presence of COVID-19 in the state, the department is not required to determine for the 2019-20 school year the level of attainment of each public school, each school district, the institute, and the state as a whole on the performance indicators described in this section.

(b) This subsection (8) is repealed, effective July 1, 2021.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1470, § 1, effective May 21. **L. 2012:** (4)(b)(II) amended, (HB 12-1345), ch. 188, p. 729, § 19, effective May 19; (4)(a)(II) amended, (HB 12-1240), ch. 258, p. 1310, § 7, effective June 4; (3) amended, (HB12-1238), ch. 180, p. 667, § 4, effective July 1. **L. 2015:** (4)(a)(I), (4)(b)(I), (4)(c)(I), (5)(a)(I)(F), (5)(b)(I)(F), (5)(c)(I)(F), and (6)(c) amended, (HB 15-1323), ch. 204, p. 734, § 58, effective May 20; (4), (5)(a)(I)(F), (5)(b)(I)(F), and (5)(c)(I)(F) amended, (HB 15-1170), ch. 224, p. 819, § 1, effective May 26. **L. 2017:** (4)(a)(III), (4)(b)(III), (4)(c)(III), (5)(a)(I)(F), (5)(b)(I)(F), and (5)(c)(I)(F) amended and (4)(a)(V), (4)(b)(V), and (4)(c)(V) added, (SB 17-272), ch. 297, p. 1632, § 4, effective August 9. **L. 2018:** (1)(a) amended, (1)(c) and (1)(d) added, (2) and (3) repealed, and (5) R&RE, (HB 18-1355), ch. 324, pp. 1951, 1952, §§ 11, 12, effective May 30; (4)(a)(IV.5), (4)(b)(IV.5), and (4)(c)(IV.5) added, (SB 18-012), ch. 305, p. 1850, § 1, effective August 8; (4)(a)(VI), (4)(b)(VI), and (4)(c)(VI) added, (HB 18-1019), ch. 306, p. 1852, § 1, effective August 8. **L. 2019:** (4)(a)(III), (4)(b)(III), and (4)(c)(III) amended, (HB 19-1066), ch.16, p. 60, § 1, effective March 7. **L. 2020:** (8) added, (HB 20-1418), ch. 197, p. 958, § 45, effective June 30.

**Editor's note:** Amendments to subsections (4)(a)(I), (4)(b)(I), (4)(c)(I), (5)(a)(I)(F), (5)(b)(I)(F), and (5)(c)(I)(F) by HB 15-1323 and HB 15-1170 were harmonized.

**Cross references:** For the legislative declaration in the 2012 act amending subsection (4)(b)(II), see section 11 of chapter 188, Session Laws of Colorado 2012. For the legislative declaration in SB 17-272, see section 1 of chapter 297, Session Laws of Colorado 2017. For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

**22-11-205. State review panel - creation.** (1) (a) The commissioner shall recruit an appropriate number of highly qualified persons to serve when needed as a state review panel.

The commissioner, with the approval of the state board, shall appoint the members of the state review panel to assist the department and the state board as provided in this article.

(b) In appointing the members of the state review panel, the commissioner shall select persons on the basis of demonstrated expertise in one or more of the following fields:

(I) School district or school leadership or governance;

(II) Standards-based elementary or secondary curriculum instruction and assessment;

(III) Instructional data management and analysis;

(IV) School district, school, or program evaluation;

(V) Educational program management;

(VI) Teacher leadership;

(VII) Organizational management or school district and public school governance;

(VIII) School district or school budgeting and finance;

(IX) Any other field that the commissioner deems to be relevant to the review and evaluation of school district, institute, or public school performance or improvement planning.

(c) In assigning members of the state review panel, the commissioner shall ensure that an individual does not participate in a site visit or review of a school district, the institute, or a public school if the individual, directly or through his or her employer, has been paid by the school district, the institute, the public school, or the department to provide services for the school district, institute, or public school while the school district, institute, or public school is accredited with priority improvement plan, accredited with turnaround plan, or required to adopt a priority improvement or turnaround plan. If an individual who, as part of the state review panel, participates in a site visit or review of a school district, the institute, or a public school is employed by an entity that later seeks to provide services to the school district, institute, or public school, the individual shall not use any information obtained as a result of the review to benefit the employing entity unless the information has been made public.

(2) The commissioner shall convene all or a portion of the state review panel as necessary to carry out the duties specified in this article.

(3) The department may accept and expend moneys received from gifts, grants, or donations to compensate members of the state review panel or reimburse them for expenses incurred in performing their duties pursuant to this article. The department shall not pay compensation or reimbursements if sufficient moneys are not available.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1477, § 1, effective May 21. **L. 2018:** (1)(c) added, (HB 18-1355), ch. 324, p. 1948, § 6, effective May 30.

**22-11-206. Accreditation of school districts and institute - contracts - rules.** (1) Pursuant to the authority vested in the state board by section 1 of article IX of the state constitution to exercise general supervision over the public schools in the state, the state board shall annually accredit the school districts and the institute as provided in this article and pursuant to rules adopted by the state board in accordance with this article.

(2) The state board shall enter into an accreditation contract with each local school board and with the institute. Each accreditation contract shall have a term of one year and shall be automatically renewed each year so long as the school district or the institute remains in the accreditation category of accredited or higher. The parties to each accreditation contract may renegotiate the contract at any time during the term of the contract, based on appropriate and

reasonable changes in the circumstances upon which the original contract terms were based. The state board shall promulgate rules specifying the contents and terms of the accreditation contract in accordance with the provisions of this article.

(3) Each accreditation contract shall, at a minimum, address the following elements:

(a) The school district's or institute's level of attainment on the performance indicators, as determined pursuant to section 22-11-204;

(b) The school district's or the institute's adoption and implementation of its performance, improvement, priority improvement, or turnaround plan, whichever is appropriate based on the school district's or institute's accreditation category;

(c) The school district's implementation of its system for accrediting the district public schools or the institute's implementation of its system for accrediting the institute charter schools; and

(d) The school district's or institute's substantial, good-faith compliance with the provisions of this title and other statutory and regulatory requirements applicable to school districts and the institute.

(4) (a) For purposes of monitoring a school district's or the institute's substantial and good-faith compliance with the provisions of this title and other statutory and regulatory requirements, the department shall obtain assurances from the school district or the institute that it is in compliance with:

(I) The provisions of article 44 of this title concerning budget and financial policies and procedures;

(II) The provisions of article 45 of this title concerning accounting and financial reporting; and

(III) If the accreditation contract involves a school district, the provisions of section 22-32-109.1 concerning school safety.

(b) With regard to statutory and regulatory requirements, other than those specified in paragraph (a) of this subsection (4), that are applicable to school districts, the superintendent of the school district and the local school board members shall affirm that the school district and the district public schools are in substantial, good-faith compliance with the statutory and regulatory requirements. If the department has reason to believe that the school district is not in substantial compliance with one or more of the statutory or regulatory requirements, the department shall notify the local school board that it has ninety days after the date of notice to come into compliance. If, at the end of the ninety-day period, the department finds that the school district is not substantially in compliance with the statutory or regulatory requirements, the school district may be subject to the interventions specified in this article.

(c) With regard to statutory and regulatory requirements, other than those specified in paragraph (a) of this subsection (4), that are applicable to the institute, the members of the institute board and the executive director of the institute shall affirm that the institute and the institute charter schools are in substantial, good-faith compliance with the statutory and regulatory requirements. If the department has reason to believe that the institute is not in substantial compliance with one or more of the statutory or regulatory requirements, the department shall notify the institute that it has ninety days after the date of notice to come into compliance. If, at the end of the ninety-day period, the department finds that the institute is not in substantial compliance with the statutory or regulatory requirements, the institute may be subject to the interventions specified in this article.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1477, § 1, effective May 21.

**22-11-207. Accreditation categories - criteria - rules.** (1) The state board shall promulgate rules to establish accreditation categories that shall include, but need not be limited to:

(a) "Accredited with distinction", meaning a school district or the institute meets or exceeds the statewide targets or targets annually set by the school district or the institute or exceeds statewide attainment on the performance indicators and is required to adopt and implement a performance plan as described in section 22-11-303;

(b) "Accredited", meaning a school district or the institute meets statewide attainment on the performance indicators and is required to adopt and implement a performance plan as described in section 22-11-303;

(c) "Accredited with improvement plan", meaning the school district or the institute is required to adopt and implement an improvement plan as provided in section 22-11-304;

(d) "Accredited with priority improvement plan", meaning the school district or the institute is required to adopt and implement a priority improvement plan as provided in section 22-11-305; or

(e) "Accredited with turnaround plan", meaning the school district or the institute is required to adopt, with the commissioner's approval, and implement a turnaround plan as provided in section 22-11-306.

(2) The state board shall promulgate rules establishing objective, measurable criteria that the department shall apply in determining the appropriate accreditation category for each school district and the institute, placing the greatest emphasis on attainment of the performance indicators. At a minimum, the rules must take into consideration:

(a) A school district's or the institute's level of attainment of the statewide targets on the performance indicators;

(b) A school district's or the institute's level of attainment of the performance indicators compared with statewide attainment of the performance indicators;

(c) to (f) Repealed.

(g) The performance of students enrolled in the school district's or institute's alternative education campuses, taking into account the unique purposes of the campuses and the unique circumstances of and challenges posed by students enrolled in the campuses; and

(h) The school district's or the institute's compliance with the other requirements specified in the accreditation contract.

(2.5) (a) The department shall notify each school district and the institute of its initial accreditation assignment. If a school district or the institute disagrees with the department's initial accreditation assignment, the school district or institute may submit to the department a request for reconsideration. The state board shall promulgate rules specifying the information the department must take into account in determining the school district's or institute's final accreditation category, which may include:

(I) The length of time during which the school district or institute has been unable to meet the statewide targets;

(II) The improvements, changes, and interventions the school district or institute has implemented and is implementing to improve its performance if it is not meeting the statewide targets;

(III) The progress the school district or institute is making in improving its performance and in approaching achievement of the statewide targets and the degree to which the school district or institute is not achieving the statewide targets;

(IV) The pupil enrollment of the school district as it may affect the reliability of the assessment data;

(V) The percentages of students enrolled in high schools of the school district, or institute charter high schools for purposes of the institute, who, based on attainment of course credits or demonstrated competencies, are on schedule to graduate within four, five, six, or seven years; and

(VI) Any supplemental data for grade levels for which there are not statewide assessments that indicate the school district or institute is meeting the statewide targets on the performance indicators, if the department determines the supplemental data is valid and reliable and derived from assessments that are aligned with the state standards adopted pursuant to section 22-7-1005.

(b) The department shall notify each school district and the institute of its final accreditation category within the time frames adopted by rule of the state board.

(3) In promulgating rules pursuant to this section, the state board shall use clear, understandable language to describe the accreditation categories and the levels of attainment of the performance indicators, with the goal of providing a high degree of transparency in the accreditation process.

(4) (a) Beginning with the 2018-19 school year, if a school district or the institute performs at a level that results in being accredited with priority improvement plan or lower for two consecutive years followed by three consecutive or nonconsecutive years, resulting in a total of five years of performance at such a level, the state board shall require the school district or institute to take significant action as provided in section 22-11-209; except that, before the five years have accumulated, if the school district or institute performs for at least two consecutive years at a level that results in being accredited with improvement plan or higher, the five years stop accumulating unless the school district or institute again performs at a level that results in being accredited with priority improvement plan or lower for two consecutive years, at which time the school district or institute is again in the first two of the five years. For the time during which the five years of performance are accumulating, a school district or the institute is on performance watch.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (4), for purposes of calculating whether a school district or the institute is accredited with priority improvement plan or below for longer than a total of five consecutive school years, the department shall exclude the 2015-16 school year, during which the department does not assign accreditation ratings as provided in section 22-11-208 (1.5), from the calculation and shall count the 2016-17 school year as if it were consecutive to the 2014-15 school year.

(5) Notwithstanding any provision of subsection (4)(a) of this section or section 22-11-209 (2)(a) to the contrary, at the request of a school district, in consultation with the district accountability committee, or the institute, the state board may direct the school district or institute to take significant actions as provided in section 22-11-209 even though the school

district or institute has not completed the five years of performance watch. If the state board requires the school district or institute to take significant actions, the school district or institute is subject to the provisions of section 22-11-209 (3.5).

(6) The priority improvement or turnaround plan that a school district or the institute adopts for the fourth year in which the school district or institute is on performance watch must include a general explanation for how the school district or institute may put into effect each of the actions described in section 22-11-209 (2)(a)(I) for a school district or section 22-11-209 (2)(a)(II) for the institute.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1479, § 1, effective May 21. **L. 2013:** (2)(f) and (2)(g) amended and (2)(h) added, (SB 13-217), ch. 354, p. 2068, § 1, effective May 28. **L. 2015:** (4) amended, (HB 15-1323), ch. 204, p. 715, § 7, effective May 20. **L. 2018:** IP(2), (2)(a), and (4)(a) amended, (2)(c), (2)(d), (2)(e), and (2)(f) repealed, and (2.5), (5), and (6) repealed, (HB 18-1355), ch. 324, p. 1937, § 1, effective May 30. **L. 2018:** IP(2), (2)(a), and (4)(a) amended, (2)(c) to (2)(f) repealed, and (2.5), (5), and (6) added, (HB 18-1355), ch. 324, p. 1937, § 1, effective May 30.

**22-11-208. Accreditation - annual review - supports and interventions - rules.** (1) (a) The department shall annually review each school district's and the institute's performance and, based on the rules of the state board, determine the appropriate accreditation category for the school district or institute. The department shall notify each school district and the institute of its accreditation category and shall publish each school district's and the institute's accreditation category, with supporting data, on the data portal. The department shall also publish each school district's and the institute's performance, improvement, priority improvement, or turnaround plan, whichever is applicable, on the data portal following adoption of the plan.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (1), the department may change a school district's or the institute's accreditation category prior to conclusion of the annual performance review if the department determines that the school district or the institute has substantially failed to meet a requirement specified in the accreditation contract and that immediate action is required to protect the interests of the students and parents of students enrolled in the district public schools or the institute charter schools.

(c) In reviewing school districts' and the institute's performance, the department, to the extent possible, shall evaluate the cost effectiveness of intervention strategies implemented by the state, school districts, and the institute in attempting to improve performance in school districts that are in an accreditation category that is lower than accredited or in the institute if it is in an accreditation category that is lower than accredited.

(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.

(e) The state board shall promulgate rules to ensure a school district's or the institute's right to a hearing before the state board to appeal placement in the accredited with turnaround plan category or removal of accreditation pursuant to section 22-11-209.

(1.5) Notwithstanding any provision of this article, or any provision of state board rule that implements this article, to the contrary, for the 2015-16 school year, the department shall not assign accreditation ratings for school districts and the institute. For the 2015-16 school year, each school district and the institute shall continue to implement the plan type that was assigned for the preceding school year. The department shall assign accreditation ratings for school districts and the institute for the 2016-17 school year and each school year thereafter.

(1.6) Notwithstanding any provision of this article 11, or any provision of state board rule that implements this article 11, to the contrary, for the 2020-21 school year, the department shall not assign accreditation ratings for school districts and the institute. For the 2020-21 school year, each school district and the institute shall continue to implement the plan type for the accreditation rating assigned for the preceding school year.

(1.7) Repealed.

(2) The department shall provide technical assistance and support to school districts that are accredited with improvement plan, accredited with priority improvement plan, or accredited with turnaround plan and to the institute if it is accredited at any of those categories. The department shall base the amount of technical assistance and support provided to a school district or the institute on the school district's or institute's degree of need for assistance and the department's available resources. Technical assistance and support may include, but need not be limited to:

(a) Access to data and research to support interpretation of student data, decision-making, and learning;

(b) Consultative services on best practices for improvement and implementation of intervention strategies, including, where appropriate, research-based strategies that address the quality and availability of early childhood education opportunities within the school district and student engagement and re-engagement; and

(c) Evaluation and feedback on the school district's or the institute's improvement, priority improvement, or turnaround plan, whichever is applicable.

(2.5) In addition to the technical assistance and support described in subsection (2) of this section, the department shall make available to the directors of the local school board of a school district that is accredited with improvement plan or lower, or that includes a public school that is required to adopt a priority improvement or turnaround plan, training in school district and public school governance and turnaround best practices. The department shall also make available informational materials and training opportunities for parents, school personnel, and members of the affected district accountability committee and school accountability committee.

(3) The commissioner may assign the state review panel to critically evaluate a school district's priority improvement plan or turnaround plan or the institute's priority improvement plan or turnaround plan. The commissioner may require the state review panel to conduct one or more on-site visits as part of evaluating a school district's or the institute's priority improvement or turnaround plan. Based on its evaluation, the state review panel shall report to the commissioner, the state board, and the affected local school board or institute board recommendations concerning:

(a) Whether the school district's or institute's leadership is adequate to implement change to improve results;

(b) Whether the school district's or institute's infrastructure is adequate to support school improvement;

(c) The readiness and apparent capacity of public school and school district or institute personnel to plan effectively and lead the implementation of appropriate actions to improve student academic performance within the district public schools or the institute charter schools;

(d) The readiness and apparent capacity of public school and school district or institute personnel to engage productively with and benefit from the assistance provided by an external partner;

(e) The likelihood of positive returns on state investments of assistance and support to improve the school district's or institute's performance within the current management structure and staffing; and

(f) The necessity that the school district or institute remain in operation to serve students.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1481, § 1, effective May 21. **L. 2011:** (1)(d) amended, (HB 11-1277), ch. 306, p. 1476, § 6, effective August 10. **L. 2014:** (1.5) added, (HB 14-1182), ch. 98, p. 354, § 1, effective August 6. **L. 2015:** (1.5) amended and (1.7) added, (HB 15-1323), ch. 204, pp. 716, 718, §§ 8, 11, effective May 20. **L. 2017:** (2)(b) amended, (SB 17-103), ch. 372, p. 1930, § 1, effective June 6. **L. 2018:** (1.7) repealed, (2.5) added, and IP(3) amended, (HB 18-1355), ch. 324, p. 1939, § 2, effective May 30. **L. 2020:** (1.6) added, (HB 20-1418), ch. 197, p. 958, § 46, effective June 30.

**Cross references:** For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

**22-11-209. Removal of accreditation - recommended actions - review - appeal - rules.** (1) The department may recommend to the commissioner and the state board that the state board remove a school district's or the institute's accreditation if:

(a) and (b) Repealed.

(c) (I) The school district or the institute has substantially failed to comply with the provisions of article 44 of this title, concerning budget and financial policies and procedures, or article 45 of this title, concerning accounting and financial reporting; and

(II) The school district or institute has not remedied the noncompliance within ninety days after receipt of notice from the department; and

(III) Loss of accreditation is required to protect the interests of the students and parents of students enrolled in the district public schools or the institute charter schools.

(2) (a) If a school district or the institute is accredited with a turnaround plan and the department determines that the school district or institute has failed to make substantial progress under its turnaround plan, or if the school district or institute has been on performance watch for the full five years, the commissioner shall assign the state review panel to critically evaluate the school district's or the institute's performance and to recommend one or more of the following actions:

(I) If the recommendation applies to a school district:

(A) That the school district's accreditation be removed;

(A.5) That the school district be reorganized pursuant to article 30 of this title 22, which reorganization may include consolidation;

(B) That a private or public entity, with the agreement of the school district, serve as a lead partner in the management of the school district or partially or wholly manage one or more

of the district public schools. The local school board and the department shall ensure that the private or public entity uses research-based strategies and has a proven record of success working with school districts and schools under similar circumstances.

(C) That one or more of the district public schools be converted to a charter school;

(D) That one or more of the district public schools be granted status as an innovation school pursuant to section 22-32.5-104 or that the local school board recognize a group of district public schools as an innovation school zone pursuant to section 22-32.5-104; or

(E) That one or more of the district public schools be closed; or

(II) If the recommendation applies to the institute:

(A) That the institute's accreditation be removed;

(A.5) That the institute board be abolished and that the governor appoint a new institute board pursuant to section 22-30.5-505;

(B) That a public or private entity take over management of the institute or management of one or more of the institute charter schools; or

(C) That one or more of the institute charter schools be closed.

(b) In its evaluations and recommendations, the state review panel shall consider:

(I) Whether the school district's or institute's leadership is adequate to implement change to improve results;

(II) Whether the school district's or institute's infrastructure is adequate to support school improvement;

(III) The readiness and apparent capacity of public school and school district or institute personnel to plan effectively and lead the implementation of appropriate actions to improve student academic performance within the district public schools or the institute charter schools;

(IV) The readiness and apparent capacity of public school and school district or institute personnel to engage productively with and benefit from the assistance provided by an external partner;

(V) The likelihood of positive returns on state investments of assistance and support to improve the school district's or institute's performance within the current management structure and staffing; and

(VI) The necessity that the school district or institute remain in operation to serve students.

(3) After considering the recommendations of the commissioner and the state review panel, the state board shall determine the actions the school district or the institute is required to take and direct the local school board or the institute board accordingly. If a school district's or the institute's accreditation is removed and the district or the institute is reorganized and takes any other actions directed by the state board, the state board shall reinstate the school district's or the institute's accreditation at the accreditation category deemed appropriate by the state board.

(3.5) (a) So long as a school district or the institute performs at a level that results in being accredited with priority improvement plan or lower, after the state board initially directs the school district or institute to take action as described in subsections (2) and (3) of this section, the commissioner may in any year, but shall every two years, assign the state review panel to critically evaluate the school district's or the institute's performance and recommend one or more of the actions described in subsection (2)(a) of this section. In evaluating the school district's or institute's performance and recommending actions, the state review panel shall consider the criteria specified in subsection (2)(b) of this section. The state board shall consider

the recommendations of the state review panel, the actions that the school district or institute was previously directed to take, the fidelity with which the district or institute has implemented the directed actions, and whether the amount of time that the school district or institute has had to implement the actions is reasonably sufficient to achieve results. The state board shall either require the school district or institute to continue the previously directed actions or direct the school district or institute to undertake additional or different actions as provided in subsections (2) and (3) of this section.

(b) Notwithstanding any provision of subsection (3.5)(a) of this section to the contrary, a school district or the institute remains subject to the provisions of this subsection (3.5) until the school district or institute performs at a level that results in being accredited with improvement plan or higher for two consecutive school years.

(4) (a) The state board shall promulgate rules for the implementation of this section, including but not limited to procedures to ensure a school district's or the institute's right to appeal to the state board before the state board takes final action to remove the school district's or the institute's accreditation pursuant to this section.

(b) In promulgating rules concerning the timeline by which the state board directs and a school district or the institute puts into effect one or more of the actions described in subsection (2)(a) of this section, the state board shall ensure that the timeline is designed to allow the school district or institute to reasonably put into effect any of the actions described in subsection (2)(a) of this section by the beginning of the school year immediately following the school year in which the state board directs the action.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1482, § 1, effective May 21. **L. 2018:** (1)(a) and (1)(b) repealed, IP(2)(a), (2)(a)(I)(A), (2)(a)(I)(B), (2)(a)(II)(A), (3), and (4) amended, and (2)(a)(I)(A.5), (2)(a)(II)(A.5), and (3.5) added, (HB 18-1355), ch. 324, p. 1940, § 3, effective May 30.

**22-11-210. Public schools - annual review - plans - supports and interventions - rules.** (1) (a) The state board shall promulgate rules establishing objective, measurable criteria that the department shall apply in recommending to the state board that a public school shall implement a performance, improvement, priority improvement, or turnaround plan or that a public school shall be subject to restructuring. In promulgating the rules, the state board shall place the greatest emphasis on attainment of the performance indicators.

(a.5) The department shall notify each school district and the institute of the initial recommendation of the type of plan that each district public school or institute charter school must adopt. If a school district or the institute disagrees with one or more of the department's initial plan recommendations, the school district or institute may submit to the department a request for reconsideration. The state board shall promulgate rules specifying the information the department must take into account in determining the final plan recommendation, which may include:

(I) The length of time during which the public school has been unable to meet the statewide targets;

(II) The improvements, changes, and interventions the public school has implemented and is implementing to improve its performance if it is not meeting the statewide targets;

(III) The progress the public school is making in improving its performance and in approaching achievement of the statewide targets and the degree to which the public school is not achieving the statewide targets;

(IV) The percentage of grade levels within the public school that are required to take statewide assessments;

(V) The pupil enrollment of the public school as it may affect the reliability of the assessment data;

(VI) For a high school, the percentages of students enrolled in the high school who, based on attainment of course credits or demonstrated competencies, are on schedule to graduate within four, five, six, or seven years; and

(VII) Any supplemental data for grade levels for which there are not statewide assessments that indicate the public school is meeting the statewide targets on the performance indicators, if the department determines the supplemental data is valid and reliable and derived from assessments that are aligned with the state standards adopted pursuant to section 22-7-1005.

(a.6) The department shall notify each school district and the institute of the final plan recommendations for each district public school or institute charter school within the time frames adopted by rule of the state board.

(b) Notwithstanding any provision of paragraph (a) of this subsection (1) to the contrary, the state board shall promulgate rules establishing objective, measurable criteria that the department shall apply in recommending to the state board that an alternative education campus implement a performance, improvement, priority improvement, or turnaround plan or that an alternative education campus shall be subject to restructuring. The state board, in adopting the criteria for evaluating the performance of an alternative education campus, and the department, in applying the criteria, shall take into account the unique purposes of the campuses and the unique circumstances of and challenges posed by the students enrolled in the campuses.

(c) In promulgating rules pursuant to this subsection (1), the state board shall use clear, understandable language to describe the criteria for determining the type of plan that a public school shall implement and the levels of attainment of the performance indicators, with the goal of providing a high degree of transparency in the public school performance review process.

(d) (I) Beginning with the 2018-19 school year, if a public school performs at a level that results in being required to adopt a priority improvement or turnaround plan for two consecutive years followed by three consecutive or nonconsecutive years, resulting in a total of five years of performance at such a level, the state board shall require the school district, for a public school of the school district, or the institute, for an institute charter school, to take one of the actions described in subsection (5)(a) of this section; except that, if, before the five years have accumulated, the public school performs for at least two consecutive years at a level that results in the public school being required to adopt an improvement or performance plan, the five years stop accumulating unless the public school again performs at a level that results in being required to adopt a priority improvement or turnaround plan for two consecutive years, at which time the public school is again in the first two of the five years. For the time during which the five years of performance are accumulating, a public school is on performance watch.

(II) Notwithstanding the provisions of subparagraph (I) of this paragraph (d), for purposes of calculating whether a public school is required to implement a priority improvement or turnaround plan for longer than a combined total of five consecutive school years, the

department shall exclude the 2015-16 school year, during which the department does not recommend school plans as provided in subsection (2.5) of this section, from the calculation and shall count the 2016-17 school year as if it were consecutive to the 2014-15 school year.

(d.5) Notwithstanding any provision of subsection (1)(d)(I) of this section to the contrary, at the request of the school district, in consultation with the affected school accountability committee and, in the case of a district charter school, with the consent of the governing board of the district charter school, or the institute, with the consent of the governing board, and in consultation with the school accountability committee, of the affected institute charter school, the state board may direct the school district, for a public school of the school district, or the institute, for an institute charter school, to take one of the actions described in subsection (5)(a) of this section even though the public school has not completed the five years of performance watch. If the state board requires the school district or institute to take one of the actions described in subsection (5)(a) of this section, the public school is subject to the provisions of subsection (5.5) of this section.

(e) The state board by rule shall establish the time frames within which the department shall review each public school's performance, submit recommendations to the state board, and report to the public school and to the school's local school board or the institute the state board's determination regarding the type of plan the public school shall implement. The state board shall also establish by rule the time frames within which the public schools, or the public schools' local school boards or the institute board as appropriate, shall adopt the school plans and submit them to the department. The department shall publish each public school's plan on the data portal with the public school's accreditation category, identified by the local school board or the institute, and supporting data.

(f) In reviewing public schools' performance, the department, to the extent possible, shall evaluate the cost effectiveness of intervention strategies implemented by the state, school districts, the institute, and the public schools in attempting to improve performance in public schools that are implementing school improvement, priority improvement, or turnaround plans.

(1.5) Repealed.

(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) (I) 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.

(II) A school district that is authorized to submit a single plan pursuant to subparagraph (I) of this paragraph (b) and that is authorized pursuant to section 22-11-303 (4) to submit a school district performance plan every two years may submit a single plan to satisfy the school district and school plan requirements only if each of the public schools that is included in the single plan is authorized pursuant to section 22-11-403 (4) to submit a school performance plan every two years.

(2.5) Notwithstanding any provision of this article, or any provision of state board rule that implements this article, to the contrary, for the 2015-16 school year, the department shall not recommend to the state board school plan types. For the 2015-16 school year, each public school shall continue to implement the school plan type that was assigned for the preceding school year. The department shall recommend to the state board school plan types for the 2016-17 school year and each school year thereafter.

(2.6) Notwithstanding any provision of this article 11, or any provision of state board rule that implements this article 11, to the contrary, for the 2020-21 school year, the department shall not recommend to the state board school plan types. For the 2020-21 school year, each public school shall continue to implement the school plan type that was assigned for the preceding school year.

(2.7) Repealed.

(3) At the request of a district public school's local school board, or at the institute's request for an institute charter school, the department shall provide technical assistance and support to the public school, local school board, or institute in preparing and implementing the public school's improvement, priority improvement, or turnaround plan. The department shall base the amount of technical assistance and support provided to a public school, the local school board, or the institute on the school's degree of need for assistance and the department's available resources. Technical assistance and support may include, but need not be limited to:

(a) Access to data and research to support interpretation of student data, decision-making, and learning;

(b) Consultative services on best practices for improvement and implementation of intervention strategies, including, where appropriate, research-based strategies that address the quality and availability of early childhood education opportunities for students who reside within the neighborhood for the public school and student engagement and re-engagement; and

(c) Evaluation and feedback on the public school's plan.

(4) The commissioner may assign the state review panel to critically evaluate a public school's priority improvement or turnaround plan. The commissioner may require the state review panel to conduct one or more on-site visits as part of evaluating a public school's plan. Based on its evaluation, the state review panel shall report to the commissioner, the state board, and the local school board or the institute recommendations concerning:

(a) Whether the public school's leadership is adequate to implement change to improve results;

(b) Whether the public school's infrastructure is adequate to support school improvement;

(c) The readiness and apparent capacity of the public school's personnel to plan effectively and lead the implementation of appropriate actions to improve student academic performance within the school;

(d) The readiness and apparent capacity of the public school's personnel to engage productively with and benefit from the assistance provided by an external partner;

(e) The likelihood of positive returns on state investments of assistance and support to improve the public school's performance within the current management structure and staffing; and

(f) The necessity that the public school remain in operation to serve students.

(4.5) If a public school that is an online school, as defined in section 22-30.7-102, is on performance watch and changes authorizers in its original form or as a successor school, as determined by the department pursuant to section 22-30.7-106 (9), or remains with the same authorizer but is created as a successor school, as determined by the department pursuant to section 22-30.7-106 (9), to the online school that is on performance watch, the online school or the successor school remains on performance watch under the new authorizer as if the authorizer had not changed.

(5) (a) If a public school fails to make adequate progress under its turnaround plan or continues on performance watch for the full five years, the commissioner shall assign the state review panel to critically evaluate the public school's performance, which evaluation must include at least one on-site visit to the public school. Upon completing the evaluation, the state review panel shall determine whether to recommend:

(I) With regard to a district public school that is not a charter school, that the district public school should be partially or wholly managed by a private or public entity other than the school district. The local school board and the department shall ensure that the private or public entity uses research-based strategies and has a proven record of success working with schools under similar circumstances.

(II) With regard to a district or institute charter school, that the public or private entity operating the charter school or the governing board of the charter school should be replaced by a different public or private entity or governing board;

(III) With regard to a district public school, that the district public school be converted to a charter school if it is not already authorized as a charter school;

(IV) With regard to a district public school, that the district public school be granted status as an innovation school pursuant to section 22-32.5-104; or

(V) That the public school be closed or, with regard to a district charter school or an institute charter school, that the public school's charter be revoked.

(b) The state review panel shall present its recommendations to the commissioner and to the state board. Taking the recommendations into account, the state board shall determine which of the actions described in paragraph (a) of this subsection (5) the local school board for a district public school or the institute for an institute charter school shall take regarding the public school and direct the local school board or institute accordingly.

(c) Notwithstanding any provision of this section to the contrary, for the 2015-16 school year and based on ratings given during the 2015-16 school year, the state board may direct the local school board for a district public school or the institute for an institute charter school to take an action concerning the public school that is not listed in paragraph (a) of this subsection (5) but that has comparable significance and effect.

(d) The priority improvement or turnaround plan that a public school adopts for the fourth year in which the public school is on performance watch must include a general explanation for how the school district, for a district public school, or the institute, for an

institute charter school, may put into effect each of the actions described in subsection (5)(a) of this section as they pertain to a district public school, district charter school, or institute charter school.

(e) In promulgating rules concerning the timeline by which the state board directs and a school district, for a district public school, or the institute, for an institute charter school, puts into effect one or more of the actions described in subsection (5)(a) of this section, the state board shall ensure that the timeline is designed to allow the school district or institute to reasonably put into effect any of the actions described in subsection (5)(a) of this section by the beginning of the school year immediately following the school year in which the state board directs the action.

(5.5) (a) So long as a public school performs at a level that results in being required to implement a priority improvement or turnaround plan, after the state board initially directs the local school board or institute board to take action as provided in subsection (5)(b) of this section, the commissioner may in any year, but shall every two years, assign the state review panel to critically evaluate the public school's performance and recommend one or more of the actions described in subsection (5)(a) of this section. In evaluating the public school's performance and recommending actions, the state review panel shall consider the criteria specified in subsection (4) of this section. The state board shall consider the recommendations of the state review panel, the actions that the local school board or institute board was previously directed to take with regard to the public school, the fidelity with which the school district or institute and the public school have implemented the directed actions, and whether the amount of time that the school district or institute and the public school have had to implement the actions is reasonably sufficient to achieve results. The state board shall either require the local school board or institute board to continue the previously directed actions or direct the local school board or institute board to undertake additional or different actions as provided in subsection (5)(b) of this section.

(b) Notwithstanding any provision of subsection (5.5)(a) of this section to the contrary, a public school remains subject to the provisions of this subsection (5.5) until the public school performs at a level that results in being required to implement an improvement or performance plan for two consecutive school years.

(6) If a public school is restructured, the department, to the extent possible, shall track the students enrolled in the public school in the school year preceding the restructuring to determine whether the students reenroll in the public school the following school year or transfer to another public school of the school district, an institute charter school, or a public school of another school district in the state. The department shall provide the student tracking information, without personally identifying the students, to the local school board or the institute upon request.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1485, § 1, effective May 21. **L. 2011:** (2) amended, (HB 11-1277), ch. 306, p. 1476, § 7, effective August 10. **L. 2014:** (2)(b) amended, (HB 14-1204), ch. 292, p. 1195, § 3, effective May 31; (2.5) and (5)(c) added, (HB 14-1182), ch. 98, p. 355, § 2, effective August 6. **L. 2015:** (1)(d) and (2.5) amended and (2.7) added, (HB 15-1323), ch. 204, pp. 716, 718, §§ 9, 12, effective May 20; (1.5) added, (HB 15-1350), ch. 316, p. 1293, § 2, effective June 5. **L. 2016:** (2)(b)(II) amended, (HB 16-1440), ch. 316, p. 1276, § 1, effective August 10. **L. 2017:** (3)(b) amended, (SB 17-103), ch. 372, p. 1930,

§ 2, effective June 6. **L. 2018:** (1)(a), (1)(d)(I), IP(4), IP(5)(a), and (5)(a)(I) amended, (1)(a.5), (1)(a.6), (1)(d.5), (5)(d), (5)(e), and (5.5) added, and (2.7) repealed, (HB 18-1355), ch. 324, p. 1942, § 4, effective May 30. **L. 2019:** (4.5) added, (SB 19-129), ch. 89, p. 332, § 4, effective April 10. **L. 2020:** (2.6) added, (HB 20-1418), ch. 197, p. 958, § 47, effective June 30.

**Editor's note:** Subsection (1.5)(d) provided for the repeal of subsection (1.5), effective July 1, 2017. (See L. 2015, p. 1293.)

**Cross references:** For the legislative declaration in HB 15-1350, see section 1 of chapter 316, Session Laws of Colorado 2015. For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

**22-11-211. Performance watch - parent and community meeting - school districts - institute - public schools.** (1) (a) In the third year in which a school district or the institute is accredited with priority improvement plan or lower while on performance watch, the school district or institute, whichever is applicable, shall host a parent and community meeting to discuss the school district's or the institute's accreditation level. The appropriate department personnel shall attend the meeting. The school district or institute personnel and the department personnel shall ensure that the following information is presented at the meeting:

(I) An explanation of the accreditation and accountability system;

(II) The possible outcomes of being on performance watch;

(III) The reasons for which the school district or institute is accredited with priority improvement plan or lower;

(IV) The options immediately available to the school district or institute for improving performance;

(V) The other school options available to students; and

(VI) The actions the state board may require the school district or institute to take if its performance does not significantly improve while on performance watch.

(b) Information concerning ways in which parents and members of the community may support improvement efforts in the public schools of the school district or institute charter schools may also be presented at the parent and community meeting.

(c) Notwithstanding the provisions of subsection (1)(a) of this section to the contrary, a school district, in consultation with the district accountability committee, or the institute may choose to hold the parent and community meeting in the second year in which the school district or institute is accredited with priority improvement plan or lower while on performance watch.

(2) (a) In the third year in which a public school is required to adopt a priority improvement or turnaround plan while on performance watch, the public meeting required in section 22-32-142 (2) for a district public school and section 22-30.5-520 (2) for an institute charter school must include a parent and community meeting for the public school to discuss the level of performance plan that the public school is required to adopt. The appropriate department personnel shall attend the meeting. The school district or institute personnel and the department personnel shall ensure that the information specified in subsection (1)(a) of this section, as it applies to the public school, is presented at the meeting. The school district or institute shall ensure that the educational leaders at the public school and parents of students enrolled in the public school also have an opportunity to present information concerning the public school.

Information concerning ways in which parents and members of the community may support improvement efforts in the public school may also be presented at the parent and community meeting.

(b) Notwithstanding the provisions of subsection (2)(a) of this section to the contrary, a school district, on behalf of a public school of the school district, or the institute, on behalf of an institute charter school, may choose to hold the parent and community meeting in the second year in which the public school is required to adopt a priority improvement or turnaround plan while on performance watch. The school district may hold the public meeting in the second year only after consulting with the affected school accountability committee and, in the case of a district charter school, obtaining the consent of the governing board of the district charter school. The institute may hold the public meeting in the second year only with the consent of the governing board of the institute charter school and after consulting with the affected school accountability committee.

(3) (a) A school district shall ensure that local school board members, school district personnel, public school personnel, local parent advocacy organizations, and the general community receive information concerning each parent and community meeting held for the school district or for a public school of the school district.

(b) The institute shall ensure that institute board members, institute and institute charter school personnel, local parent advocacy organizations, and the general community receive information concerning each parent and community meeting held for the institute or for an institute charter school.

(c) Upon the request of a school district or the institute, the department, within existing resources, may provide technical assistance in creating a communication plan for a parent and community meeting for the school district, the institute, or a public school. For a school district or institute meeting, the school district or institute, working with the department, shall individually notify the parents of students enrolled in the public schools of the school district or the institute charter schools of the meeting and invite them to attend. For a public school meeting, the school district or institute shall individually notify the parents of the students enrolled in the public school and invite them to the meeting. The school district or institute shall determine the form of the parental notification in cooperation with the department. If necessary, the department may request proof of distribution to individual parents from the school district or institute.

**Source: L. 2018:** Entire section added, (HB 18-1355), ch. 324, p. 1946, § 5, effective May 30.

PART 3

SCHOOL DISTRICT AND
INSTITUTE ACCOUNTABILITY

**22-11-301. School district accountability committees - creation - membership.** (1) Each local school board shall appoint or create a process for the election of a school district accountability committee that shall consist of:

(a) At least three parents of students enrolled in the district public schools;

(b) At least one teacher who is employed by the school district;

(c) At least one school administrator who is employed by the school district; and

(d) At least one person who is involved in business or industry in the community within the school district boundaries.

(2) (a) A person may not be appointed or elected to fill more than one of the member positions required in subsection (1) of this section in a single term.

(b) If a local school board chooses to increase the number of persons on the school district accountability committee, it shall ensure that the number of parents appointed or elected to the committee pursuant to paragraph (a) of subsection (1) of this section exceeds the number of representatives from the group with the next highest representation.

(c) (I) Except as otherwise provided in subparagraph (II) of this paragraph (c), a parent shall not be eligible to serve on a school district accountability committee if he or she is employed by, or is a relative of a person who is employed by, the school district, including being employed at a public school of the school district.

(II) If a school district makes a good faith effort but is unable to identify a sufficient number of parents who are willing to serve on a school district accountability committee and who are not excluded from serving as provided in subparagraph (I) of this paragraph (c), one or more parents who are employed by, or are related to a person who is employed by, the school district, including being employed at a public school of the school district, may serve on the school district accountability committee.

(III) As used in this paragraph (c), unless the context otherwise requires, "related" or "relative" means a person's spouse, son, daughter, sister, brother, mother, or father.

(3) If a local school board appoints the members of the school district accountability committee, the local school board, to the extent practicable, shall ensure that the parents who are appointed reflect the student populations that are significantly represented within the school district. Said student populations may include, but need not be limited to:

(a) Students who are members of non-Caucasian races;

(b) Students who are eligible for free or reduced-cost lunch through the federal "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq.;

(c) Students who are English language learners, as defined in section 22-24-103 (4);

(d) Students who are migrant children, as defined in section 22-23-103 (2);

(e) Students who are identified as children with disabilities pursuant to section 22-20-108; and

(f) Students who are identified as gifted children, as defined in section 22-20-202 (11).

(4) If a local school board appoints the members of the school district accountability committee, the local school board, to the extent practicable, shall ensure that:

(a) At least one of the parents appointed to the committee is the parent of a student enrolled in a charter school authorized by the local school board, if the local school board has authorized any charter schools; and

(b) At least one of the persons appointed to the committee has a demonstrated knowledge of charter schools.

(5) The members of each school district accountability committee shall select from among the parent representatives serving on the committee a member to serve as chair or co-chair of the committee. The local school board shall establish the length of term for which the committee chair or co-chair shall serve.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1488, § 1, effective May 21. **L. 2010:** (3)(c) amended, (SB 10-062), ch. 168, p. 595, § 10, effective April 29. **L. 2011:** (3)(f) amended, (HB 11-1077), ch. 30, p. 84, § 14, effective August 10. **L. 2014:** (3)(c) amended, (HB 14-1298), ch. 244, p. 935, § 18, effective May 21; (3)(f) amended, (HB 14-1102), ch. 330, p. 1471, § 9, effective August 6. **L. 2015:** (1)(d) amended, (HB 15-1170), ch. 224, p. 822, § 2, effective May 26; (3)(c) amended, (SB 15-264), ch. 259, p. 955, § 49, effective August 5.

**Editor's note:** This section, as it existed prior to 2009, was relocated to § 22-11-601.

**22-11-302. School district accountability committee - powers and duties.** (1) Each school district accountability committee has the following powers and duties:

(a) To recommend to its local school board priorities for spending school district moneys. Whenever the school district accountability committee recommends spending priorities, it shall make reasonable efforts to consult in a substantive manner with the school accountability committees of the school district. The local school board shall consider the school district accountability committee's recommendations in adopting the school district budget for each fiscal year pursuant to article 44 of this title.

(b) To advise its local school board concerning preparation of, and annually submit to the local school board recommendations regarding the contents of, a district performance, improvement, priority improvement, or turnaround plan, whichever is required based on the school district's accreditation category. In advising and preparing the recommendations, the school district accountability committee shall make reasonable efforts to consult in a substantive manner with the school accountability committees of the school district and shall compile and submit to the local school board the school performance, improvement, priority improvement, and turnaround plans submitted by the school accountability committees pursuant to sections 22-11-403 to 22-11-406.

(c) If the local school board receives a charter school application, to review the charter application prior to consideration by the local school board as provided in section 22-30.5-107 (1);

(d) To provide input and recommendations on an advisory basis to principals concerning the development and use of assessment tools used for the purpose of measuring and evaluating student academic growth as it relates to teacher evaluations;

(e) To consider input and recommendations from the school accountability committee of each school of the school district to facilitate the evaluation of the performance of the school's principal for the purposes of article 9 of this title;

(f) To provide input to the local school board concerning the creation and enforcement of its school conduct and discipline code;

(g) To increase the level of parent engagement in the school district and in the public schools of the school district, especially the engagement of parents of students in the populations described in section 22-11-301 (3). The committee's activities to increase parent engagement must include, but need not be limited to:

(I) Publicizing opportunities to serve and soliciting parents to serve on the school district accountability committee and school accountability committees. In soliciting parents to serve on the school district and school accountability committees, the school district accountability committee shall direct the outreach efforts to help ensure that the parents who serve on the

district and school accountability committees reflect the student populations that are significantly represented within the school district and the school, as provided in section 22-11-301 (3).

(II) Assisting the school district in implementing the parent engagement policy adopted by the local school board pursuant to section 22-32-142; and

(III) Assisting school personnel to increase parents' engagement with educators, including but not limited to parents' engagement in creating students' READ plans pursuant to part 12 of article 7 of this title, in creating individual career and academic plans pursuant to section 22-32-109 (1)(oo), and in creating plans to address habitual truancy pursuant to section 22-33-107 (3).

(h) To meet at least quarterly to discuss whether school district leadership, personnel, and infrastructure are advancing or impeding implementation of the school district's performance, improvement, priority improvement, or turnaround plan, whichever is applicable, or other progress pertinent to the school district's accreditation contract.

(2) The local school board and the school district accountability committee shall, at least annually, cooperatively determine the areas and issues, in addition to budget issues, that the school district accountability committee shall study and concerning which the committee may make recommendations to the local school board.

(3) Notwithstanding any provision of subsection (1) of this section to the contrary, the district accountability committee for a school district is not required to implement the requirements specified in paragraph (g) of subsection (1) of this section if the department determines that the school district is rural, based on the geographic size of the school district and the distance of the school district from the nearest large, urbanized area, and the school district enrolls fewer than one thousand students in kindergarten through twelfth grade.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1490, § 1, effective May 21. **L. 2010:** (1)(d) and (1)(e) added, (SB 10-191), ch. 241, p. 1069, § 8, effective May 20. **L. 2012:** (1)(e) amended and (1)(f) added, (HB 12-1345), ch. 188, p. 744, § 27, effective May 19. **L. 2013:** IP(1), (1)(e), and (1)(f) amended and (1)(g) added, (SB 13-193), ch. 355, p. 2070, § 1, effective May 28. **L. 2015:** (3) added, (HB 15-1321), ch. 217, p. 797, § 2, effective May 22. **L. 2018:** (1)(f) amended and (1)(h) added, (HB 18-1355), ch. 324, p. 1952, § 13, effective May 30.

**Editor's note:** This section, as it existed prior to 2009, was relocated to § 22-11-602.

**22-11-303. Accredited or accredited with distinction - performance plan - school district or institute - contents - adoption.** (1) (a) In accordance with time frames specified in state board rules, each local school board that is accredited or accredited with distinction shall annually adopt a performance plan for the school district as described in subsection (3) of this section.

(b) The school district accountability committee for the school district shall advise the local school board concerning preparation of the district performance plan and make recommendations to the local school board concerning the contents of the district performance plan. In advising and making its recommendations, the school district accountability committee shall take into account and incorporate any district public school performance, improvement, priority improvement, or turnaround plans received pursuant to sections 22-11-403 to 22-11-406.

The local school board shall create and adopt the district performance plan, taking into account the advice and recommendations of the school district accountability committee.

(c) The local school board shall submit the adopted district performance plan to the department for publication on the data portal and shall ensure that the district performance plan is in effect for the school district and the district public schools within the time frames specified in state board rule. The local school board shall also make copies of the district performance plan available to members of the public upon request.

(2) (a) In accordance with time frames specified in state board rules, the institute board, if it is accredited or accredited with distinction, shall annually adopt an institute performance plan as described in subsection (3) of this section.

(b) Prior to creating the institute performance plan, the institute shall compile the institute charter school performance, improvement, priority improvement, and turnaround plans prepared for each institute charter school pursuant to sections 22-11-403 to 22-11-406. The institute shall take the compilation of plans into account in creating and adopting the institute performance plan.

(c) The institute shall submit the adopted institute performance plan to the department for publication on the data portal and shall ensure that the institute performance plan is in effect for the institute and the institute charter schools within the time frames specified in state board rule. The institute shall also make copies of the institute performance plan available to members of the public upon request.

(3) A district or institute performance plan shall be designed to raise the academic performance of students enrolled in the school district or in the institute charter schools and to ensure that the school district or the institute, following the next annual accreditation review, attains a higher accreditation category or remains in the same accreditation category if the school district or institute is accredited with distinction. At a minimum, each district and institute performance plan shall:

(a) Set, reaffirm, or revise, as appropriate, ambitious but attainable targets that the school district, including the district public schools, or the institute, including the institute charter schools, shall attain on the performance indicators. The local school board or the institute shall ensure that the targets are aligned with the statewide targets set by the state board pursuant to section 22-11-201.

(a.5) Identify the strategies to be used in addressing the needs of students enrolled in kindergarten and first, second, and third grade who are identified pursuant to section 22-7-1205 as having significant reading deficiencies and set, reaffirm, or revise, as appropriate, ambitious but attainable targets that the school district, including the district public schools, or the institute, including the institute charter schools, shall attain in reducing the number of students who have significant reading deficiencies and in ensuring that each student achieves grade level expectations in reading;

(b) Identify positive and negative trends for district public schools as a group and individually or for institute charter schools as a group and individually in the levels of attainment by the public schools as a group and individually on the performance indicators;

(c) Assess and prioritize the issues and needs for the school district and for the individual district public schools or for the institute and for the individual institute charter schools that must be addressed to raise the levels of attainment on the performance indicators by the district public schools or the institute charter schools and to improve school readiness in

district public schools or institute charter schools that serve students in preschool and kindergarten;

(d) Identify specific, research-based strategies to address the needs and issues identified pursuant to paragraph (c) of this subsection (3);

(e) Identify the local, state, and federal resources that the school district or the institute will use to implement the identified strategies with fidelity; and

(f) Address any other issues required by rule of the state board or raised by the department through the accreditation process pursuant to part 2 of this article.

(4) (a) Notwithstanding the provisions of paragraph (a) of subsection (1) or paragraph (a) of subsection (2) of this section to the contrary, the local school board of a school district or the institute board may adopt and submit to the department a school district performance plan for the school district or the institute as described in subsection (3) of this section every two years so long as the school district or the institute maintains the status of accredited or accredited with distinction.

(b) Repealed.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1491, § 1, effective May 21. **L. 2012:** (3)(a.5) amended, (HB 12-1238), ch. 180, p. 668, § 5, effective July 1. **L. 2014:** (4) added, (HB 14-1204), ch. 292, p. 1194, § 1, effective May 31. **L. 2016:** (4)(a) amended and (4)(b) repealed, (HB 16-1440), ch. 316, p. 1276, § 2, effective August 10.

**Editor's note:** This section, as it existed prior to 2009, was relocated to § 22-11-604.

**22-11-304. Accredited with improvement plan - school district or institute - plan contents - adoption.** (1) (a) In accordance with the time frames specified in state board rule, each school district that is accredited with improvement plan shall annually adopt and implement a district improvement plan as described in subsection (3) of this section.

(b) The school district accountability committee for the school district shall advise the local school board concerning preparation of the district improvement plan and make recommendations to the local school board concerning the contents of the district improvement plan. In advising and making its recommendations, the school district accountability committee shall take into account and incorporate any district public school performance, improvement, priority improvement, or turnaround plans received pursuant to sections 22-11-403 to 22-11-406. The local school board shall create and adopt the district improvement plan, taking into account the advice and recommendations of the school district accountability committee.

(c) The local school board shall submit the adopted district improvement plan to the department for publication on the data portal and shall ensure that the district improvement plan is in effect for the school district and the district public schools within the time frames specified in state board rule. The local school board shall also make copies of the district improvement plan available to members of the public upon request.

(2) (a) If the institute is accredited with improvement plan, the institute board shall, in accordance with the time frames specified in state board rule, adopt and implement an institute improvement plan as described in subsection (3) of this section. In preparing the institute improvement plan, the institute board shall take into account and incorporate any institute

charter school performance, improvement, priority improvement, and turnaround plans received pursuant to sections 22-11-403 to 22-11-406.

(b) The institute shall submit the adopted institute improvement plan to the department for publication on the data portal and shall ensure that the institute improvement plan is in effect for the institute and the institute charter schools within the time frames specified by state board rule. The institute shall also make copies of the institute improvement plan available to members of the public upon request.

(3) A district improvement plan or an institute improvement plan shall be designed to ensure that the school district or the institute improves its performance to the extent that, following completion of its next annual accreditation review, the school district or the institute attains a higher accreditation category. At a minimum, a district improvement plan or an institute improvement plan shall:

(a) Set or revise, as appropriate, ambitious but attainable targets that the school district, including the district public schools, or the institute, including the institute charter schools, shall attain on the performance indicators. The local school board or the institute shall ensure that the targets are aligned with the statewide targets set by the state board pursuant to section 22-11-201.

(a.5) Identify the strategies to be used in addressing the needs of students enrolled in kindergarten and first, second, and third grade who are identified pursuant to section 22-7-1205 as having significant reading deficiencies and set or revise, as appropriate, ambitious but attainable targets that the school district, including the district public schools, or the institute, including the institute charter schools, shall attain in reducing the number of students who have significant reading deficiencies and in ensuring that each student achieves grade level expectations in reading;

(b) Identify positive and negative trends for district public schools as a group and individually or for institute charter schools as a group and individually in the levels of attainment by the public schools as a group and individually on the performance indicators;

(c) Assess and prioritize the issues and needs of the district or institute and of the district public schools or institute charter schools that must be addressed to raise the levels of attainment on the performance indicators by the district public schools or institute charter schools and to improve school readiness in district public schools or institute charter schools that serve students in preschool and kindergarten;

(d) Identify specific, research-based strategies that are appropriate in scope, intensity, and type to address the needs and issues identified pursuant to paragraph (c) of this subsection (3);

(e) Identify the local, state, and federal resources that the school district or the institute will use to implement the identified strategies with fidelity; and

(f) Address any other issues required by rule of the state board or raised by the department through the accreditation process pursuant to part 2 of this article.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1492, § 1, effective May 21. **L. 2012:** (3)(a.5) added, (HB 12-1238), ch. 180, p. 669, § 6, effective July 1.

**Editor's note:** This section, as it existed prior to 2009, was relocated to § 22-11-605.

**22-11-305. Accredited with priority improvement plan - school district or institute - plan contents - adoption.** (1) (a) In accordance with the time frames specified in state board rule, each school district that is accredited with priority improvement plan shall annually adopt and implement a district priority improvement plan as described in subsection (3) of this section.

(b) The school district accountability committee for the school district shall advise the local school board concerning preparation of the district priority improvement plan and make recommendations to the local school board concerning the contents of the district priority improvement plan. In advising and making its recommendations, the school district accountability committee shall take into account and incorporate any district public school performance, improvement, priority improvement, or turnaround plans received pursuant to sections 22-11-403 to 22-11-406. The local school board shall create and adopt the district priority improvement plan, taking into account the advice and recommendations of the school district accountability committee.

(c) The commissioner, subject to available appropriations, may assign the state review panel to critically evaluate the district priority improvement plan and recommend to the commissioner modifications to the plan. The commissioner may recommend to the local school board modifications to the district priority improvement plan, taking into consideration any recommendations of the state review panel.

(d) The local school board shall submit the adopted district priority improvement plan to the department for publication on the data portal and shall ensure that the district priority improvement plan is in effect for the school district and the district public schools within the time frames specified in state board rule. The local school board shall also make copies of the district priority improvement plan available to members of the public upon request.

(2) (a) If the institute is accredited with priority improvement plan, the institute board shall, in accordance with the time frames specified in state board rule, adopt and implement an institute priority improvement plan as described in subsection (3) of this section. In preparing the institute priority improvement plan, the institute board shall take into account and incorporate any institute charter school performance, improvement, priority improvement, and turnaround plans received pursuant to sections 22-11-403 to 22-11-406.

(b) The commissioner, subject to available appropriations, may assign the state review panel to critically evaluate the institute priority improvement plan and recommend to the commissioner modifications to the plan. The commissioner may recommend to the institute modifications to the institute priority improvement plan, taking into consideration any recommendations of the state review panel.

(c) The institute shall submit the adopted institute priority improvement plan to the department for publication on the data portal and shall ensure that the institute priority improvement plan is in effect for the institute and the institute charter schools within the time frames specified by state board rule. The institute shall also make copies of the institute priority improvement plan available to members of the public upon request.

(3) A district priority improvement plan or an institute priority improvement plan must be designed to ensure that the school district or the institute improves its performance to the extent that, following completion of its next annual accreditation review, the school district or the institute attains a higher accreditation category. At a minimum, a district priority improvement plan or an institute priority improvement plan must:

(a) Set or revise, as appropriate, ambitious but attainable targets that the school district, including the district public schools, or the institute, including the institute charter schools, shall attain on the performance indicators. The local school board or the institute shall ensure that the targets are aligned with the statewide targets set by the state board pursuant to section 22-11-201.

(a.5) Identify the strategies to be used in addressing the needs of students enrolled in kindergarten and first, second, and third grade who are identified pursuant to section 22-7-1205 as having significant reading deficiencies and set or revise, as appropriate, ambitious but attainable targets that the school district, including the district public schools, or the institute, including the institute charter schools, shall attain in reducing the number of students who have significant reading deficiencies and in ensuring that each student achieves grade level expectations in reading;

(b) Identify positive and negative trends for district public schools as a group and individually or for institute charter schools as a group and individually in the levels of attainment by the public schools as a group and individually on the performance indicators;

(c) Assess and prioritize the issues and needs of the district or institute and of the district public schools or institute charter schools that must be addressed to raise the levels of attainment on the performance indicators by the district public schools or institute charter schools and to improve school readiness in district public schools or institute charter schools that serve students in preschool and kindergarten. If a school district includes a district public school that is operating under a priority improvement or turnaround plan and enrolls students in kindergarten or any of grades one through three, the needs assessment for the school district shall include, but shall not be limited to, the early childhood learning needs assessment described in subsection (4) of this section.

(d) Identify specific, research-based strategies that are appropriate in scope, intensity, and type to address the needs and issues identified pursuant to paragraph (c) of this subsection (3);

(e) Identify the local, state, and federal resources that the school district or the institute will use to implement the identified strategies with fidelity; and

(f) Address any other issues required by rule of the state board or raised by the department through the accreditation process pursuant to part 2 of this article.

(4) An early childhood learning needs assessment must determine the extent to which:

(a) There are quality early childhood programs existing within the geographic boundaries of the school district;

(b) Children are enrolled in publicly funded early learning and development programs within the school district or in private early learning and development programs that participate in the Colorado shines quality rating and improvement system established in section 26-6.5-106;

(c) The school district and the district public schools work with an early childhood council established pursuant to part 1 of article 6.5 of title 26 or early childhood community agencies existing within the school district;

(d) The school district and the district public schools collaborate with early childhood providers and programs regarding students' transition from preschool to kindergarten;

(e) Teachers employed by the school district or the district public schools to teach kindergarten or one of grades one through three have early childhood teaching credentials;

(f) Joint professional development opportunities, including opportunities for educator collaboration, are available within the school district for early childhood providers, teachers, and principals;

(g) The school district and the district public schools have a current parent engagement plan and provide ample opportunities for parent and family engagement in preschool through third grade; and

(h) Other early childhood resources, such as home visitation, early intervention services, library programs for young children, and family resource centers, are available to families who reside within the school district.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1494, § 1, effective May 21. **L. 2012:** (3)(a.5) added, (HB 12-1238), ch. 180, p. 669, § 7, effective July 1. **L. 2017:** IP(3) and (3)(c) amended and (4) added, (SB 17-103), ch. 372, p. 1931, § 3, effective June 6. **L. 2018:** (4)(b) amended, (SB 18-099), ch. 90, p. 727, § 11, effective August 8.

**Editor's note:** This section, as it existed prior to 2009, was relocated to § 22-11-603.

**22-11-306. Accredited with turnaround plan - school district or institute - plan content - adoption.** (1) (a) In accordance with the time frames specified in state board rule, each school district that is accredited with turnaround plan shall annually adopt and implement a district turnaround plan as described in subsection (3) of this section.

(b) The school district accountability committee for the school district shall advise the local school board concerning preparation of the district turnaround plan and make recommendations to the local school board concerning the contents of the district turnaround plan. In advising and making its recommendations, the school district accountability committee shall take into account and incorporate any district public school performance, improvement, priority improvement, or turnaround plans received pursuant to sections 22-11-403 to 22-11-406. The local school board shall create and adopt the district turnaround plan, taking into account the advice and recommendations of the school district accountability committee.

(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. The commissioner may assign the state review panel to review the turnaround plan, in which case 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 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.

(d) The local school board shall submit the final, approved district turnaround plan to the department for publication on the data portal and shall ensure that the final, approved district turnaround plan is in effect for the school district and the district public schools within the time frames specified in state board rule. The local school board shall also make copies of the final, approved district turnaround plan available to members of the public upon request.

(2) (a) If the institute is accredited with turnaround plan, the institute board shall, in accordance with the time frames specified in state board rule, adopt and implement an institute

turnaround plan as described in subsection (3) of this section. In preparing the institute turnaround plan, the institute board shall take into account and incorporate any institute charter school performance, improvement, priority improvement, and turnaround plans received pursuant to sections 22-11-403 to 22-11-406.

(b) Within the time frames specified in state board rule, the institute shall submit the adopted institute turnaround plan to the commissioner for review. The commissioner may assign the state review panel to review the turnaround plan, in which case the state review panel shall critically evaluate the adopted institute 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 approve the adopted institute turnaround plan or suggest modifications to the plan, taking into consideration any recommendations of the state review panel. The institute shall revise the adopted institute turnaround plan, if necessary, and resubmit the plan for approval within the time frames specified by state board rule.

(c) The institute shall submit the final, approved institute turnaround plan to the department for publication on the data portal and shall ensure that the final, approved institute turnaround plan is in effect for the institute and the institute charter schools within the time frames specified by state board rule. The institute shall also make copies of the final, approved institute turnaround plan available to members of the public upon request.

(3) A district turnaround plan or an institute turnaround plan must be designed to ensure that the school district or the institute improves its performance to the extent that, following completion of its next annual accreditation review, the school district or the institute attains a higher accreditation category. At a minimum, a district turnaround plan or an institute turnaround plan must:

(a) Set or revise, as appropriate, ambitious but attainable targets that the school district, including the district public schools, or the institute, including the institute charter schools, shall attain on the performance indicators. The local school board or the institute shall ensure that the targets are aligned with the statewide targets set by the state board pursuant to section 22-11-201.

(a.5) Identify the strategies to be used in addressing the needs of students enrolled in kindergarten and first, second, and third grade who are identified pursuant to section 22-7-1205 as having significant reading deficiencies and set or revise, as appropriate, ambitious but attainable targets that the school district, including the district public schools, or the institute, including the institute charter schools, shall attain in reducing the number of students who have significant reading deficiencies and in ensuring that each student achieves grade level expectations in reading;

(b) Identify positive and negative trends for district public schools as a group and individually or for institute charter schools as a group and individually in the levels of attainment by the public schools as a group and individually on the performance indicators;

(c) Assess and prioritize the issues and needs of the district or institute and of the district public schools or institute charter schools that must be addressed to raise the levels of attainment on the performance indicators by the district public schools or institute charter schools and to improve school readiness in district public schools or institute charter schools that serve students in preschool and kindergarten. If a school district includes a district public school that is operating under a priority improvement or turnaround plan and enrolls students in kindergarten or any of grades one through three, the needs assessment for the school district shall include, but

shall not be limited to, the early childhood learning needs assessment described in section 22-11-305 (4).

(d) Identify specific, research-based strategies that are appropriate in scope, intensity, and type to address the needs and issues identified pursuant to paragraph (c) of this subsection (3), which strategies shall, at a minimum, include one or more of the following:

(I) Employing a lead turnaround partner that uses research-based strategies and has a proven record of success working with schools under similar circumstances, which turnaround partner shall be immersed in all aspects of developing and collaboratively executing the turnaround plan and shall serve as a liaison to other school partners;

(II) Reorganizing the oversight and management structure within the school district or the institute to provide greater, more effective support for public schools;

(III) For a school district, recognizing individual district public schools as innovation schools or clustering district public schools with similar governance or management structures into one or more innovation school zones and seeking designation as a district of innovation pursuant to article 32.5 of this title;

(IV) Hiring an entity that uses research-based strategies and has a proven record of success working with schools under similar circumstances to operate one or more district public schools or institute charter schools pursuant to a contract with the local school board or the institute;

(V) For a school district, converting one or more district public schools to charter schools;

(VI) For the institute, renegotiating and significantly restructuring an institute charter school's charter contract;

(VII) Closing district public schools or institute charter schools; and

(VIII) Other actions of comparable or greater significance or effect;

(e) Identify the local, state, and federal resources that the school district or the institute will use to implement the identified strategies with fidelity; and

(f) Address any other issues required by rule of the state board or raised by the department through the accreditation process pursuant to part 2 of this article.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1496, § 1, effective May 21. **L. 2011:** (1)(c) amended, (HB 11-1277), ch. 306, p. 1474, § 4, effective August 10. **L. 2012:** (3)(a.5) added, (HB 12-1238), ch. 180, p. 669, § 8, effective July 1. **L. 2017:** IP(3) and (3)(c) amended, (SB 17-103), ch. 372, p. 1932, § 4, effective June 6. **L. 2018:** (1)(c) and (2)(b) amended, (HB 18-1355), ch. 324, p. 1948, § 7, effective May 30.

**22-11-307. Accreditation of public schools.** (1) The local school board for each school district shall adopt policies for accreditation of the district public schools. The institute board shall adopt policies for accreditation of the institute charter schools. Each school district's and the institute's school accreditation policies, at a minimum, shall include:

(a) The use of accreditation contracts that are comparable to the accreditation contract between a school district or the institute and the state board, as described in section 22-11-206;

(b) Accreditation categories that are comparable to the accreditation categories for school districts and the institute specified in section 22-11-207;

(c) Determination of a public school's accreditation category based on the public school's level of attainment of the performance indicators; and

(d) Adoption and implementation of school performance, improvement, priority improvement, and turnaround plans as required by the state board pursuant to section 22-11-210 (1) and as described in sections 22-11-403 to 22-11-406.

(2) In adopting its school accreditation policies, a local school board or the institute board may choose to be more rigorous in expectations and in the imposition of remedial actions than the system for accreditation of school districts and the institute specified in the provisions of part 2 of this article and the rules adopted pursuant to said part 2.

(2.5) In adopting its school accreditation policies for its online schools, as defined in section 22-30.7-102 (9.5), a local school board or the institute board shall include a review of the online school's alignment to the quality standards outlined in section 22-30.7-105 (3)(b).

(3) Each local school board shall annually assign each of its district public schools to an accreditation category that correlates with the type of plan that the department determines, pursuant to section 22-11-210, the district public school is required to adopt. The institute shall annually assign each institute charter school to an accreditation category that correlates with the type of plan that the department determines, pursuant to section 22-11-210, the institute charter school is required to adopt.

(4) If, pursuant to section 22-11-210 (5), the state board directs a local school board or the institute to restructure or close a public school, the local school board or the institute shall work with the department to implement the state board's directions.

(5) (a) If a local school board or the institute decides or is directed by the state board to close a public school because of low performance, the school district and the institute must develop and update as necessary a school closure plan that implements evidence-based best practices during the school closure process to ensure that students who are enrolled in the public school that is closed are fully supported in enrolling in the successor public school, if any, or in another public school. The local school board or the institute shall make the school closure plan and any updates available in writing to the staff of the public school, the local teachers association, if any, the parents of students enrolled in the public school, and the community surrounding the public school. At a minimum, the school closure plan must include:

(I) A plan for communicating in writing with parents, school staff, the local teachers association, if any, and the community surrounding the public school as early as possible after the local school board or the institute decides to close the public school and at regular intervals throughout the closure process;

(II) The procedures or mechanisms by which the local school board and the institute will solicit and consider input on the school closure process from the staff of the public school, the local teachers association, if any, the parents of the students enrolled in the public school, and the community surrounding the public school;

(III) A timeline for closing the public school that includes or is updated to include all major steps and decision points in completing the school closure and starts no later than the decision to close and continues at least through the reassignment of students and the opening of a new public school, if applicable; and

(IV) A plan for reassigning students to other public schools, which must, to the fullest extent practicable, take into account parents' choice concerning the public schools to which students are reassigned.

(b) Notwithstanding any provision of paragraph (a) of this subsection (5) to the contrary, a school closure plan that applies to the closure of an institute charter school must specify that:

(I) The institute charter school will communicate directly with parents, school staff, and the surrounding community; and

(II) The institute and the institute charter school will work with the school district in which the institute charter school is located to ensure that students and their parents have information concerning the school district's processes for reassigning students to public schools and the school choice options that are available to the students and their parents.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1498, § 1, effective May 21. **L. 2011:** (2.5) added, (HB 11-1277), ch. 306, p. 1499, § 23, effective August 10. **L. 2012:** (2.5) amended, (HB 12-1240), ch. 258, p. 1314, § 23, effective June 4. **L. 2014:** (5) added, (HB 14-1381), ch. 377, p. 1796, § 1, effective June 6. **L. 2018:** (2.5) amended, (HB 18-1355), ch. 324, p. 1952, § 14, effective May 30.

PART 4

SCHOOL ACCOUNTABILITY

**22-11-401. School accountability committee - creation - qualifications - elections.** (1) (a) Each district public school and each institute charter school shall establish a school accountability committee. Each school accountability committee shall consist of at least seven members as follows:

(I) The principal of the school or the principal's designee;

(II) At least one teacher who provides instruction at the school;

(III) At least three parents or legal guardians of students enrolled in the school;

(IV) At least one adult member of an organization of parents, teachers, and students recognized by the school; and

(V) At least one person who is involved in business or industry in the community.

(b) The local school board or the institute shall determine the actual number of persons on the school accountability committee and the method for selecting the members of the school accountability committee. If the local school board or the institute chooses to increase the number of persons on the school accountability committee, it shall ensure that the number of parents, as described in subparagraph (III) of paragraph (a) of this subsection (1), on the committee exceeds the number of representatives from the group with the next highest representation.

(c) A person may not be selected to fill more than one of the member positions required in paragraph (a) of this subsection (1) in a single term.

(d) If the local school board or the institute determines that the members of a school accountability committee should be appointed, the appointing authority shall, to the extent practicable, appoint persons to serve on the school accountability committee who reflect the student populations that are significantly represented within the school. If the local school board or the institute determines that persons shall be elected to serve on the school accountability committee, the school principal shall encourage persons who reflect the student populations that

are significantly represented within the school to seek election to the committee. Said student populations may include, but need not be limited to:

(I) Students who are members of non-Caucasian races;

(II) Students who are eligible for free or reduced-cost lunch through the federal "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq.;

(III) Students who are English language learners, as defined in section 22-24-103 (4);

(IV) Students who are migrant children, as defined in section 22-23-103 (2);

(V) Students who are identified as children with disabilities pursuant to section 22-20-108; and

(VI) Students who are identified as gifted children, as defined in section 22-20-202 (11).

(2) The members of each school accountability committee shall annually select from among the parent representatives elected to the committee a member to serve as chair or co-chair of the committee.

(3) If a vacancy arises on a school accountability committee because of a member's resignation or disqualification or for any other reason, the remaining members of the school accountability committee shall fill the vacancy by majority action.

(4) Notwithstanding any provision of this section to the contrary:

(a) If, after making good-faith efforts, a principal or an organization of parents, teachers, and students is unable to find a sufficient number of persons who are willing to serve on the school accountability committee, the principal, with advice from the organization of parents, teachers, and students, may establish an alternative membership plan for the school accountability committee, which plan shall reflect the membership specified in paragraph (a) of subsection (1) of this section as much as practicable;

(b) The members of the governing board of a district charter school or an institute charter school may serve as members of the school accountability committee;

(c) In a school district that the department determines is rural, based on the geographic size of the school district and the distance of the school district from the nearest large, urbanized area, and that enrolls fewer than one thousand students in kindergarten through twelfth grade, a member of the local school board may serve on a school accountability committee, and the district accountability committee may serve as a school accountability committee.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1499, § 1, effective May 21. **L. 2010:** (1)(d)(III) amended, (SB 10-062), ch. 168, p. 595, § 11, effective April 29. **L. 2011:** (1)(d)(VI) amended, (HB 11-1077), ch. 30, p. 85, § 15, effective August 10. **L. 2014:** (1)(d)(III) amended, (HB 14-1298), ch. 244, p. 935, § 19, effective May 21; (1)(d)(VI) amended, (HB 14-1102), ch. 330, p. 1472, § 10, effective August 6. **L. 2015:** (4)(c) amended, (HB 15-1321), ch. 217, p. 798, § 3, effective May 22; (1)(a)(V) amended, (HB 15-1170), ch. 224, p. 822, § 3, effective May 26; (1)(d)(III) amended, (SB 15-264), ch. 259, p. 955, § 50, effective August 5.

**22-11-402. School accountability committee - powers and duties - meetings.** (1) Each school accountability committee has the following powers and duties:

(a) To recommend to the principal of its school priorities for spending school moneys. The principal shall consider the school accountability committee's recommendations regarding spending state, federal, local, or private grants and any other discretionary moneys and take them into account in formulating budget requests for presentation to the local school board, if the

school is a district public school, other than a charter school, or in creating the school budget if the school is a district or institute charter school. The school accountability committee for a district public school shall send a copy of its recommended spending priorities to the school district accountability committee and to the local school board.

(b) To advise the principal of the public school and, in the case of a district public school, the superintendent of the school district concerning the preparation of a school performance or improvement plan, if either is required pursuant to section 22-11-210, and to submit recommendations to the principal, and superintendent if applicable, concerning the contents of the performance or improvement plan;

(c) To advise the local school board or the institute concerning the preparation of a school priority improvement or turnaround plan, if either is required pursuant to section 22-11-210, and to submit recommendations to the local school board or the institute concerning the contents of the priority improvement or turnaround plan;

(d) To meet at least quarterly to discuss whether school leadership, personnel, and infrastructure are advancing or impeding implementation of the public school's performance, improvement, priority improvement, or turnaround plan, whichever is applicable, or other progress pertinent to the public school's accreditation contract with the local school board or the institute;

(e) To provide input and recommendations on an advisory basis to district accountability committees and district administration concerning:

(I) Principal development plans for their principal pursuant to section 22-9-106; and

(II) Principal evaluations conducted pursuant to section 22-9-106.

(f) To publicize and hold a public school accountability committee meeting pursuant to section 22-32-142 (2) or 22-30.5-520 (2) to discuss strategies to include in a public school priority improvement or turnaround plan;

(g) To publicize a public hearing held pursuant to section 22-32-142 (2), or, if the school is an institute charter school, to publicize and hold a public hearing pursuant to section 22-30.5-520 (2), to review a written public school priority improvement or turnaround plan. A member of the school accountability committee is encouraged to attend the public hearing.

(h) To increase the level of parent engagement in the school, especially the engagement of parents of students in the populations described in section 22-11-401 (1)(d). The committee's activities to increase parent engagement must include, but need not be limited to:

(I) Publicizing opportunities to serve and soliciting parents to serve on the school accountability committee. In soliciting parents to serve on the school accountability committee, the school accountability committee shall direct the outreach efforts to help ensure that the parents who serve on the school accountability committee reflect the student populations that are significantly represented within the school, as provided in section 22-11-401 (1)(d).

(II) Assisting the school district in implementing at the school the parent engagement policy adopted by the local school board pursuant to section 22-32-142; and

(III) Assisting school personnel to increase parents' engagement with teachers, including but not limited to parents' engagement in creating students' READ plans pursuant to part 12 of article 7 of this title, in creating individual career and academic plans pursuant to section 22-32-109 (1)(oo) or 22-30.5-525, and in creating plans to address habitual truancy pursuant to section 22-33-107 (3).

(2) Notwithstanding any provision of subsection (1) of this section to the contrary, the school accountability committee for a public school is not required to implement the requirements specified in paragraph (h) of subsection (1) of this section if the department determines that the public school's school district is rural, based on the geographic size of the school district and the distance of the school district from the nearest large, urbanized area, and the school district enrolls fewer than one thousand students in kindergarten through twelfth grade.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1501, § 1, effective May 21. **L. 2010:** (1)(e) added, (SB 10-191), ch. 241, p. 1070, § 9, effective May 20. **L. 2013:** IP(1) amended and (1)(f), (1)(g), and (1)(h) added, (SB 13-193), ch. 355, p. 2071, § 2, effective May 28. **L. 2015:** (2) added, (HB 15-1321), ch. 217, p. 798, § 4, effective May 22; (1)(g) amended, (SB 15-281), ch. 299, p. 1229, § 2, effective August 5.

**22-11-403. School performance plan - contents.** (1) (a) If the state board, pursuant to section 22-11-210, directs a district public school to adopt a performance plan, the school principal and the school district superintendent, or his or her designee, in accordance with time frames specified in state board rules, shall adopt a school performance plan, as described in subsection (3) of this section, for the district public school.

(b) The school accountability committee for the district public school shall advise the principal concerning preparation of the performance plan and make recommendations to the principal concerning the contents of the school performance plan. The principal, with the approval of the superintendent or his or her designee, shall create and adopt the school performance plan, taking into account the advice and recommendations of the school accountability committee.

(c) The school district accountability committee shall include the adopted school performance plan in the compilation prepared pursuant to section 22-11-302 (1), and the local school board shall consider the adopted school performance plan in developing the budget required by section 22-44-108. The principal and the superintendent or his or her designee shall ensure that the school performance plan is in effect for the district public school within the time frames established in state board rules.

(2) (a) If the state board, pursuant to section 22-11-210, directs an institute charter school to adopt a performance plan, the school principal, in accordance with time frames specified in state board rules, shall adopt a school performance plan, as described in subsection (3) of this section, for the institute charter school.

(b) The school accountability committee for the institute charter school shall advise the principal concerning preparation of the performance plan and make recommendations to the principal concerning the contents of the school performance plan. The principal shall create and adopt the school performance plan, taking into account the advice and recommendations of the school accountability committee.

(c) The institute shall include the adopted school performance plan in the compilation prepared pursuant to section 22-11-303 (2)(b). The principal shall ensure that the school performance plan is in effect for the institute charter school within the time frames established in state board rules.

(3) A school performance plan shall be designed to raise the academic performance of students enrolled in the public school and to ensure that the public school, following the next annual performance review, attains a higher accreditation category or remains in the same accreditation category if the public school is already accredited by the school district or the institute at the highest level. At a minimum, each school performance plan shall:

(a) Set, reaffirm, or revise, as appropriate, ambitious but attainable targets that the public school shall attain on the performance indicators. The principal and school district superintendent, or his or her designee, shall ensure that the targets are aligned with the statewide targets set by the state board pursuant to section 22-11-201.

(a.5) If the public school serves students in kindergarten and first, second, and third grades, identify the strategies to be used in addressing the needs of students enrolled in kindergarten and first, second, and third grade who are identified pursuant to section 22-7-1205 as having significant reading deficiencies and set, reaffirm, or revise, as appropriate, ambitious but attainable targets that the public school shall attain in reducing the number of students who have significant reading deficiencies and in ensuring that each student achieves grade level expectations in reading;

(b) Identify positive and negative trends in the levels of attainment by the public school on the performance indicators;

(c) Assess and prioritize the issues and needs at the public school that must be addressed to raise the levels of attainment on the performance indicators by the public school and to improve school readiness, if the public school serves students in preschool or kindergarten;

(d) Identify specific, research-based strategies to address the needs and issues identified pursuant to paragraph (c) of this subsection (3);

(e) Identify the local, state, and federal resources that the public school will use to implement the identified strategies with fidelity; and

(f) Address any other issues required by rule of the state board or raised by the department through the performance review pursuant to section 22-11-210.

(4) The local school board, on behalf of a district public school, or the institute, on behalf of an institute charter school, shall submit the school performance plan to the department for publication on the data portal. The public school shall make copies of the school performance plan available to members of the public upon request.

(5) (a) Notwithstanding any provision of this section to the contrary, the school principal and the school district superintendent, or his or her designee, for a district public school, or the school principal for an institute charter school, may adopt a school performance plan for the public school as described in subsection (3) of this section every two years so long as the state board, pursuant to section 22-11-210, requires the public school to implement a performance plan.

(b) Repealed.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1502, § 1, effective May 21. **L. 2012:** (3)(a.5) added, (HB 12-1238), ch. 180, p. 670, § 9, effective July 1. **L. 2014:** (5) added, (HB 14-1204), ch. 292, p. 1194, § 2, effective May 31. **L. 2016:** (5)(a) amended and (5)(b) repealed, (HB 16-1440), ch. 316, p. 1277, § 3, effective August 10.

**Editor's note:** Subsection (5) was numbered as (4) in House Bill 14-1204 but has been renumbered on revision for ease of location.

**22-11-404. School improvement plan - contents.** (1) (a) If the state board, pursuant to section 22-11-210, directs a district public school to adopt an improvement plan, the school principal and the school district superintendent, or his or her designee, in accordance with time frames specified in state board rules, shall adopt a school improvement plan, as described in subsection (3) of this section, for the district public school.

(b) The school accountability committee for the district public school shall advise the principal concerning preparation of the school improvement plan and shall make recommendations to the principal concerning the contents of the school improvement plan. The principal, with the approval of the superintendent or his or her designee, shall create and adopt the school improvement plan, taking into account the advice and recommendations of the school accountability committee.

(c) The school district accountability committee shall include the adopted school improvement plan in the compilation prepared pursuant to section 22-11-302 (1), and the local school board shall consider the adopted school improvement plan in developing the budget required by section 22-44-108. The principal and the superintendent, or his or her designee, shall ensure that the school improvement plan is in effect for the district public school within the time frames established in state board rules.

(2) (a) If the state board, pursuant to section 22-11-210, directs an institute charter school to adopt an improvement plan, the school principal, in accordance with time frames specified in state board rules, shall adopt a school improvement plan, as described in subsection (3) of this section, for the institute charter school.

(b) The school accountability committee for the institute charter school shall advise the principal concerning preparation of the school improvement plan and shall make recommendations to the principal concerning the contents of the school improvement plan. The principal shall create and adopt the school improvement plan, taking into account the advice and recommendations of the school accountability committee.

(c) The institute shall include the adopted school improvement plan in the compilation prepared pursuant to section 22-11-303 (2)(b). The principal shall ensure that the school improvement plan is in effect for the institute charter school within the time frames established in state board rules.

(3) A school improvement plan shall be designed to raise the academic performance of students enrolled in the public school and to ensure that the public school, following the next annual performance review, attains a higher accreditation category. At a minimum, each school improvement plan shall:

(a) Set or revise, as appropriate, ambitious but attainable targets that the public school shall attain on the performance indicators. The principal and school district superintendent, or his or her designee, shall ensure that the targets are aligned with the statewide targets set by the state board pursuant to section 22-11-201.

(a.5) If the public school serves students in kindergarten and first, second, and third grades, identify the strategies to be used in addressing the needs of students enrolled in kindergarten and first, second, and third grade who are identified pursuant to section 22-7-1205 as having significant reading deficiencies and set or revise, as appropriate, ambitious but

attainable targets that the public school shall attain in reducing the number of students who have significant reading deficiencies and in ensuring that each student achieves grade level expectations in reading;

(b) Identify positive and negative trends in the levels of attainment by the public school on the performance indicators;

(c) Assess and prioritize the issues and needs at the public school that must be addressed to raise the levels of attainment on the performance indicators by the public school and to improve school readiness, if the public school serves students in preschool or kindergarten;

(d) Identify specific, research-based strategies that are appropriate in scope, intensity, and type to address the needs and issues identified pursuant to paragraph (c) of this subsection (3);

(e) Identify the local, state, and federal resources that the public school will use to implement the identified strategies with fidelity; and

(f) Address any other issues required by rule of the state board or raised by the department through the performance review pursuant to section 22-11-210.

(4) The local school board, on behalf of a district public school, or the institute, on behalf of an institute charter school, shall submit the school improvement plan to the department for publication on the data portal. The public school shall make copies of the school improvement plan available to members of the public upon request.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1503, § 1, effective May 21. **L. 2011:** (1)(b) and (2)(b) amended, (HB 11-1126), ch. 118, p. 370, § 3, effective August 10. **L. 2012:** (3)(a.5) added, (HB 12-1238), ch. 180, p. 670, § 10, effective July 1. **L. 2013:** (1)(b) and (2)(b) amended, (SB 13-193), ch. 355, p. 2072, § 3, effective May 28.

**22-11-405. School priority improvement plan - contents.** (1) (a) If the state board, pursuant to section 22-11-210, directs a district public school to adopt a priority improvement plan, the local school board, in accordance with time frames specified in state board rules, shall adopt a school priority improvement plan, as described in subsection (4) of this section, for the district public school.

(b) The school accountability committee for the district public school shall hold a public meeting as required in section 22-32-142 (2) to receive input concerning possible strategies to be included in the school priority improvement plan, advise the local school board concerning preparation of the school priority improvement plan, and make recommendations to the local school board concerning the contents of the school priority improvement plan, taking into account recommendations received at the public meeting. The local school board shall create and adopt the school priority improvement plan, taking into account the advice and recommendations of the school accountability committee. Before adopting the school priority improvement plan, the local school board shall hold a public hearing to review the written plan as required in section 22-32-142 (2). The department may require a school district to provide proof of compliance with the requirements of section 22-32-142 (2).

(c) The school district accountability committee shall include the adopted school priority improvement plan in the compilation prepared pursuant to section 22-11-302 (1), and the local school board shall consider the adopted school priority improvement plan in developing the budget required by section 22-44-108. The local school board shall ensure that the school

priority improvement plan is in effect for the district public school within the time frames established in state board rules.

(2) (a) If the state board, pursuant to section 22-11-210, directs an institute charter school to adopt a priority improvement plan, the institute, in accordance with time frames specified in state board rules, shall adopt a school priority improvement plan, as described in subsection (4) of this section, for the institute charter school.

(b) The school accountability committee for the institute charter school shall hold a public meeting as required in section 22-30.5-520 (2) to receive input concerning possible strategies to be included in the school priority improvement plan, advise the institute concerning preparation of the school priority improvement plan, and make recommendations to the institute concerning the contents of the school priority improvement plan, taking into account recommendations received at the public meeting. The institute shall create and adopt the school priority improvement plan, taking into account the advice and recommendations of the school accountability committee. Before adopting the school priority improvement plan, the institute shall ensure that the institute charter school holds a public hearing to review the written plan as required in section 22-30.5-520 (2). The department may require the institute to provide proof of compliance with the requirements of section 22-30.5-520 (2).

(c) The institute shall include the adopted school priority improvement plan in the compilation prepared pursuant to section 22-11-303 (2)(b). The institute shall ensure that the school priority improvement plan is in effect for the institute charter school within the time frames established in state board rules.

(3) The commissioner, subject to available appropriations, may assign the state review panel to critically evaluate a public school's priority improvement plan and report to the commissioner any recommended modifications to the plan. The commissioner may recommend to the local school board or the institute modifications to the school priority improvement plan, taking into consideration any recommendations of the state review panel.

(4) A school priority improvement plan must be designed to ensure that the public school improves its performance to the extent that, following completion of the public school's next annual performance review, the public school attains a higher accreditation category. At a minimum, a school priority improvement plan must:

(a) Set or revise, as appropriate, ambitious but attainable targets that the public school shall attain on the performance indicators. The local school board or the institute shall ensure that the targets are aligned with the statewide targets set by the state board pursuant to section 22-11-201.

(a.5) If the public school serves students in kindergarten and first, second, and third grades, identify the strategies to be used in addressing the needs of students enrolled in kindergarten and first, second, and third grade who are identified pursuant to section 22-7-1205 as having significant reading deficiencies and set or revise, as appropriate, ambitious but attainable targets that the public school shall attain in reducing the number of students who have significant reading deficiencies and in ensuring that each student achieves grade level expectations in reading;

(b) Identify positive and negative trends in the levels of attainment by the public school on the performance indicators;

(c) Assess and prioritize the issues and needs at the public school that must be addressed to raise the levels of attainment on the performance indicators by the public school and to

improve school readiness, if the public school serves students in preschool or kindergarten. The needs assessment for a public school that enrolls students in kindergarten or any of grades one through three shall include, but shall not be limited to, the early childhood learning needs assessment described in subsection (4.5) of this section.

(d) Identify specific, research-based strategies that are appropriate in scope, intensity, and type to address the needs and issues identified pursuant to paragraph (c) of this subsection (4);

(e) Identify the local, state, and federal resources that the public school will use to implement the identified strategies with fidelity;

(e.5) Incorporate strategies to increase parent engagement in the public school; and

(f) Address any other issues required by rule of the state board or raised by the department through the performance review pursuant to section 22-11-210.

(4.5) An early childhood learning needs assessment must determine the extent to which:

(a) There are quality early childhood programs existing within the neighborhood of the public school; except that a public school must include this information in the early childhood learning needs assessment only if the information is readily available to the public school;

(b) Children are enrolled in publicly funded early learning and development programs within the neighborhood of the public school or in private early learning and development programs that participate in the school readiness quality improvement program created in section 26-6.5-106 and are located within the neighborhood of the public school; except that a public school must include this information in the early childhood learning needs assessment only if the information is readily available to the public school;

(c) The public school works with an early childhood council established pursuant to part 1 of article 6.5 of title 26 or early childhood community agencies existing within the neighborhood of the public school;

(d) The public school collaborates with early childhood providers and programs regarding students' transition from preschool to kindergarten;

(e) Teachers employed at or by the public school to teach kindergarten or one of grades one through three have early childhood teaching credentials;

(f) Joint professional development opportunities, including opportunities for educator collaboration, are available through the public school for early childhood providers, teachers, and principals;

(g) The public school has a current parent engagement plan and provides ample opportunities for parent and family engagement in preschool through third grade; and

(h) Other early childhood resources, such as home visitation, early intervention services, library programs for young children, and family resource centers, are available to families who reside in the neighborhood of the public school.

(5) The local school board, on behalf of a district public school, or the institute, on behalf of an institute charter school, shall submit the school priority improvement plan to the department for publication on the data portal. The public school shall make copies of the school priority improvement plan available to members of the public upon request.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1505, § 1, effective May 21. **L. 2011:** (1)(b) and (2)(b) amended, (HB 11-1126), ch. 118, p. 370, § 4, effective August 10. **L. 2012:** (4)(a.5) added, (HB 12-1238), ch. 180, p. 671, § 11, effective July 1. **L. 2013:** (1)(b),

(2)(b), IP(4), and (4)(e) amended and (4)(e.5) added, (SB 13-193), ch. 355, p. 2072, § 4, effective May 28. **L. 2015:** (2)(b) amended, (SB 15-281), ch. 299, p. 1230, § 3, effective August 5. **L. 2017:** (4)(c) amended and (4.5) added, (SB 17-103), ch. 372, p. 1932, § 5, effective June 6. **L. 2018:** (1)(b) and (2)(b) amended, (HB 18-1355), ch. 324, p. 1952, § 15, effective May 30.

**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 may be subject to revisions requested by the commissioner as provided in this subsection (1).

(b) The school accountability committee for the district public school shall hold a public meeting as required in section 22-32-142 (2) to receive input concerning possible strategies to be included in the school turnaround plan, advise the local school board concerning preparation of the school turnaround plan, and make recommendations to the local school board concerning the contents of the school turnaround plan, taking into account recommendations received at the public meeting. The local school board shall create and adopt the school turnaround plan, taking into account the advice and recommendations of the school accountability committee. Before adopting the school turnaround plan, the local school board shall hold a public hearing to review the written plan as required in section 22-32-142 (2). The department may require a school district to provide proof of compliance with the requirements of section 22-32-142 (2).

(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 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.

(d) The school district accountability committee shall include the final, approved school turnaround plan in the compilation prepared pursuant to section 22-11-302 (1), and the local school board shall consider the final, approved school turnaround plan in developing the budget required by section 22-44-108.

(e) The local school board shall submit the final, approved school turnaround plan to the department for publication on the data portal. The district public school shall make copies of the final, approved school turnaround plan available to members of the public upon request.

(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 may be subject to revisions requested by the commissioner as provided in this subsection (2).

(b) The school accountability committee for the institute charter school shall hold a public meeting as required in section 22-30.5-520 (2) to receive input concerning possible strategies to be included in the school turnaround plan, advise the institute concerning preparation of the school turnaround plan, and make recommendations to the institute concerning the contents of the school turnaround plan, taking into account recommendations received at the public meeting. The institute shall create and adopt the school turnaround plan, taking into account the advice and recommendations of the school accountability committee. Before adopting the school turnaround plan, the institute shall ensure that the institute charter school holds a public hearing to review the written plan as required in section 22-30.5-520 (2). The department may require the institute to provide proof of compliance with the requirements of section 22-30.5-520 (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 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.

(d) The institute shall include the final, approved school turnaround plan in the compilation prepared pursuant to section 22-11-303 (2)(b). The institute shall submit the final, approved school turnaround plan to the department for publication on the data portal. The institute charter school shall make copies of the final, approved school turnaround plan available to members of the public upon request.

(3) A school turnaround plan must be designed to ensure that the public school improves its performance to the extent that, following completion of the public school's next annual performance review, the public school attains a higher accreditation category. At a minimum, a school turnaround plan must:

(a) Set or revise, as appropriate, ambitious but attainable targets that the public school shall attain on the performance indicators. The local school board or the institute shall ensure that the targets are aligned with the statewide targets set by the state board pursuant to section 22-11-201.

(a.5) If the public school serves students in kindergarten and first, second, and third grades, identify the strategies to be used in addressing the needs of students enrolled in kindergarten and first, second, and third grade who are identified pursuant to section 22-7-1205 as having significant reading deficiencies and set or revise, as appropriate, ambitious but attainable targets that the public school shall attain in reducing the number of students who have significant reading deficiencies and in ensuring that each student achieves grade level expectations in reading;

(b) Identify positive and negative trends in the levels of attainment by the public school on the performance indicators;

(c) Assess and prioritize the issues and needs at the public school that must be addressed to raise the levels of attainment on the performance indicators by the public school and to improve school readiness, if the public school serves students in preschool or kindergarten. The needs assessment for a public school that enrolls students in kindergarten or any of grades one through three shall include, but shall not be limited to, the early childhood learning needs assessment described in section 22-11-405 (4.5).

(d) Identify specific, research-based strategies that are appropriate in scope, intensity, and type to address the needs and issues identified pursuant to subsection (3)(c) of this section, which strategies shall, at a minimum, include one or more of the following:

(I) Employing a lead turnaround partner that uses research-based strategies and has a proven record of success working with schools under similar circumstances, which turnaround partner shall be immersed in all aspects of developing and collaboratively executing the turnaround plan and shall serve as a liaison to other school partners;

(II) Reorganizing the oversight and management structure within the public school to provide greater, more effective support;

(III) For a district public school, seeking recognition as an innovation school or clustering with other district public schools that have similar governance or management structures to form an innovation school zone pursuant to article 32.5 of this title;

(IV) Hiring a public or private entity that uses research-based strategies and has a proven record of success working with schools under similar circumstances to manage the public school pursuant to a contract with the local school board or the institute;

(V) For a district public school that is not a charter school, converting to a charter school;

(VI) For a district charter school or an institute charter school, renegotiating and significantly restructuring the charter school's charter contract;

(VI.5) For a public school that serves students enrolled in kindergarten or any of grades one through three, that the public school invest in research-based strategies focused on early learning and development to address any deficiencies identified in the early childhood learning needs assessment completed for the public school pursuant to subsection (3)(c) of this section if the cause of the public school's low performance is directly related to lack of school readiness and access to quality early learning opportunities, as demonstrated by student achievement data for the early elementary grades, and the public school has not successfully implemented these strategies in the preceding school years. Research-based early learning and development strategies include increasing the quality and availability of early learning and development programs for students who reside within the neighborhood of the public school and increasing the resources available in kindergarten through third grade to improve school readiness and early learning. A public school may implement strategies focused on early learning and development as described in this subsection (3)(d)(VI.5) only in combination with at least one other research-based strategy specified in this subsection (3)(d).

(VII) Other actions of comparable or greater significance or effect;

(e) Identify the local, state, and federal resources that the public school will use to implement the identified strategies with fidelity;

(e.5) Incorporate strategies to increase parent engagement in the public school; and

(f) Address any other issues required by rule of the state board or raised by the department through the performance review pursuant to section 22-11-210.

(4) The general assembly may appropriate such money as is available to assist school districts and the institute in improving the academic growth of students in public schools that are required to adopt school turnaround plans. In addition, the department may allocate any money received pursuant to the federal "Every Student Succeeds Act", 20 U.S.C. sec. 6301 et seq., for such purpose.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1507, § 1, effective May 21. **L. 2011:** (1)(a), (1)(c), (2)(a), and (2)(c) amended, (HB 11-1277), ch. 306, p. 1475, § 5, effective August 10; (1)(b) and (2)(b) amended, (HB 11-1126), ch. 118, p. 370, § 5, effective August 10. **L. 2012:** (3)(a.5) added, (HB 12-1238), ch. 180, p. 671, § 12, effective July 1. **L. 2013:** (1)(b), (2)(b), IP(3), and (3)(e) amended and (3)(e.5) added, (SB 13-193), ch. 355, p. 2073, § 5, effective May 28. **L. 2015:** (2)(b) amended, (SB 15-281), ch. 299, p. 1230, § 4, effective August 5. **L. 2017:** (3)(c), IP(3)(d), and (3)(d)(VI) amended and (3)(d)(VI.5) added, (SB 17-103), ch. 372, p. 1934, § 6, effective June 6. **L. 2018:** (1)(b), (2)(b), and (4) amended, (HB 18-1355), ch. 324, p. 1953, § 16, effective May 30.

## PART 5

## PERFORMANCE REPORTING

**22-11-501. State data reporting system.** (1) The department shall administer, manage, and maintain a comprehensive data collection and reporting system for collecting and reporting the data specified in and required to implement this article. The department shall ensure that the state data reporting system is capable of:

(a) Collecting, through electronic transfer where possible, all student, public school, school district, and institute performance data required to ascertain the degree to which public schools, school districts, and the institute are meeting the statewide targets for attainment on the performance indicators;

(b) Producing data to support decision-making and learning and to prepare the reports on public school, school district, institute, and state performance described in section 22-11-503;

(c) Protecting the privacy of students;

(d) Including all the information and data elements needed to measure student, public school, school district, institute, and state performance; and

(e) Supporting analysis of the relationship between school district and public school expenditures and program characteristics and effectiveness.

(2) The data elements collected and provided by the department, school districts, the institute, and individual public schools shall be compatible and interoperable. Each school district that has a unique information management system shall ensure that its unique system is compatible with the data elements of the state data reporting system so that all data required to be input into the state data reporting system is made available through electronic transfer and in the appropriate input format.

(3) The department shall have the following duties and responsibilities with regard to the state data reporting system:

(a) To consult with school district representatives in the design and maintenance of the data model and implementation plans for the electronic transfer of data between school districts, the institute, individual public schools, and the state data reporting system;

(b) To provide operational definitions for the state data reporting system through the data dictionary created pursuant to section 22-2-305;

(c) To determine the information and specific data elements required for the performance decisions made at each public school, recognizing that the time and effort of instructional personnel expended in collection and compilation of data should be minimized;

(d) To develop standardized terms and procedures to be followed at all public schools;

(e) To develop an electronic standardized transmittal format to be used for collection of data from school districts, the institute, and public schools;

(f) To develop appropriate computer applications to ensure the integrity and integration of the specific data elements;

(g) To develop the necessary applications to provide statistical analysis of the comprehensive information and supporting data elements provided in paragraph (f) of this subsection (3) in such a way that required reports may be disseminated, comparisons may be made, and relationships may be determined in order to provide the necessary information for making performance decisions at all public schools;

(h) To develop output and reporting formats that will provide school districts, the institute, and public schools with diagnostic information for making academic and safety environment decisions at all public schools;

(i) To assist school districts and the institute in establishing their standardized electronic transmittal capabilities, including but not limited to awarding grants pursuant to rule of the state board to public schools, school districts, and the institute to assist them in upgrading their transmittal capabilities;

(j) To establish procedures for the annual evaluation of the effectiveness and ease of use of the state data reporting system;

(k) To perform such other actions as are necessary to carry out the intent of the general assembly that the needs of the state data reporting system for performance decision-making and reporting are met; and

(l) To apply for gifts, grants, and donations, including grants awarded under the federal "American Recovery and Reinvestment Act of 2009", Pub.L. 111-5, for the implementation of internet-based tools to deliver instructional advice and content supported by formative assessment data and to directly connect teachers across the state to enhance educators' collaboration, use of data, instruction, and professional accountability.

(4) The specific responsibilities of each school district and the institute shall include:

(a) Developing, with assistance from the department, system compatibility between the state data reporting system and unique school district and individual public school data systems;

(b) Providing, with the assistance of the department, in-service training on the state data reporting system's purposes and scope, a method of electronically transmitting input data, and the use of performance reporting information;

(c) Advising the department of all district data management needs as they relate to the state data reporting system;

(d) Electronically transmitting required data elements and an accounting as required by section 22-55-108 to the appropriate processing locations in accordance with guidelines established by the department;

(e) Determining required data output and reports, comparisons, and relationships to be provided to the school district or the institute by the state data reporting system, continuously reviewing these reports for usefulness and meaning, and submitting recommended additions, deletions, and changes in accordance with the guidelines established by the department; and

(f) Being responsible for maintaining the integrity and accuracy of data elements transmitted to the department.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1510, § 1, effective May 21.

**22-11-502. Data portal - creation - contents.** (1) The department shall develop and maintain an internet-based electronic data delivery system to provide education accountability data to public schools, school districts, the institute, parents, and other members of the public.

(2) At a minimum, the department shall publish on the data portal the following items:

(a) The performance reports, as described in section 22-11-503, for public schools, school districts, the institute, and the state;

(b) The accreditation category, with supporting data, determined pursuant to part 2 of this article, for each school district in the state and for the institute;

(c) The accreditation category, with supporting data, for each public school in the state, as determined by the local school board or the institute, whichever is applicable;

(d) For each public school in the state, the school performance, improvement, priority improvement, or turnaround plan, whichever is appropriate based on the state board's direction pursuant to section 22-11-210;

(e) For each school district in the state, the district performance, improvement, priority improvement, or turnaround plan, whichever is appropriate based on the school district's accreditation category; and

(f) For the institute, the institute performance, improvement, priority improvement, or turnaround plan, whichever is appropriate based on the institute's accreditation category.

(3) In publishing supporting data for the school district, institute, and public school accreditation categories, the department shall include data pertaining to the graduation rates that describe the progress made by student groups disaggregated for gender by race and income.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1512, § 1, effective May 21.

**22-11-503. Performance reports - contents - rules.** (1) The department shall publish on the data portal a school performance report for each public school in the state, a school district performance report for each school district in the state, a performance report for the institute, and a performance report for the state as a whole. The department shall continuously update the data included in the performance reports as soon as practicable, but not later than sixty days, after the data become available.

(2) The state board shall adopt rules specifying the information to be included in the school performance reports, the school district and institute performance reports, and the state performance report. The information must be consistent for each type of report and, at a minimum, must include the following:

(a) The report subject's level of attainment on each of the performance indicators as determined pursuant to section 22-11-204, including whether the report subject met the targets set for the applicable school year;

(a.5) The percentage of students enrolled by the report subject who score at each of the performance levels identified by the state board for the statewide assessments, reported by grade level and assessment;

(b) For school performance reports, a comparison of the report subject's levels of attainment on the performance indicators with the levels of attainment of the other public schools of the school district and in the state and the information specified in subsection (3) of this section;

(c) For school district performance reports and the institute performance report, a comparison of the report subject's levels of attainment on the performance indicators with other school districts in the state and the institute;

(d) Information concerning comparisons of student performance over time and among student groups;

(e) The report subject's rates of completion, mobility, and truancy as calculated pursuant to rules adopted by the state board; and

(f) Any additional information that may be required by federal law.

(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:

(a) The name of the public school, the type of school program provided at the public school, and the school year for which the information in the performance report is provided. The performance report shall also include the public school's street address, telephone number, and email address, and, if one exists, the website address of the school district or the public school.

(b) Information concerning the percentages of students who are not tested or whose scores are not included in determining attainment of the performance indicators;

(c) As described in state board rule, the occurrence of each of the types of incidents described in section 22-32-109.1 (2)(b)(IV), expressed as a number and as a percentage of the total occurrences of all of the incidents;

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

(I) Student enrollment at the public school;

(II) Students, reported as a number and a percentage of the total student enrollment at the public school, who are eligible for free or reduced-cost lunch pursuant to the federal "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq.;

(III) Repealed.

(IV) Average daily attendance at the public school; and

(V) For elementary schools, the availability of a preschool program, full-day kindergarten program, and before- and after-school programs at the public school;

(e) Information concerning the staff employed at the public school, including:

(I) The number of persons employed at the public school in each of the following categories and explanations of the job descriptions for each category:

(A) Classroom teachers;

(B) Paraprofessionals;

(C) Administrators;

(D) Other professionals;

(E) School support staff;

(F) School counselors; and

(G) School librarians;

(II) The students-per-classroom-teacher ratios for each grade level included in the public school;

(III) The average number of years of teaching experience among the teachers employed at the public school;

(IV) The number of teachers employed at the public school who hold master's or doctoral degrees;

(V) For junior high, middle, and high schools, the percentage of teachers employed at the public school who are teaching in the subject areas in which they received their bachelor's or graduate degrees;

(VI) The number of teachers employed at the public school who have three or more years of teaching experience. For purposes of this subparagraph (VI), the data used shall describe teachers who have obtained nonprobationary status pursuant to the provisions of part 2 of article 63 of this title.

(VII) The number of professional development days included in the school year;

(f) Information concerning whether the following courses and programs, which are not included in the statewide assessments, are available to students enrolled in the public school and, to the extent they are available on the public school's or school district's website, internet links to descriptions of these courses and programs:

(I) Art;

(II) Drama or theater;

(III) Music;

(IV) Dance;

(V) Physical education;

(VI) Economics;

(VII) World languages;

(VIII) History;

(IX) Geography;

(X) Civics;

(XI) Career and technical education;

(XII) Opportunities for civic or community engagement;

(XIII) Internet safety programs;

(XIV) For high schools, advanced placement, international baccalaureate, or honors courses;

(XV) For elementary schools, international baccalaureate or Montessori curricula;

(XVI) Extracurricular activities; and

(XVII) Athletics; and

(g) Information, as described in state board rule, concerning programs and services that are available at the public school to support student health and wellness. The state board is encouraged to include in the school performance report information concerning each school district's and each public school's incorporation of physical activity into the school day.

(4) Each public school, each school district, and the institute shall report accurately the data required to produce a performance report. The state board shall seek to minimize and eliminate the duplication of data reporting required under this section and data reporting required by other state or federal statutes or rules so that school districts, institute charter schools, and the institute may satisfy the multiple reporting requirements within a single reporting framework.

(5) Prior to the publication of the performance reports, the department shall:

(a) Allow each school district and the institute a reasonable period of time to review the school district's or the institute's information as it will appear on the school performance reports; and

(b) Correct any errors or misinformation identified by the school district or institute.

(6) The school performance report produced for each public school pursuant to this section may contain internet links through which a person may access additional information not provided in detail in the report. The state board may make changes in the format or the contents of the performance reports prepared pursuant to this section.

(7) Each public school shall notify the parent or legal guardian of each student enrolled in the public school of the availability on the data portal of its performance report and the performance report for the school district or the institute and for the state. Each public school shall ask the parent or legal guardian of each student enrolled in the school whether the parent or legal guardian wants a printed copy of the school, school district, institute, or state performance report, and shall provide a copy if requested.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1513, § 1, effective May 21. **L. 2011:** (3)(g) amended, (HB 11-1069), ch. 117, p. 366, § 3, effective April 20; (3)(d)(III) repealed, (HB 11-1277), ch. 306, p. 1476, § 8, effective August 10. **L. 2012:** (3)(c) amended, (HB 12-1345), ch. 188, p. 744, § 28, effective May 19. **L. 2018:** IP(2) amended and (2)(a.5) added, (HB 18-1355), ch. 324, p. 1953, § 17, effective May 30.

**22-11-503.5. Student performance by course level - report - definitions.** (1) (a) The general assembly finds and declares that:

(I) All students deserve the opportunity to learn higher-level content;

(II) The school and the school district's course placement policies and decisions impact a student's opportunity to learn; and

(III) Course-level placement decisions in core courses have a significant impact on a student's potential to attain proficiency on the statewide assessments in core content areas and to attain postsecondary and workforce readiness.

(b) The general assembly therefore determines that:

(I) Providing public schools and school districts with data concerning course participation and subsequent performance on statewide assessments will facilitate conversations at the school and school-district levels to identify those courses that result in the greatest number of students demonstrating proficiency, to place more students in those courses, and to eliminate

or drastically modify courses that are not yielding long-term success for students who take the courses; and

(II) Providing schools and school districts with this data will also facilitate conversations regarding the demographics of students enrolled in each course level and lead schools and school districts to examine and modify course placement and instructional grouping policies and decisions.

(2) As used in this section, unless the context otherwise requires:

(a) "Core course" means a course in English, mathematics, science, or social studies at the middle or high school level.

(b) "Course level" means the degree of difficulty or complexity of the content of a course in a specific subject area, such as an honors level course.

(3) (a) No later than November 1, 2014, and no later than each November 1 thereafter, for each academic year the department shall create a core course level participation and performance report for each school district and public school in the state. At a minimum, the report must include:

(I) The participation of students in each core course level disaggregated by student groups; and

(II) When available, the proficiency levels that the students enrolled in each core course level achieve on the statewide assessment that corresponds to the course subject disaggregated by student groups.

(b) During the 2014-15 and 2015-16 academic years, the department shall work with public schools and school districts to refine the format and content of the report to improve the use and functionality of the report for public schools and school districts, recognizing that the statewide assessments will be in transition during these academic years.

(4) Commencing with the 2020-21 academic year, the department shall also make the core course level participation and performance reports available on the department's website.

(5) Commencing no later than the 2016-17 academic year, public schools and school districts shall use the data in the core course level participation and performance report to inform the district plans adopted pursuant to sections 22-11-303 to 22-11-306, and the school plans adopted pursuant to sections 22-11-403 to 22-11-406. The core course level participation and performance report is intended to generate school-building level and school-district level discussion and examination of course placement policies and decisions and the resulting student proficiency levels on statewide assessments. If the core course level participation and performance report indicates that there are significant disparities in student performance by course level or that a disproportionate number of students from specific student groups are enrolled in courses that achieve lower student proficiency levels on statewide assessments, the public school or school district shall include strategies for addressing the disparities and disproportionate student groups participation in the district plan adopted pursuant to sections 22-11-303 to 22-11-306 and the school plan adopted pursuant to sections 22-11-403 to 22-11-406, which strategies may include eliminating or modifying courses.

**Source: L. 2014:** Entire section added, (HB 14-1376), ch. 305, p. 1294, § 1, effective August 6. **L. 2018:** (2)(a) and (4) amended, (HB 18-1379), ch. 250, p. 1541, § 6, effective May 24.

**22-11-504. School district and institute reporting requirements.** (1) Each school district shall annually report to the department for each of the district public schools:

(a) Any information necessary to prepare the performance reports described in section 22-11-503;

(b) For each district public school, the school performance, improvement, priority improvement, or turnaround plan, whichever is appropriate based on the direction from the state board pursuant to section 22-11-210;

(c) The accreditation category, with supporting data, for each district public school;

(d) The high school graduation requirements adopted by the local school board, as provided in section 22-32-109 (1)(kk), and by each district charter high school, including the options adopted by the local school board and each district charter high school by which a high school student may demonstrate college and career readiness; and

(e) Any additional information required for the department to implement the accreditation process described in part 2 of this article 11.

(2) The institute shall annually report to the department for each institute charter school:

(a) Any information necessary to prepare the performance reports described in section 22-11-503;

(b) For each institute charter school, the school performance, improvement, priority improvement, or turnaround plan, whichever is appropriate based on the direction from the state board pursuant to section 22-11-210;

(c) The accreditation category, with supporting data, for each institute charter school;

(d) The high school graduation requirements adopted by each institute charter high school, including the options adopted by each institute charter high school by which a high school student may demonstrate college and career readiness; and

(e) Any additional information required by the accreditation process described in part 2 of this article 11.

(3) Each local school board and the institute shall adopt policies to ensure that appropriate personnel within the school district and each institute charter school share with and explain to the parent or legal guardian of each student enrolled in the school district or the institute charter school the student's statewide assessment results and the student's longitudinal academic growth information provided by the department pursuant to section 22-11-203.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1517, § 1, effective May 21. **L. 2017:** (1)(c), (1)(d), (2)(c), and (2)(d) amended and (1)(e) and (2)(e) added, (SB 17-272), ch. 297, p. 1634, § 5, effective August 9.

**Cross references:** For the legislative declaration in SB 17-272, see section 1 of chapter 297, Session Laws of Colorado 2017.

PART 6

SCHOOL AWARDS PROGRAM

**22-11-601. Colorado school awards program - created - rules.** (1) There is hereby established the Colorado school awards program, referred to in this part 6 as the "program", to be

administered by the department. The state board shall promulgate rules for the administration of this part 6 and the program. The rules shall include but need not be limited to procedures for transmitting the financial awards to public schools of school districts and institute charter schools that demonstrate outstanding performance.

(2) In addition to the monetary awards made and distributed pursuant to sections 22-11-602, 22-11-603, 22-11-603.5, and 22-11-605, the state board may annually apply moneys from the school awards program fund created in section 22-11-605 to provide tangible items of recognition, such as banners or trophies, to schools that are identified as eligible to receive the John Irwin schools of excellence awards, the governor's distinguished improvement awards, the centers of excellence awards, and the academic growth awards created in section 22-11-603.7.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1518, § 1, effective May 21; (2) amended, (SB 09-256), ch. 294, p. 1570, § 40, effective May 21. **L. 2010:** (2) amended, (SB 10-018), ch. 49, p. 189, § 1, effective March 29. **L. 2014:** (2) amended, (HB 14-1385), ch. 272, p. 1093, § 2, effective August 6.

**Editor's note:** This section is similar to former § 22-11-301 as it existed prior to 2009.

**22-11-602. Colorado school awards program - John Irwin schools of excellence awards - rules.** (1) The state board shall annually present financial awards to the highest performing public schools in the state based on the schools' levels of attainment on the performance indicator concerning student achievement levels on the statewide assessments.

(2) Of the moneys available for the program pursuant to this part 6, one third shall be awarded to the public schools with the highest level of attainment on the performance indicator concerning student achievement levels, as calculated pursuant to section 22-11-204 (3). An award granted pursuant to this section shall be known as a "John Irwin Schools of Excellence Award".

(3) Subject to available appropriations, the amount of each award issued pursuant to this section shall be five thousand, ten thousand, or fifteen thousand dollars, depending on the number of pupils attending the public school receiving the award. If the available appropriations are insufficient to award each school the amount specified in this subsection (3), the department shall reduce all awards for that year proportionately. The state board shall establish by rule the pupil size of the public school for each award amount.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1518, § 1, effective May 21. **L. 2012:** (2) amended, (HB 12-1240), ch. 258, p. 1310, § 8, effective June 4.

**Editor's note:** This section is similar to former § 22-11-302 as it existed prior to 2009.

**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 one or more school years, as measured by the Colorado growth model. The technical advisory panel shall take school size into account in preparing its recommendations.

(2) Of the moneys available for awards pursuant to this part 6, two thirds shall be awarded pursuant to this section.

(3) An award issued pursuant to this section shall be known as a "Governor's Distinguished Improvement Award".

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1519, § 1, effective May 21. **L. 2011:** (1) amended, (HB 11-1277), ch. 306, p. 1477, § 9, effective August 10.

**Editor's note:** This section is similar to former § 22-11-305 as it existed prior to 2009.

**22-11-603.5. Centers of excellence awards.** (1) (a) The state board shall annually present financial awards to public schools in the state that enroll a student population of which at least seventy-five percent are at-risk pupils, as defined in section 22-54-103 (1.5), and that demonstrate the highest rates of student longitudinal growth, 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 qualify for an award pursuant to this section.

(b) Awards issued pursuant to this section shall be known as "Centers of Excellence Awards".

(2) A school that receives an award pursuant to this section shall not qualify for an award pursuant to section 22-11-603.

(3) Notwithstanding the provisions of sections 22-11-602 (2) and 22-11-603 (2), of the moneys available for awards pursuant to this part 3, in the 2009-10 budget year and budget years thereafter, two hundred fifty thousand dollars shall be awarded to schools annually pursuant to this section. The department shall apportion the remainder between the "John Irwin schools of excellence awards" and the "Governor's Distinguished Improvement Awards" as provided in sections 22-11-602 (2) and 22-11-603 (2), respectively.

**Source: L. 2009:** Entire section added, (SB 09-256), ch. 294, p. 1567, § 31, effective May 21.

**22-11-603.7. Academic growth awards - rules - definitions.** (1) (a) Subject to available appropriations, the state board shall annually present an award to the public high school that demonstrates the highest levels of student academic growth within each classification. The awards presented pursuant to this section must be in the form of trophies that resemble the trophies presented for athletic accomplishments. 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 the public high schools that demonstrate the highest rate of student longitudinal growth in one or more school years, as measured by the Colorado growth model.

(b) The awards issued pursuant to this section are named for each classification and known as the academic growth award for that classification.

(2) Notwithstanding any provision of this part 6 to the contrary, of any moneys that the department may receive pursuant to section 22-11-605 (1) in the form of public or private gifts, grants, or donations, in the 2014-15 budget year and each budget year thereafter, the department shall use up to one thousand five hundred dollars to award trophies pursuant to this section. The department shall apportion the remainder of the moneys available for awards as provided in sections 22-11-602, 22-11-603, and 22-11-603.5.

(3) As used in this section, "classification" means the grouping of schools established biennially by the statewide association for high school activities for the sport of football.

**Source: L. 2014:** Entire section added, (HB 14-1385), ch. 272, p. 1092, § 1, effective August 6.

**22-11-604. Colorado school awards program - distribution of award.** (1) Any award presented by the state board pursuant to this part 6 shall be spent or distributed for use within the public school as the principal of the public school, after consultation with the school accountability committee for the public school, deems appropriate.

(2) Any moneys made available to a district public school in the form of an award pursuant to the provisions of this part 6 shall not supplant moneys made available to the public school from funding received by the school district pursuant to article 54 of this title or pursuant to the taxing authority of the school district. Any moneys made available to an institute charter school in the form of an award pursuant to the provisions of this part 6 shall not supplant moneys payable to the institute charter school pursuant to part 5 of article 30.5 of this title.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1519, § 1, effective May 21.

**Editor's note:** This section is similar to former § 22-11-303 as it existed prior to 2009.

**22-11-605. School awards program fund - creation - contributions.** (1) The department may accept and expend gifts, grants, and donations from any source, public or private, to make financial awards and purchase tangible items of recognition, such as banners or trophies, to award to public schools pursuant to the provisions of this part 6. The department shall transmit all public and private gifts, grants, and donations received pursuant to this section to the state treasurer who shall credit the same, in addition to any appropriations made by the general assembly, to the school awards program fund, which is hereby created in the state treasury and referred to in this section as the "fund".

(2) Subject to annual appropriation, the department may expend money that is appropriated to the fund to make financial awards and purchase tangible items of recognition, such as banners or trophies, to award to public schools pursuant to the provisions of this part 6. In accordance with section 24-36-114, the state treasurer shall credit all interest derived from the deposit and investment of money in the fund to the general fund. The department shall use any money credited or appropriated to the fund exclusively for awards and items of recognition and shall not use the money to pay for the expenses of the department in administering the program established in this part 6.

**Source: L. 2009:** Entire article R&RE, (SB 09-163), ch. 293, p. 1519, § 1, effective May 21; (1) amended and (3) added, (SB 09-256), ch. 294, p. 1567, § 32, effective May 21. **L. 2010:** (1) and (2) amended, (SB 10-018), ch. 49, p. 189, § 2, effective March 29. **L. 2012:** (3) repealed, (HB 12-1238), ch. 180, p. 673, § 19, effective July 1. **L. 2017:** Entire section amended, (SB 17-076), ch. 108, p. 393, § 1, effective August 9.

**Editor's note:** This section is similar to former § 22-11-304 as it existed prior to 2009.

PART 7

LOCAL ACCOUNTABILITY SYSTEMS

**22-11-701. Legislative declaration.** (1) The general assembly finds that:

(a) The statewide accountability system relies substantially on large-scale, state-administered assessment results to measure public school and school district performance. Using these results provides a limited picture of the successes of and challenges faced by public schools and school districts and may not fully reflect the priorities and values of local communities.

(b) Several public schools and school districts in Colorado and in other states have begun experimenting with accountability structures that measure a broader range of student competencies and system effectiveness, which provides an opportunity for the state to learn from different approaches to measuring public school and school district performance;

(c) Public schools and school districts in Colorado have also begun experimenting with additional measures of college and career readiness; and

(d) A broader-based accountability system is consistent with the vision and framework adopted by the state education leadership council, created by executive order B 2017 001, and may provide the information necessary to move toward the council's goals concerning student competencies and learning environment characteristics. Specifically, the council's report recommends the following with regard to accountability:

(I) Continuous evaluation of state-level accountability and assessment policies, taking into consideration the viewpoints of multiple stakeholders;

(II) Support for ongoing research and evaluation of state assessment systems;

(III) Allowance for the experimentation necessary to effectively eliminate performance gaps, give local value to accountability, and drive meaningful, continuous improvement efforts; and

(IV) Definition and inclusion of locally important measures, such as engagement, employment, and higher education attainment outcomes, and incorporation of these measures into accountability policies.

(2) The general assembly finds, therefore, that it is in the best interests of the state to strengthen the accountability system for public schools and school districts by encouraging and supporting the development of local accountability systems that may inform the continuous improvement of the state's public school accountability system.

**Source: L. 2019:** Entire part added, (SB 19-204), ch. 415, p. 3652, § 1, effective August 2.

**22-11-702. Definitions.** As used in this part 7, unless the context otherwise requires:

(1) "Accountability system partner" means a public or private institution of higher education, or a private nonprofit entity, that works with local education providers to implement education policy initiatives and that has demonstrated effectiveness in providing support to local education providers that is relevant to the support the institution or entity provides in the partnership, which may include support in designing or evaluating measures of student success or system effectiveness.

(2) "Grant program" means the local accountability system grant program established in section 22-11-703.

(3) "Local accountability system" means a local accountability system established by a local education provider or group of local education providers to measure the performance of public schools and school districts in achieving student success and system effectiveness.

(4) "Local education provider" means a school district, a board of cooperative services that operates a school, a district charter school, or an institute charter school. If a group of local education providers works together to establish a local accountability system, the group is referred to as a "local education provider", but the requirements specified in this part 7 apply to each local education provider that participates in the group.

**Source: L. 2019:** Entire part added, (SB 19-204), ch. 415, p. 3653, § 1, effective August 2.

**22-11-703. Local accountability system - grant program established.** (1) There is established in the department the local accountability system grant program. A local education provider or group of local education providers may establish and seek funding through the grant program to support a local accountability system that supplements the state accountability system. A district charter school may choose, but is not required, to participate with the authorizing school district in an application pursuant to this section. In determining student success, a local accountability system may supplement the statewide performance indicators by using additional measures of achievement of the statewide performance indicators and by using additional indicators of student success. Additional indicators may include nonacademic student outcomes, which may reflect changes in student engagement, attitudes, and mindsets. A local accountability system is supplemental to the state accountability system and may be designed to:

(a) Fairly and accurately evaluate student success using multiple measures to develop a more comprehensive understanding of each student's success including additional performance indicators or measures, which may include nonacademic student outcomes such as student engagement, attitudes, and dispositions toward learning;

(b) Evaluate the capacity of the public school systems operated by the local education provider to support student success; and

(c) Use the results obtained from measuring student success and system support for student success as part of a cycle of continuous improvement.

(2) A local education provider that chooses to establish a local accountability system may apply to the department to receive grant money through the program to use in developing and implementing the local accountability system. The local education provider may work with one or more accountability system partners to:

(a) Establish and implement the local accountability system;

(b) Identify and develop appropriate measures for the local accountability system;

(c) Evaluate and provide evidence of the quality of the local accountability system measures;

(d) Design alternative templates and tools for reporting data concerning performance;

(e) Analyze data; and

(f) Assist with stakeholder communications.

(3) To participate in the grant program, a local education provider shall submit to the department an application that includes:

(a) The goals of the local accountability system that the local education provider plans to implement or is implementing;

(b) The name of any accountability system partner that the local education provider intends to work with or is working with in designing and implementing the local accountability system;

(c) If a group of local education providers is submitting the application, identification of each of the local education providers that has voluntarily chosen to participate in the application;

(d) A description of the individuals and entities within the local education provider and within the local education provider's community, including families, that the local education provider is working with to design and implement the local accountability system;

(e) The local education provider's expected timeline for designing and implementing the local accountability system;

(f) A statement concerning whether the local accountability system will include a supplemental report of public school and school district performance, as described in section 22-11-704 (1), as a supplement to the school and school district performance reports described in section 22-11-503; and

(g) A statement concerning whether the local accountability system will include using an alternative format, as described in section 22-11-704 (2), for the types of plans that the local education provider, and the public schools operated by the local education provider, are required to implement and how the local education provider expects to share key planning elements, including priority performance challenges, root causes, and major improvement strategies, with the department for statewide public reporting on improvement planning efforts.

(4) (a) The department shall review each application received to ensure that it includes the items specified in subsection (3) of this section. The department shall review the services proposed to be provided by each accountability system partner and determine:

(I) Whether the accountability system partner has a demonstrated history of providing effective support to local education providers; and

(II) If the accountability system partner is developing or evaluating local accountability system measures, whether it has expertise in measurement.

(b) If the department determines that an application is not complete or that a named accountability system partner does not meet the minimum requirements specified in subsection (4)(a) of this section, or if the department identifies an opportunity for additional partnerships among the grant applicants, the department shall notify the applying local education provider and allow the local education provider to resubmit the application.

(5) (a) Based on the review of the applications, the department shall recommend to the state board the applicants that may receive grants through the program and the amount of each grant. Taking into consideration the department's recommendations, and subject to available

appropriations, the state board shall select the local education providers that receive grants through the program and the amount of each grant awarded.

(b) The amount of a grant awarded pursuant to this section must be at least twenty-five thousand dollars per budget year but must not exceed fifty thousand dollars per budget year for a grant awarded to a single local education provider and must not exceed seventy-five thousand dollars per budget year for a grant awarded to a group of local education providers. The department shall distribute the amount of each grant over three budget years.

(c) If the number of applications exceeds the amount appropriated for the grant program pursuant to subsection (6) of this section, the department in making recommendations and the state board in selecting recipients shall:

(I) Ensure that at least one recipient is a local education provider or group of local education providers that are rural school districts, as defined in section 22-7-1211, boards of cooperative services that consist of rural school districts, or charter schools that are located within rural school districts;

(II) Prioritize applicants that demonstrate a previous commitment of staff and resources toward development of a local accountability system;

(III) Recommend and select the grant recipients so as to distribute funding to a broad scope of projects located throughout the state; and

(IV) When appropriate, encourage applicants to work together toward shared goals.

(6) The general assembly may annually appropriate money to the department to implement the grant program, including money for grants and for the direct administrative costs incurred by the department. Any unexpended and unencumbered money from an appropriation made for the purposes of this section remains available for expenditure by the department for the purposes of this section in the following fiscal year without further appropriation. In addition, the department may accept gifts, grants, or donations from private or public sources for the purposes of this section; except that the department may not accept a gift, grant, or donation that is subject to conditions that are inconsistent with this section or any other law of the state. This section does not require the department to solicit money for implementation of this section.

**Source: L. 2019:** Entire part added, (SB 19-204), ch. 415, p. 3654, § 1, effective August 2.

**22-11-704. Local accountability systems - supplemental performance reports - alternatively formatted plans.** (1) (a) A local education provider that chooses to implement a local accountability system may submit to the department a supplemental performance report for the local education provider and for each public school operated by the local education provider. A district charter school is not required to participate in the authorizing school district's supplemental accountability system or in related reporting unless the charter school chooses to participate with the authorizing school district in a grant application pursuant to section 22-11-703. The supplemental performance report supplements the information that is submitted by the local education provider and included on the performance reports described in section 22-11-503. The supplemental performance report may include information concerning achievement of:

(I) The additional measures adopted by the local education provider through the local accountability system to determine achievement of the statewide performance indicators; and

(II) The additional local performance indicators of student success, including system support for student success measured by the local education provider through the local accountability system.

(b) The information provided in a supplemental performance report does not affect the accreditation rating assigned to a school district pursuant to section 22-11-208 or the type of plan that a school is required to adopt pursuant to section 22-11-210.

(c) The department shall publish the supplemental performance reports submitted by a local education provider pursuant to subsection (1)(a) of this section on the data portal and provide public access to the supplemental performance reports that is adjacent to the public school and school district performance reports described in section 22-11-503.

(2) (a) A local education provider that chooses to implement a local accountability system may provide to the department, as an alternative to the plan format provided by the department, a different format for the type of plan that is associated with the local education provider's accreditation rating pursuant to section 22-11-208, if the local education provider is a school district, or the type of plan that the local education provider is required to implement pursuant to section 22-11-210, if the local education provider is a charter school. A plan provided in an alternative format must take into account the data collected through the local accountability system and any associated improvement efforts that the local education provider implements. A plan provided in an alternative format must meet the state and federal reporting requirements, as identified by the department, that apply to the plan types implemented pursuant to this article 11. If a local education provider uses an alternative format, a public school operated by the local education provider may also use an alternative format for the type of plan that the public school is required to implement, which format is compatible with that used by the local education provider.

(b) A local education provider that uses an alternative plan format shall submit the plan in accordance with the deadlines established by the state board for performance, improvement, priority improvement, and turnaround plans, including submitting the plan on a biennial basis for a local education provider that is a school district and accredited or accredited with distinction or a local education provider that is a charter school and required to implement a performance plan.

(c) The department shall publish a local education provider's alternatively formatted plan on the data portal and provide public access to the plan.

**Source: L. 2019:** Entire part added, (SB 19-204), ch. 415, p. 3657, § 1, effective August 2.

**22-11-705. Local accountability systems - report.** (1) To support communication and the ability of the state and of local education providers to learn from the efforts of the local education providers that choose to implement local accountability systems, before July 15, 2020, and on or before July 15 each year thereafter, the department shall convene a meeting with local education providers that implement local accountability systems, their accountability system partners, if any, and other members of the community who are involved in designing and implementing local accountability systems to review the implementation of local accountability systems. Individuals may participate in the meeting in-person or electronically.

(2) On or before January 15, 2021, and on or before January 15 each year thereafter, the department shall prepare and submit to the state board and the education committees of the

house of representatives and the senate, or any successor committees, a report concerning the implementation of local accountability systems, including a report of the implementation of the grant program. The report must include, but need not be limited to:

(a) Identification of the local education providers that are implementing local accountability systems, including identification of those that receive grants through the grant program and the amount of each grant awarded;

(b) Identification of the accountability system partners, if any, that the local education providers work with;

(c) A description of the measures and local performance indicators included in each local accountability system;

(d) Evidence provided by local education providers, including input solicited from community members, concerning the effectiveness of each local accountability system in measuring the quality of the education provided by the local education provider that implements the local accountability system. To the extent possible for each local accountability system, in reporting performance on additional measures and local performance indicators, the department shall disaggregate the performance results by grade level and by student group, applying the same exclusions that apply to reporting performance results on the state performance indicators.

(e) Identification of elements that are used in one or more local accountability systems that may be recommended for adoption by other local education providers; and

(f) Any recommendations for changes in department procedures, state board rules, or statute based on the implementation of the local accountability systems.

(3) In preparing the report, the department shall solicit input from and collaborate with the local education providers that implement local accountability systems and the accountability system partners, if any, that they work with.

(4) The department shall post the report on its website for public review. Upon request by a local education provider, the department shall provide information concerning the measures and local performance indicators implemented through local accountability systems, including a description of the measures, evidence of their effectiveness, and the manner in which they are used.

(5) (a) In the third year of the grant program, the department shall contract with an external evaluator, which may be a state institution of higher education, to prepare a summary evaluation report of the implementation of the local accountability systems that receive grants. The evaluation must, at a minimum, include an evaluation of the success of each local accountability system in evaluating student success and the processes for ensuring a cycle of continuous improvement within the public schools of the participating local education providers. At the annual meeting held pursuant to subsection (1) of this section at the end of the first year of the grant program, the department, participating local education providers, and the accountability system partners shall identify the goals, tools, and measures to be addressed by the summary evaluation report. The data used for the summary evaluation report must include qualitative and quantitative measures.

(b) For purposes of the summary evaluation report, the department shall provide to the external evaluator information concerning the scores attained by students enrolled by the participating local education providers on the statewide assessments administered pursuant to section 22-7-1006.3 and information concerning student longitudinal academic growth, student academic achievement, and student academic growth to standards for the students enrolled by

the participating local education providers. The department shall provide the information in the aggregate by grade level and disaggregated by student group, as defined in section 22-11-103, compared to scores attained in previous school years and compared to the state average scores. The department shall provide the information to the external evaluator only to the extent allowable under federal and state law. Each local education provider that participates in the grant program shall provide any necessary data for purposes of the summary evaluation report described in subsection (5)(a) of this section that is not readily available to the department.

(c) Beginning with the report that is submitted on or before January 15, 2023, and for each report submitted thereafter, the department shall include in the report described in subsection (2) of this section the summary evaluation report described in this subsection (5).

(d) The department may accept and expend gifts, grants, or donations to pay the costs incurred in preparing the summary evaluation report described in this subsection (5).

(6) Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the requirement to submit the report specified in this section continues indefinitely.

**Source: L. 2019:** Entire part added, (SB 19-204), ch. 415, p. 3658, § 1, effective August 2.

## ARTICLE 12

Teacher and School Administrator
Protection Act

**22-12-101. Short title.** This article shall be known and may be cited as the "Teacher and School Administrator Protection Act".

**Source: L. 2003:** Entire article added, p. 1216, § 1, effective August 6.

**22-12-102. Legislative declaration.** (1) The general assembly hereby finds that:

(a) Promoting the quality of primary and secondary public education is a compelling state interest;

(b) Maintaining a safe environment is an important component of learning. At times, educators may feel they lack the authority to maintain safety and discipline in the public school classroom or they may hesitate to exercise this authority because of the threat of a lawsuit resulting from their actions.

(c) The filing of meritless lawsuits against school districts, teachers, administrators, and other school district employees interferes with attempts to ensure the quality of public education, particularly where the lawsuits arise out of the good-faith efforts of educators to maintain classroom discipline or address threats to student safety;

(d) Meritless litigation also diverts financial and personnel resources to litigation defense activities and reduces the availability of these resources for educational opportunities for students.

(2) The general assembly finds that legislation to deter meritless lawsuits and sanction deliberately false reports against educators is a rational and appropriate method to address the

compelling public interest in protecting school districts and school district employees from unnecessary and harmful litigation.

(3) It is the intent of the general assembly that the provisions of this article and those of the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S., be read together and harmonized to give the greatest protection from liability in tort possible for educational entities and their employees. If the provisions of this article and those of the "Colorado Governmental Immunity Act" are interpreted as being in conflict, the provision that grants the greatest immunity and protection to an educational entity and its employees shall prevail.

**Source: L. 2003:** Entire article added, p. 1216, § 1, effective August 6.

**22-12-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Educational entity" means the state board of education, a school district board of education, and a governing body of a charter school.

(2) "Employee" means an individual elected or appointed to an educational entity and an individual who is an employee of an educational entity or who provides student-related services to an educational entity on a contractual basis. "Employee" includes an authorized volunteer who provides student-related services to an educational entity.

**Source: L. 2003:** Entire article added, p. 1217, § 1, effective August 6.

**22-12-104. Liability.** (1) An educational entity and its employees are immune from suit for taking an action regarding the supervision, grading, suspension, expulsion, or discipline of a student while the student is on the property of the educational entity or under the supervision of the educational entity or its employees; except that immunity shall not apply if the action is committed willfully and wantonly and violates a statute, rule, or regulation or a clearly articulated policy of the educational entity. The burden of proving the violation shall rest with the plaintiff and must be established by clear and convincing evidence to the court as part of a summary proceeding. If at the summary proceeding the court finds a violation exists, the educational entity and its employee may raise immunity at trial under the provisions of this article and the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S.

(2) An educational entity and its employees are immune from suit for making a report consistent with federal law to the appropriate law enforcement authorities or officials of an educational entity if the individual making the report has reasonable grounds to suspect that a student is:

(a) Under the influence of alcoholic beverages or of a controlled substance not lawfully prescribed to the student;

(b) In possession of a firearm or alcoholic beverages or of a controlled substance not lawfully prescribed to the student;

(c) Involved in the illegal solicitation, sale, or distribution of firearms or alcoholic beverages or of a controlled substance.

(3) A person claiming to have suffered an injury by an educational entity or an employee, whether or not by a violation of a statute, rule, or regulation or a clearly articulated policy of the educational entity, shall file a written notice as provided in section 24-10-109, C.R.S., within one hundred eighty days after the date of discovery of the injury, regardless of

whether the person then knew all of the elements of a claim or of a cause of action for the injury. Compliance with the provisions of this subsection (3) shall be a jurisdictional prerequisite to any action brought under the provisions of this article, and failure of compliance shall forever bar any such action.

**Source: L. 2003:** Entire article added, p. 1217, § 1, effective August 6.

**22-12-105. False reports - misdemeanor.** (1) Except as otherwise provided in this section, a person eighteen years of age or older who intentionally makes a false accusation of criminal activity against an employee of an educational entity to law enforcement authorities, school district officials or personnel, or both commits a misdemeanor and, upon conviction, shall be fined up to two thousand dollars.

(2) Except as otherwise provided in this section, a student enrolled in a public school who is at least ten years of age but younger than eighteen years of age who intentionally makes a false accusation of criminal activity against an employee of an educational entity to law enforcement authorities, school district officials or personnel, or both may, at the discretion of the court and in accordance with the provisions of the federal "Individuals with Disabilities Education Act", 20 U.S.C. sec. 1400 et seq., be subject to any of the following penalties:

(a) Community service of a type and for a period of time to be determined by the court;

(b) Any other sanction as the court in its discretion may deem appropriate.

(3) A school district may expel or suspend a student who intentionally makes a false accusation of criminal activity against an employee of an educational entity to law enforcement authorities, school district officials or personnel, or both.

(4) The provisions of this section do not apply to statements regarding individuals elected or appointed to a school board.

(5) This section is in addition to and does not limit the civil or criminal liability of persons who make false statements alleging criminal activity by others.

**Source: L. 2003:** Entire article added, p. 1218, § 1, effective August 6.

**22-12-106. Frivolous actions - attorney fees - costs.** (1) In a civil action or proceeding against an educational entity or its employee in which the court finds the educational entity or its employee is immune from suit or from liability pursuant to the provisions of section 22-12-104, the court shall award costs and reasonable attorney fees to the defendant or defendants. The court in its discretion may determine whether such fees and costs are to be borne by the plaintiff's attorney, the plaintiff, or both.

(2) Expert witness fees may be included as part of the costs awarded under this section.

(3) The provisions of this section shall be deemed to be substantive state law.

**Source: L. 2003:** Entire article added, p. 1219, § 1, effective August 6.

**22-12-107. Insurance.** Unless otherwise provided by statute, the existence of a policy of insurance indemnifying an educational entity against liability for damages is not a waiver of a defense otherwise available to the educational entity or its employees in the defense of a claim.

**Source: L. 2003:** Entire article added, p. 1219, § 1, effective August 6.

**22-12-108. Applicability.** This article shall be supplemental to the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S. An action that is barred under the provisions of the "Colorado Governmental Immunity Act", including but not limited to section 24-10-109, C.R.S., shall be barred under the provisions of this article.

**Source: L. 2003:** Entire article added, p. 1219, § 1, effective August 6.

**22-12-109. Special rule.** This article shall not infringe on any right provided under the federal "Individuals with Disabilities Education Act", 20 U.S.C. sec. 1400 et seq.

**Source: L. 2003:** Entire article added, p. 1219, § 1, effective August 6.

## ARTICLE 13

School Leadership

**Editor's note:** This article was added in 2008. It was repealed and reenacted in 2014, resulting in the addition, relocation, or elimination of sections as well as subject matter. For amendments to this article prior to 2014, consult the 2013 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

### PART 1

### SCHOOL TURNAROUND LEADERS DEVELOPMENT PROGRAM

**22-13-101. Legislative declaration.** (1) The general assembly finds that:

(a) Developing high-quality leadership for struggling schools has become a clear priority nationwide to systematically improve academic performance among low-achieving students;

(b) Leadership for low-performing schools is fundamentally different than leadership for higher-performing schools. Extensive research shows that, to achieve real turnaround and academic improvement, low-performing schools need to experience significant and fundamental change in instructional practices as well as in the school's climate and culture. Turnaround leadership requires dramatic and transformative intervention in a culture of underperformance within a short amount of time. The research further articulates the skills and competencies that school leaders must have to produce this type of change in a school and that these skills and competencies are dramatically different from those practiced by most school leaders.

(c) There is also a significant amount of research and evidence around the practices that are needed to train, recruit, incentivize, and sustain successful, high-quality school turnaround leaders;

(d) In addition to school principals, teacher leaders within schools and district-level personnel who coordinate and support turnaround efforts for multiple schools of a school district are crucial to achieving increased academic performance within low-performing schools and must be included in programs to train successful, high-quality school turnaround leaders;

(e) For the 2013-14 school year, one hundred nineteen public schools serving fifty-five thousand eight hundred fourteen students in Colorado are accredited with priority improvement plans, and forty-nine public schools serving seventeen thousand three hundred eleven students are accredited with turnaround plans. For the 2013-14 school year, fourteen school districts are accredited with priority improvement plans, and two school districts are accredited with turnaround plans. Given these levels of performance in the public schools, Colorado must address the need to develop, nurture, and support aspiring and practicing school turnaround leaders.

(f) There is a tremendous opportunity for the state to recruit, develop, and facilitate new and existing leadership development programs that are specifically focused on developing leaders to serve low-performing schools.

(1.5) The general assembly further finds that, while school leadership is a crucial aspect of improving the performance of struggling schools, factors such as school culture, teacher professional development, and the transformation of instruction in the classroom are also necessary elements of the plan to transform a public school and raise the academic performance of the students enrolled in the school.

(2) The general assembly therefore finds that it is imperative and in the best interests of the state to create the school transformation grant program within the department to contract with providers and award grants to school districts throughout the state to use in developing outstanding school leaders with the skills and competencies required to turn around low-performing public schools in the state and to provide grants to school districts, the institute, and charter schools to support them in improving educator professional development and transforming instruction, which may include planning for and implementing rigorous school redesign strategies.

(3) The general assembly declares that, for purposes of section 17 of article IX of the state constitution, the school transformation grant program is an important element in implementing accountable programs to meet state academic standards and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 2014:** Entire article R&RE, (SB 14-124), ch. 342, p. 1519, § 1, effective June 5. **L. 2018:** (1.5) added and (2) and (3) amended, (HB 18-1355), ch. 324, p. 1954, § 19, effective May 30.

**22-13-102. Definitions.** As used in this part 1, unless the context otherwise requires:

(1) "Charter school" means a charter school authorized by a school district pursuant to part 1 of article 30.5 of this title or an institute charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title.

(2) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(3) "Institute" means the state charter school institute established in section 22-30.5-503.

(4) "Program" means the school transformation grant program created in section 22-13-103.

(5) "Provider" means a public or private entity that offers a high-quality turnaround leadership development program for Colorado educators.

(6) "School district" means a school district organized pursuant to article 30 of this title.

(7) "School turnaround leader" means a principal or teacher leader in a school that is required to adopt a priority improvement plan or turnaround plan pursuant to section 22-11-210 or a district-level administrator or employee of the state charter school institute that coordinates and supports turnaround efforts in schools of the school district or institute charter schools that implement priority improvement plans or turnaround plans.

(8) "State board" means the state board of education created in section 1 of article IX of the state constitution.

**Source: L. 2014:** Entire article R&RE, (SB 14-124), ch. 342, p. 1520, § 1, effective June 5. **L. 2018:** IP and (4) amended, (HB 18-1355), ch. 324, p. 1955, § 20, effective May 30. **L. 2019:** IP amended, (HB 19-1002), ch. 405, p. 3584, § 2, effective May 31.

**22-13-103. School transformation grant program - created - rules.** (1) There is created in the department the school transformation grant program to provide funding to:

(a) Assist in the design of turnaround leadership development programs and to provide funding to support training and development of school turnaround leaders for the public schools in the state;

(b) Support school districts, the institute, and charter schools in providing educator professional development and transforming instruction in public schools that are required to adopt priority improvement or turnaround plans for the immediate or preceding school year; and

(c) Assist school districts, the institute, and charter schools that are implementing priority improvement or turnaround plans in planning for and implementing one or more of the following rigorous school redesign strategies:

(I) Converting a district public school to a charter school if it is not already authorized as a charter school;

(II) Granting innovation school status to a district public school pursuant to section 22-32.5-104;

(III) With regard to a district or institute charter school, replacing the school's operator or governing board;

(IV) Contracting with a public or private entity other than the school district to partially or wholly manage a district public school, which entity is accepted by the department and the local school board as using research-based strategies and having a proven record of success working with schools under similar circumstances; or

(V) Closing a public school or revoking the charter for a district or institute charter school.

(2) The state board, in accordance with the "State Administrative Procedure Act", article 4 of title 24, shall promulgate rules to implement and administer the program. At a minimum, the rules must include:

(a) Criteria for identifying approved providers from among those that respond to the request for proposals pursuant to section 22-13-104. At a minimum, the criteria must:

(I) Consider each provider's experience in developing successful, effective leadership in low-performing schools and school districts;

(II) Consider the leadership qualities that each provider's turnaround leadership development program is expected to develop; and

(III) Ensure the availability of turnaround leadership development programs for school turnaround leaders in public schools throughout the state.

(b) and (c) Repealed.

(d) Timelines for the school transformation grant application and approval process;

(e) The requirements for a school transformation grant application, including but not limited to the goals that the applicant expects to achieve through the grant; and

(f) Criteria for selecting school transformation grant recipients. At a minimum, the criteria must take into account for applying school districts the concentration of schools of the school district, or for the institute the concentration of institute charter schools, that must implement priority improvement or turnaround plans. For applying charter schools, the criteria must prioritize schools that are implementing priority improvement or turnaround plans.

**Source: L. 2014:** Entire article R&RE, (SB 14-124), ch. 342, p. 1521, § 1, effective June 5. **L. 2018:** (1), IP(2), (2)(d), (2)(e), and (2)(f) amended and (2)(b) and (2)(c) repealed, (HB 18-1355), ch. 324, p. 1955, § 21, effective May 30.

**22-13-104. Turnaround leadership development programs - providers - design grants - review.** (1) The department shall issue a request for proposals from providers who seek to participate in the program. The department shall review the responses received and, based on the criteria adopted by rule of the state board, identify one or more providers to participate in the program by providing turnaround leadership development programs for school districts, the institute, and charter schools that receive grants through the program. The department, on a regular basis, shall review each provider's turnaround leadership development programs, including the success achieved by the persons who complete the programs, and revise the list of identified providers as appropriate to ensure that the turnaround leadership development programs that are available through the program are of the highest quality.

(2) Repealed.

(3) Each identified provider shall track the effectiveness of persons who complete a turnaround leadership development program and report the effectiveness to the department in accordance with department guidelines. The report must use department rubrics to measure the effectiveness of persons who complete the turnaround leadership development program.

**Source: L. 2014:** Entire article R&RE, (SB 14-124), ch. 342, p. 1522, § 1, effective June 5. **L. 2015:** (2) amended, (SB 15-108), ch. 12, p. 28, § 3, effective March 13. **L. 2018:** (1) amended and (2) repealed, (HB 18-1355), ch. 324, p. 1956, § 22, effective May 30.

**22-13-105. School transformation grants - application - awards - report.** (1) The state board, subject to available appropriations, shall award school transformation grants to one or more school districts or charter schools or to the institute to use in:

(a) Identifying and recruiting practicing and aspiring school turnaround leaders;

(b) Subsidizing the costs incurred for school turnaround leaders and their leadership staff, if appropriate, to participate in turnaround leadership development programs offered by identified providers;

(c) Reimbursing school turnaround leaders for the costs they incur in completing turnaround leadership development programs offered by identified providers;

(d) Providing educator professional development for educators working in public schools that are implementing priority improvement or turnaround plans;

(e) Providing services, support, and materials to transform instruction in public schools that are implementing priority improvement or turnaround plans; and

(f) Planning for and implementing one or more of the following rigorous school redesign strategies:

(I) Converting a district public school to a charter school if it is not already authorized as a charter school;

(II) Granting innovation school status to a district public school pursuant to section 22-32.5-104;

(III) With regard to a district or institute charter school, replacing the school's operator or governing board;

(IV) Contracting with a public or private entity other than the school district to partially or wholly manage a district public school, which entity is accepted by the department and the local school board as using research-based strategies and having a proven record of success working with schools under similar circumstances; or

(V) Closing a public school or revoking the charter for a district or institute charter school.

(2) A school district, the institute, or a charter school that seeks a school transformation grant must apply to the department as provided by rule of the state board. The department shall review all of the applications received and, based on the criteria adopted by rule, recommend to the state board the applicants that may receive school transformation grants and the grant amounts. Subject to available appropriations, the state board, taking into account the department's recommendations, shall award school transformation grants from money appropriated by the general assembly to the department for the program.

(3) Each school transformation grant may continue for up to three budget years. The department shall annually review each grant recipient's use of the grant money and may rescind the grant if the department finds that the grant recipient is not making adequate progress toward achieving the goals identified in the grant application.

(4) During the term of the grant, each grant recipient shall annually report to the department the information requested by the department to monitor the effectiveness of the school transformation grants, which must include consideration of the impact that the use of each grant makes on raising student achievement and establishing a positive school culture. Notwithstanding section 24-1-136 (11)(a)(I), the department shall analyze and summarize the reports received from grant recipients and annually submit to the state board, the governor, and the education committees of the senate and the house of representatives, or any successor committees, a report of the effectiveness of the school transformation grants awarded pursuant to this section. The department shall also post the annual report on its website.

(5) The department may expend up to five percent of the money annually appropriated for the program to offset the costs incurred in implementing the program.

**Source: L. 2014:** Entire article R&RE, (SB 14-124), ch. 342, p. 1523, § 1, effective June 5. **L. 2015:** (2) amended and (5) added, (SB 15-108), ch. 12, p. 28, § 4, effective March 13. **L. 2017:** (4) amended, (HB 17-1267), ch. 242, p. 995, § 8, effective August 9. **L. 2018:** Entire section amended, (HB 18-1355), ch. 324, p. 1957, § 23, effective May 30.

**22-13-106. School turnaround leaders development fund - created - repeal. (Repealed)**

**Source: L. 2014:** Entire article R&RE, (SB 14-124), ch. 342, p. 1523, § 1, effective June 5. **L. 2015:** (1)(c) and (3) added, (SB 15-108), ch. 12, p. 29, § 5, effective March 13.

**Editor's note:** Subsection (3) provided for the repeal of this section, effective July 1, 2016. (See L. 2015, p. 29.)

PART 2

SCHOOL LEADERSHIP PILOT PROGRAM

**22-13-201. Legislative declaration.** (1) The general assembly finds that:

(a) Effective school leadership is second only to teaching with regard to the in-school components identified as having the greatest effect on student learning and outcomes;

(b) A recent report by the department of education and the department of higher education concerning teacher shortages in Colorado states that, in identifying reasons for leaving a school, teachers cite poor or ineffective school leadership. To address the teacher shortage, the report recommends providing improved educational leadership preparation and professional development to assist principals in creating positive school climate and culture.

(c) School principals are expected to fill many roles that move far beyond administrative tasks, including setting a school-wide vision for student learning and outcomes, creating a school-wide climate that is hospitable to learning, providing instructional leadership with educators, nurturing a professional learning community with the educators in the school, and cultivating leadership in others so that the school operates on a distributive and collaborative leadership model;

(d) There are examples of excellent principals in public schools in Colorado who successfully practice distributive and collaborative leadership and have built and maintained a strong collaborative learning community in their schools that results in positive student outcomes. School principals in Colorado should have the opportunity to observe and learn from these excellent principals to be able to replicate best practices in their own schools.

(e) Creating a cohort of public school principals throughout the state who have the opportunity to observe and learn from excellent principals and together develop their leadership skills and learn to implement best practices in leading a public school community is likely to result in school improvement throughout the state and better student academic outcomes; and

(f) Improving school leadership through a program that empowers public school principals to build their leadership skills and teaches them to effectively implement distributive and collaborative leadership is likely to result in improvements in the climate and culture of public schools, decreased educator turnover, and a reduction in the teacher shortage experienced by many public schools.

(2) The general assembly finds, therefore, that it is necessary for the benefit of public education in Colorado to direct the department of education to design and implement a program to provide embedded, experiential training for a cohort of public school principals to enable them to provide distributive and collaborative leadership within their public schools that

supports increased educator retention, improved school climate and culture, and improved student academic outcomes.

**Source: L. 2019:** Entire part added, (HB 19-1002), ch. 405, p. 3579, § 1, effective May 31.

**22-13-202. Definitions.** As used in this part 2, unless the context otherwise requires:

(1) "Department" means the department of education created and existing pursuant to section 24-1-115.

(2) "Entity" means a nonprofit entity or a public or private institution of higher education that offers a principal preparation program.

(3) "Program" means the school leadership pilot program created in section 22-13-203.

(4) "Public school" means a school that derives its support, in whole or in part, from money raised by a general state or school district tax and includes a school of a school district, a public school operated by a board of cooperative services, and an institute charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title 22.

(5) "School principal" means an individual who is employed as the chief administrative officer of a public elementary, middle, or high school in Colorado.

(6) "State board" means the state board of education created in section 1 of article IX of the state constitution.

**Source: L. 2019:** Entire part added, (HB 19-1002), ch. 405, p. 3580, § 1, effective May 31.

**22-13-203. School leadership pilot program - created - participation - rules.** (1) There is created in the department of education the school leadership pilot program to provide embedded, experiential professional development to improve the quality of school principals and empower them to exercise distributive and collaborative leadership that supports collaboration among the professional educators in the school building. The purpose of the program is to increase educator retention, improve school climate and culture, and improve student academic outcomes by improving the quality of leadership in public schools. The program must include identification of high-quality school principals and the opportunity for other school principals from school districts throughout the state to observe and interact with the identified high-quality school principals and to receive professional development in leadership skills to learn the critical practices of the high-quality school principals in successful public schools.

(2) The department shall design the program during the 2019-20 budget year and begin implementation of the program no later than July 2020. The department may contract with an entity with demonstrated, successful experience in providing training to school principals in distributive and collaborative leadership in Colorado or in other states to assist in designing and implementing the program. In selecting an entity, the department shall first consider entities that provide successful school leadership programs in Colorado that are similar to the program described in this section. The department shall ensure that the program design includes:

(a) The method for identifying high-quality school principals and selecting a cohort of school principals from public elementary, middle, and high schools across the state who apply to participate in the professional development provided by the program;

(b) The learning objectives and goals of the program, which must at a minimum include improving and enhancing positive school climate and culture and implementing distributive and collaborative leadership among the professional educators within a school;

(c) The methods for achieving the learning objectives and goals, which must include direct observation of and interaction with identified high-quality school principals and experiential professional development in implementing distributive and collaborative leadership, developing collaboration among the professionals within the entire school building, and other leadership skills; and

(d) The method for evaluating the success of the program in meeting the learning objectives and goals and in meeting the purpose described in subsection (1) of this section, including increasing educator retention, improving the school climate and culture, and improving student academic outcomes. The department may take into account information received through the teaching and learning conditions survey administered pursuant to section 22-2-503 in evaluating the success of the program; except that the department shall take the information into account in a year in which the response rate on the survey is at least sixty percent.

(3) A school principal who seeks to receive training through the program must submit an application to the department in accordance with the time frames and procedures adopted by rule of the state board. The state board by rule shall specify the required contents of the application, which at a minimum must include evidence that the school principal's employer and building staff support the school principal's participation in the program.

(4) The department, or the entity with which the department contracts, if any, shall select the school principals to receive professional development through the program for the 2020-21 and 2021-22 budget years, based on applications received pursuant to subsection (3) of this section. In selecting school principals to receive professional development through the program, the department and the entity, at a minimum, shall consider the level of performance, as determined pursuant to section 22-11-210, achieved by the public school at which the applying school principal is employed and any evidence that indicates the likelihood that a program of distributive and collaborative leadership would be successful in improving educator retention, school climate and culture, and student academic outcomes at the public school at which the applying school principal is employed. In selecting participants for the program, the department or the entity, to the extent practicable, shall select school principals employed in public elementary, middle, and high schools located in rural, suburban, and urban school districts throughout the state who are representative of the racial and gender demographics across the state. The department or the entity may select two or more school principals from a single school district.

(5) Subject to available appropriations, the state board shall award a grant to the employer of each school principal who is selected to participate in the program either as an exemplary high-quality school principal who assists in providing professional development or as a school principal who is selected to receive professional development. The state board shall determine the amount of each grant based on the costs that the employer is expected to incur as a result of the school principal's participation in the program.

(6) The general assembly shall annually appropriate money to the department for the implementation of this part 2, including money to pay the costs of designing and implementing the program, which may include the cost of contracting with an entity as authorized in subsection (2) of this section, and awarding grants as provided in subsection (5) of this section.

**Source: L. 2019:** Entire part added, (HB 19-1002), ch. 405, p. 3581, § 1, effective May 31.

**22-13-204. School leadership pilot program - reporting.** (1) On or before March 15, 2020, the department shall report to the education committees of the senate and the house of representatives, or any successor committees, concerning the design of the program and the plans for implementing the program during the 2020-21 and 2021-22 budget years. The report must include:

(a) The method for identifying exemplary, high-quality school principals to participate in the program and the number of exemplary, high-quality school principals expected to participate in the program;

(b) The number of school principals expected to receive professional development through the program and the criteria for selecting those school principals;

(c) The plan for providing interaction between the exemplary, high-quality school principals and the school principals who receive professional development through the program;

(d) The learning objectives and goals to be achieved through the program; and

(e) The manner in which the department expects to measure the success of the program, including measuring improved educator retention, improvements in school culture and climate, and improved student outcomes.

(2) On or before January 15, 2022, the department shall report to the education committees of the senate and the house of representatives, or any successor committees, concerning implementation of the program. At a minimum, the report must include:

(a) The number of exemplary, high-quality school principals who are participating in the program and the nature of their participation;

(b) The number of school principals who are receiving professional development through the program and an explanation of the professional development provided;

(c) An evaluation of the success of the program participants in achieving the learning objectives and goals identified for the professional development and in achieving the purpose of the program identified in section 22-13-203 (1); and

(d) A recommendation concerning whether to continue the program, any recommended changes to the program, and the estimated cost of continuing the program.

**Source: L. 2019:** Entire part added, (HB 19-1002), ch. 405, p. 3583, § 1, effective May 31.

**22-13-205. Repeal of part.** This part 2 is repealed, effective July 1, 2022.

**Source: L. 2019:** Entire part added, (HB 19-1002), ch. 405, p. 3584, § 1, effective May 31.

## ARTICLE 14

Dropout Prevention and
Student Re-engagement

**22-14-101. Legislative declaration.** (1) The general assembly hereby finds that:

(a) The state of Colorado has placed a high priority on reducing the number of student dropouts in Colorado, including establishing the goal of decreasing the high school dropout rate by half by the 2017-18 academic year;

(b) The Colorado department of education reports that the statewide graduation rate for Colorado high schools for the 2006-07 school year was seventy-five percent, an improvement of nine-tenths of a percentage point over the previous school year;

(c) Although the overall graduation rate may have improved, serious gaps continue to exist in the graduation rates among ethnic and economic groups and, overall, twenty-five percent of the high school students in Colorado are not graduating from high school within four years;

(d) Students with disabilities also continue to achieve a significantly lower graduation rate than other student groups. The graduation rate for Colorado students with disabilities is sixty-three and seven-tenths percent, compared with a statewide graduation rate of seventy-five percent.

(e) According to the 2007 Colorado youth risk behavior survey, approximately one out of ten students did not go to school one or more days in a thirty-day period because they felt unsafe at school or in traveling to or from school. This statistic indicates that, to improve student attendance and graduation rates, schools and school districts must address school safety issues as well as student learning and engagement issues.

(f) Studies clearly show that a student's level of education attainment will directly influence the student's level of achievement and success throughout the rest of his or her life;

(g) The national center for education statistics reports that, in comparing employment rates and levels of education attainment across the country, in 2005, the unemployment rate for persons who dropped out of high school was seven and six-tenths percent, compared to an overall average unemployment rate for all education levels of four percent; and

(h) Studies further show that students who drop out of school are more likely to be involved in crime or delinquency and to lose lifelong opportunities for personal achievement, resulting in economic and social costs to the state.

(2) The general assembly therefore concludes that:

(a) It is imperative that the department of education create an office of dropout prevention and student re-engagement to provide focus, coordination, research, and leadership to assist local education providers in implementing coordinated efforts to reduce the high school dropout rate and increase the high school graduation and completion rates and the levels of student engagement and re-engagement;

(b) To significantly reduce the statewide dropout rate and increase the rates of student engagement and re-engagement, the office of dropout prevention and student re-engagement must also provide leadership in creating and facilitating systemic approaches that involve intersystem collaboration between local education providers and the foster care and child welfare systems, the juvenile justice system, the division of youth services in the department of human services, institutions of higher education, career and technical education providers, adult basic education, general educational development certificate, and English-as-a-second-language programs, offices of workforce development, school-based student support personnel, expanded learning opportunity and family education programs, general educational development programs, and facility schools.

**Source: L. 2009:** Entire article added, (HB 09-1243), ch. 290, p. 1406, § 1, effective May 21.

**22-14-102. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Completion" means a student graduates from high school or receives a certificate or other designation of high school completion such as a general educational development certificate.

(2) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(3) "Dropout prevention" means school and community-based initiatives to promote positive social, emotional, familial, and educational factors that maintain and strengthen student engagement and address barriers and conditions that may lead a student to drop out of school.

(4) "Expanded learning opportunity programs" means programs that provide kindergarten-through-twelfth-grade supervised learning activities that may include, but need not be limited to, after-school programs, before-school programs, summer school programs, weekend programs, and extended-day and extended-year programs.

(5) "Graduation" means a student meets the locally defined requirements for a high school diploma.

(6) "Grant program" means the student re-engagement grant program established in section 22-14-109.

(7) "High priority local education provider" means a local education provider that the office identifies pursuant to section 22-14-103 (4) as being most in need of technical assistance and support.

(8) "Local education provider" means a school district, a board of cooperative services created pursuant to article 5 of this title, or the state charter school institute created pursuant to section 22-30.5-503.

(9) "Office" means the office of dropout prevention and student re-engagement created within the department of education pursuant to section 22-14-103.

(10) "Parent" means a student's biological or adoptive parent or the student's legal guardian or legal custodian.

(10.5) "Performing arts" shall have the same meaning as provided in section 22-1-104.5 (1)(b).

(11) "Priority local education provider" means a local education provider that the office identifies pursuant to section 22-14-103 (4) as being in significant need of technical assistance and support.

(12) "State board" means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

(13) "Student engagement" means a student's sense of belonging, safety, and involvement in school that leads to academic achievement, regular school attendance, and graduation. Elements of promoting student engagement include providing rigorous and relevant instruction, creating positive relationships with teachers and counselors, providing social and emotional support services for students and their families, creating partnerships with community organizations and families that foster learning outside of the classroom, and cultivating regular school attendance.

(14) "Student graduation and completion plan" means a local education provider's plan, created pursuant to section 22-14-107, for reducing the student dropout rate and increasing the rates of student engagement, re-engagement, graduation, and completion.

(15) "Student re-engagement" means that a student reenrolls in high school after dropping out prior to completion. Student re-engagement usually results from a local education provider's use of evidence- or research-based strategies to reach out to students who have dropped out of school and to assist them in transitioning back into school and obtaining their high school diplomas or otherwise completing high school.

(16) "Student support personnel" means a state-licensed or state-certified school counselor, school psychologist, school social worker, or school nurse, or other state-licensed or state-certified mental health professional qualified under state law to provide support services to children and adolescents.

(17) "Visual arts" shall have the same meaning as provided in section 22-1-104.5 (1)(c).

**Source: L. 2009:** Entire article added, (HB 09-1243), ch. 290, p. 1408, § 1, effective May 21. **L. 2010:** (10.5) and (17) added, (HB 10-1273), ch. 233, p. 1023, § 10, effective May 18.

**Cross references:** For the legislative declaration in the 2010 act adding subsections (10.5) and (17), see section 1 of chapter 233, Session Laws of Colorado 2010.

**22-14-103. Office of dropout prevention and student re-engagement - created - purpose - duties.** (1) (a) There is hereby created within the department of education the office of dropout prevention and student re-engagement. The head of the office shall be the director of the office of dropout prevention and student re-engagement and shall be appointed by the commissioner of education in accordance with section 13 of article XII of the state constitution. The office of dropout prevention and student re-engagement shall consist of the director and an assistant director who shall be appointed by the director. The commissioner may assign or otherwise direct other personnel within the department to assist the director and assistant director in meeting the responsibilities of the office.

(b) The office of dropout prevention and student re-engagement and the director of the office shall exercise their powers and perform their duties and functions under the department of education, the commissioner of education, and the state board of education as if the same were transferred to the department of education by a **type 2** transfer as defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

(c) The department is strongly encouraged to direct, to the extent possible, any increases in the amount of federal moneys received by the department for programs under Title I, part A of the "Elementary and Secondary Education Act of 1965", 20 U.S.C. sec. 6301 et seq., programs under the "Individuals with Disabilities Education Act", 20 U.S.C. sec. 1400, et seq., or other federal programs to assist in funding the activities of the office as specified in this article.

(d) The department shall seek and may accept and expend gifts, grants, and donations from public or private entities to fund the operations of the office, including the personnel for the office and execution of the duties and responsibilities specified in this article. Notwithstanding any provision of this article to the contrary, the department is not required to implement the provisions of this article until such time as the department has received an amount in gifts,

grants, and donations from public or private entities that the department deems sufficient to adequately fund the operations of the office.

(2) The office shall collaborate with local education providers to reduce the statewide and local student dropout rates and to increase the statewide and local graduation and completion rates in accordance with the goals specified in section 22-14-101. To accomplish this purpose, the office shall assist local education providers in:

(a) Analyzing student data pertaining to student dropout rates, graduation rates, completion rates, mobility rates, truancy rates, suspension and expulsion rates, safety or discipline incidences, and student academic growth data at the state and local levels; and

(b) Creating and evaluating student graduation and completion plans.

(3) To accomplish the purposes specified in subsection (2) of this section, the office shall also:

(a) Review state policies and assist local education providers in reviewing their policies pertaining to attendance, truancy, disciplinary actions under the local education provider's code of conduct, behavioral expectations, dropout prevention, and student engagement and re-engagement to identify effective strategies for and barriers to reducing the student dropout rates and increasing student engagement and re-engagement within the state;

(b) Identify and recommend, as provided in section 22-14-104, best practices and effective strategies to reduce student dropout rates and increase student engagement and re-engagement;

(c) Develop interagency agreements and otherwise cooperate with other state and federal agencies and with private, nonprofit agencies to collect and review student data and develop and recommend methods for reducing student dropout rates and increasing student engagement and re-engagement. The office shall, to the extent possible, collaborate with, at a minimum:

(I) Career and technical education providers;

(II) General educational development service providers;

(III) The prevention services division in the department of public health and environment;

(IV) The division of youth services and other agencies within the juvenile justice system;

(V) The department of corrections;

(VI) The judicial department;

(VII) Institutions of higher education;

(VIII) Offices of workforce development;

(IX) Expanded learning opportunity and family education programs;

(X) Adult basic education and English-as-a-second-language programs;

(XI) Organizations that provide services for pregnant and parenting teens and students with special health and education needs;

(XII) Agencies and nonprofit organizations within the child welfare system;

(XIII) Private, nonprofit organizations that provide services for homeless families and youth; and

(XIV) Private nonprofit or for-profit community arts organizations that work in either visual arts or performing arts;

(d) Solicit public and private gifts, grants, and donations to assist in the implementation of this article; and

(e) Evaluate the effectiveness of local education providers' efforts in reducing the statewide student dropout rate and increasing the statewide graduation and completion rates and to report progress in implementing the provisions of this article.

(4) (a) The office shall collaborate with other divisions within the department to identify annually through the accreditation process those local education providers that do not meet their established graduation and completion rate expectations. Of those local education providers identified, the office shall use criteria adopted by rule of the state board to determine:

(I) Which local education providers are most in need of improvement and assistance and shall recognize said local education providers as high priority local education providers; and

(II) Which local education providers are in significant need of improvement and assistance and shall recognize said local education providers as priority local education providers.

(b) The office shall provide technical assistance to each high priority local education provider and to priority local education providers as provided in this article.

(5) In addition to the assistance specified in sections 22-14-106 (3) and 22-14-107 (5), the office shall provide technical assistance in the areas of dropout prevention and student engagement and re-engagement to the high priority local education providers and, to the extent practicable within existing resources, to priority local education providers. Technical assistance may include, but need not be limited to:

(a) Training in implementing identified, effective, research-based strategies for dropout prevention and student engagement and re-engagement;

(b) Assistance in estimating the cost of implementing the identified strategies in the schools operated or approved by the high priority or priority local education provider and analyzing the cost-effectiveness of the strategies;

(c) Identification and recommendation of effective approaches applied by other Colorado local education providers that may be similarly situated to the high priority or priority local education provider.

**Source: L. 2009:** Entire article added, (HB 09-1243), ch. 290, p. 1409, § 1, effective May 21. **L. 2010:** (3)(c)(XII) and (3)(c)(XIII) amended and (3)(c)(XIV) added, (HB 10-1273), ch. 233, p. 1023, § 11, effective May 18. **L. 2017:** (3)(c)(IV) amended, (HB 17-1329), ch. 381, p. 1979, § 46, effective June 6.

**Cross references:** For the legislative declaration in the 2010 act amending subsections (3)(c)(XII) and (3)(c)(XIII) and adding subsection (3)(c)(XIV), see section 1 of chapter 233, Session Laws of Colorado 2010.

**22-14-104. Report of effective policies and strategies - creation - use.** (1) On or before December 31, 2009, the office shall review the existing research and data from this state and other states and compile a report of effective dropout prevention and student engagement and re-engagement policies and strategies implemented by local education providers within this state and in other states. The office may use the findings and recommendations in the report to provide technical assistance to high priority and priority local education providers, to assist high priority and priority local education providers in creating student graduation and completion plans, and to recommend to the state board and the general assembly state policies concerning

dropout prevention and student engagement and re-engagement. High priority and priority local education providers may use the report to review their policies, to formulate new policies and strategies, and to create and evaluate their student graduation and completion plans.

(2) In preparing the report of effective policies and strategies, the office, at a minimum, shall consult, share information, and coordinate efforts with:

(a) The governor's office;

(b) The P-20 education coordinating council appointed by the governor pursuant to executive order B 003 07;

(c) Local education providers within Colorado that have maintained low student dropout rates and high rates of student engagement and re-engagement in previous years;

(d) State and national experts in dropout rate reduction and student engagement and re-engagement strategies who are knowledgeable about successful policies and practices from other states and local governments in other states; and

(e) Federal government officials who administer dropout rate reduction and student engagement and re-engagement initiatives and programs.

(3) The office shall periodically review and revise the report of effective policies and strategies as necessary to maintain the report's relevance and applicability. The office shall post the initial report of effective strategies and subsequent revisions on the department's website.

**Source: L. 2009:** Entire article added, (HB 09-1243), ch. 290, p. 1412, § 1, effective May 21.

**22-14-105. Assessment of statewide student attendance data - report.** Beginning in the 2009-10 academic year, the office, with assistance from other divisions within the department, shall annually analyze data collected by the department from local education providers throughout the state concerning student attendance and the implementation of school attendance policies and practices and shall assess the overall incidence, causes, and effects of student dropout, engagement, and re-engagement in Colorado. On or before February 15, 2010, and on or before February 15 each year thereafter, the office shall provide to local education providers, the state board, the education committees of the senate and the house of representatives, or any successor committees, and the governor's office the assessment and any recommended strategies to address student dropout, engagement, and re-engagement in Colorado. The office may combine this assessment and recommendation with the report required by section 22-14-111.

**Source: L. 2009:** Entire article added, (HB 09-1243), ch. 290, p. 1413, § 1, effective May 21.

**22-14-106. Local education provider practices assessment - technical assistance - rules.** (1) (a) Each high priority and priority local education provider shall conduct a practices assessment as described in subsection (2) of this section. Each high priority and priority local education provider's practices assessment shall consider community partnerships with state and local government agencies and community-based organizations and current practices and policies as they relate to different types of dropout students or students at risk of dropping out.

(b) Each high priority local education provider shall complete its initial practices assessment no later than June 30, 2010. Each priority local education provider shall complete its initial practices assessment no later than June 30, 2011. Following completion of the initial practices assessment, each high priority and priority local education provider shall review and update the practices assessment in accordance with timelines adopted by rule of the state board.

(c) Each local education provider that is not a high priority or priority local education provider is encouraged to conduct a practices assessment and to periodically review and update the practices assessment. A local education provider that chooses to conduct a practices assessment pursuant to this paragraph (c) shall comply with the provisions of subsection (4) of this section.

(d) If a high priority or priority local education provider has authorized one or more existing charter schools pursuant to article 30.5 of this title, each charter school shall conduct its own practices assessment in accordance with the deadlines specified in paragraph (b) of this subsection (1) and submit the assessment to the department pursuant to subsection (4) of this section. A practices assessment conducted by a charter school shall conform to the requirements specified in subsection (2) of this section.

(2) Each practices assessment, at a minimum, must address the high priority or priority local education provider's:

(a) Attendance and truancy reporting and enforcement policies and definitions;

(b) Risk factors and remedies applicable to students who are failing one or more courses, have experienced traumatic life events, or have lost academic interest or motivation and to students whose presence or actions are perceived to be detrimental to other students;

(c) Interaction with the judicial system in enforcing compulsory school attendance;

(d) Interaction with the juvenile justice system in:

(I) Assisting in administering juvenile diversion programs and coordinating supports for all students transitioning out of the juvenile justice system to aid in the continuation of the students' education, especially for those students involved in the juvenile justice system as a result of school-related violations of the local education provider's code of conduct or crimes committed on school property; and

(II) Coordinating with juvenile probation officers regarding school-related conditions of probation;

(e) Coordination with child welfare services, including but not limited to county departments of human or social services, facility schools, and other youth services providers;

(f) Grading policies;

(g) Policies for grade repetition and remediation;

(g.5) Practices relating to visual arts and performing arts education, including but not limited to the availability of courses in visual arts and performing arts, requirements for obtaining visual arts or performing arts course credits, the availability of extracurricular activities that involve visual arts or performing arts, and the high priority or priority local education provider's relationships with nonprofit or for-profit community arts organizations;

(h) Course completion requirements and policies; and

(i) Policies and practices relating to:

(I) The use of individual career and academic plans;

(II) Addressing ethnicity, language, and cultural barriers between students' homes and school;

(III) English-language acquisition;
(IV) Student acquisition of behavioral, social, and emotional skills;
(V) Students' health care needs;
(VI) Alternative and flexible educational strategies;
(VII) Family involvement and family support services;
(VIII) Expanded learning opportunity programs;
(IX) Staff development in implementing evidence-based strategies;
(X) Innovations to address barriers to school engagement and success;
(XI) Outreach services to re-engage students who drop out of school; and
(XII) Review and analysis of data regarding dropout rates, graduation rates, school completion rates, truancy rates, the number of students who are habitually truant, suspension rates, and expulsion rates.

(3) The office shall provide technical assistance to high priority local education providers to assist them in completing their practices assessments. The office may provide technical assistance to priority local education providers as allowable within available appropriations. In addition, at the request of a high priority or priority local education provider and to the extent practicable within available resources, the office shall provide a template, which includes any student data that is pertinent to the high priority or priority local education provider and to which the office has access, to assist the high priority or priority local education provider in preparing its practices assessment.

(4) Upon completing its practices assessment or any updates to the assessment, each high priority and priority local education provider shall transmit the assessment to the department for publication on the internet.

**Source: L. 2009:** Entire article added, (HB 09-1243), ch. 290, p. 1413, § 1, effective May 21. **L. 2010:** (2)(g.5) added, (HB 10-1273), ch. 233, p. 1023, § 12, effective May 18. **L. 2018:** IP(2) and (2)(e) amended, (SB 18-092), ch. 38, p. 437, § 88, effective August 8.

**Cross references:** For the legislative declaration in the 2010 act adding subsection (2)(g.5), see section 1 of chapter 233, Session Laws of Colorado 2010. For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of Colorado 2018.

**22-14-107. Student graduation and completion plans - adoption - evaluation.** (1) (a) Based on the completed practices assessment, by a date specified by rule of the state board, but not later than October 1, 2010, each high priority local education provider shall adopt a student graduation and completion plan for the schools operated or approved by the high priority local education provider. Each priority local education provider shall adopt a student graduation and completion plan by a date specified by rule of the state board, but not later than October 1, 2011. Following adoption of the initial student graduation and completion plan, each high priority and priority local education provider shall review and update the student graduation and completion plan in accordance with timelines adopted by rule of the state board. In setting the dates for adoption of the initial student graduation and completion plans and the timelines for reviewing and updating the student graduation and completion plans, the state board shall ensure that the dates coincide with the dates by which each local education provider is required to adopt the plan required by its accreditation category or its annual performance review.

(b) Each local education provider that is not a high priority or priority local education provider is encouraged to adopt a student graduation and completion plan and to periodically review and update the plan. A local education provider that chooses to adopt a student graduation and completion plan pursuant to this paragraph (b) shall comply with the provisions of subsection (6) of this section.

(c) Notwithstanding any provision of paragraph (a) of this subsection (1) to the contrary, if a high priority or priority local education provider has authorized one or more existing charter high schools pursuant to article 30.5 of this title, each charter high school shall adopt its own student graduation and completion plan in accordance with the deadlines specified in paragraph (a) of this subsection (1) and submit the plan to the department pursuant to subsection (6) of this section. A student graduation and completion plan adopted by a charter high school shall conform to the requirements specified in subsection (2) of this section.

(2) At a minimum, each high priority and priority local education provider's student graduation and completion plan shall include:

(a) The percentage by which the high priority or priority local education provider anticipates reducing the student truancy rate and dropout rate and the timeline for achieving the reductions;

(b) The percentage by which the high priority or priority local education provider anticipates increasing the student attendance, graduation, and completion rates and the timeline for achieving the increases;

(c) Other objectives that the high priority or priority local education provider identifies that are designed to result in improved dropout prevention, improved student attendance, and improved student engagement and re-engagement within the schools operated or approved by the high priority or priority local education provider;

(d) The manner in which the high priority or priority local education provider will measure success in achieving the goals and objectives of the student graduation and completion plan;

(e) The manner in which school staff and parents will work together to address the risk factors and remedies for students; and

(f) A description of the supports that the high priority or priority local education provider will provide to a student who leaves a public school prior to graduation or completion, which supports, at a minimum, shall include an explanation of the educational alternatives available to the student to assist him or her in re-engaging in school and other information to assist with his or her transition into other educational settings, including but not limited to an adult basic education, general educational development, or English-as-a-second-language program, or into the workforce or job training.

(3) In designing its student graduation and completion plan, each high priority or priority local education provider is encouraged to:

(a) Include a variety of innovative dropout reduction efforts in the plan, including new schools and programs that provide educational environments that are specifically designed to promote student re-engagement, including policies and programs that create alternative pathways to high school graduation;

(a.5) Expand the availability of visual arts and performing arts courses and opportunities through the regular school curriculum and through increased access to extracurricular activities,

including but not limited to entering into agreements with nonprofit or for-profit community arts organizations to provide expanded visual arts and performing arts educational programs; and

(b) Review existing supports and resources that the high priority or priority local education provider may leverage to support implementation of the plan, including but not limited to grants for expelled and at-risk student services available pursuant to section 22-33-205, grants available through the school counselor corps grant program created in article 91 of this title, assistance available through the closing the achievement gap program pursuant to section 22-7-611, and federal moneys available pursuant to the "Safe and Drug-free Schools and Communities Act", 20 U.S.C. sec. 7101 et seq.

(4) Each high priority or priority local education provider, in adopting its student graduation and completion plan, shall also adopt a process by which annually to review and evaluate the effectiveness of the plan. Each high priority or priority local education provider that is a school district shall include its practices assessment and its student graduation and completion plan with the plan the school district is required to adopt based on its accreditation category.

(5) The office shall provide technical assistance to high priority local education providers to assist them in completing their student graduation and completion plans. The office may provide technical assistance to priority local education providers as allowable within available appropriations.

(6) Upon adopting its student graduation and completion plan or any updates to the plan, each high priority or priority local education provider shall transmit the plan to the department for publication on the internet.

(7) (a) Beginning in the 2011-12 academic year, the office shall annually evaluate each high priority local education provider's student graduation and completion plan as part of the accreditation review process. The office shall evaluate the components of each student graduation and completion plan, the high priority local education provider's implementation of the plan, and the results achieved. In evaluating the student graduation and completion plans, the office shall generally ensure that the high priority local education provider applies best practices and strategies and employs rigorous ongoing program evaluation and oversight in implementing the plan. On completion of the evaluation, the office may provide recommendations to the high priority local education provider concerning improvements in the plan design and implementation.

(b) The office may evaluate, as described in paragraph (a) of this subsection (7), the student graduation and completion plans of priority local education providers as allowable within available appropriations.

**Source: L. 2009:** Entire article added, (HB 09-1243), ch. 290, p. 1416, § 1, effective May 21. **L. 2010:** (3)(a) amended and (3)(a.5) added, (HB 10-1273), ch. 233, p. 1024, § 13, effective May 18.

**Cross references:** For the legislative declaration in the 2010 act amending subsection (3)(a) and adding subsection (3)(a.5), see section 1 of chapter 233, Session Laws of Colorado 2010.

**22-14-108. Local education provider - notice to parent of dropout status.** (1) Each local education provider shall adopt and implement policies and procedures pursuant to which the local education provider or the public school in which the student was enrolled shall notify a student's parent if the student drops out of school, even if the student is not subject to the compulsory attendance requirement specified in section 22-33-104. The local education provider shall develop the policies and procedures with the goal of encouraging the student to re-enroll in school and of conveying to the student's parent the long-term ramifications to the student of dropping out of school.

(2) At a minimum, the policies and procedures shall specify the time frames by which the local education provider or the public school in which the student was enrolled shall notify the student and his or her parent and shall require the personnel at the public school to attempt to meet in person with the student and his or her parent.

(3) At a minimum, the notice shall include written notification of the student's dropout status and an explanation of the educational alternatives available to the student to assist him or her in re-engaging in school.

**Source: L. 2009:** Entire article added, (HB 09-1243), ch. 290, p. 1418, § 1, effective May 21.

**22-14-109. Student re-engagement grant program - rules - application - grants - report.** (1) There is hereby created within the department the student re-engagement grant program to provide grant money to local education providers to use in providing educational services and supports to students to maintain student engagement and support student re-engagement in high school. Subject to available appropriations, the state board shall award student re-engagement grants to local education providers from money appropriated pursuant to subsection (4) of this section.

(2) The state board shall adopt rules pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., for implementing the grant program. At a minimum, the rules shall include:

(a) Timelines and procedures by which a local education provider may apply for a grant;

(b) The information to be included on grant applications, including at a minimum:

(I) The local education provider's plan for providing educational services, including social and emotional support services;

(II) A description of the services to be provided;

(III) The estimated cost of providing the services;

(IV) The criteria the local education provider will apply to measure the effectiveness of the services provided; and

(V) A description of the local education provider's policies and practices related to:

(A) Course completion and credit recovery;

(B) Attendance and behavior improvements;

(C) Alternative and flexible learning strategies;

(D) Safe and welcoming school environments;

(E) Student social and emotional supports;

(F) Family engagement and family support strategies;

(G) Staff development;

(H) Innovations to address barriers to school engagement and success;

(I) Transference of student records to and receipt of student records from other local education providers; and

(J) Student participation in and the availability of visual arts and performing arts education.

(3) Each local education provider that seeks to receive a grant pursuant to this section shall submit an application to the department in accordance with the rules adopted by the state board. The department shall review the grant applications received and recommend grant recipients and grant amounts to the state board. The state board shall annually award grants through the grant program based on the department's recommendations.

(4) The general assembly may annually appropriate money to the department to implement the student re-engagement grant program created in this section, including money from the marijuana tax cash fund created in section 39-28.8-501. In addition, the department may accept and expend gifts, grants, or donations from private or public sources for the purposes of the program; except that the department may not accept a gift, grant, or donation if it is subject to conditions that are inconsistent with this article 14 or any other law of the state.

(5) (a) On or before February 15, 2011, and on or before February 15 each year thereafter, the department shall evaluate the student re-engagement services provided by each local education provider that received a grant pursuant to this section in the preceding fiscal year; except that the department need not provide an evaluation for any fiscal year in which grants were not awarded. At a minimum, the department shall review:

(I) The outcomes and effectiveness of the services provided as measured by the demonstrated degree of student re-engagement;

(II) The academic growth of students who received services as a result of the grant, to the extent the information is available;

(III) The reduction in the dropout rate; and

(IV) The increase in the graduation and completion rates for the grant recipients' schools.

(b) The department shall report the evaluation results to the education committees of the senate and the house of representatives, or any successor committees, in conjunction with the report submitted pursuant to section 22-14-111.

**Source: L. 2009:** Entire article added, (HB 09-1243), ch. 290, p. 1418, § 1, effective May 21. **L. 2010:** (2)(b)(V)(H) and (2)(b)(V)(I) amended and (2)(b)(V)(J) added, (HB 10-1273), ch. 233, p. 1024, § 14, effective May 18. **L. 2015:** (4)(a) amended, (HB 15-1367), ch. 271, p. 1074, § 11, effective June 4. **L. 2018:** (4)(a) amended, (HB 18-1369), ch. 253, p. 1554, § 2, effective August 8. **L. 2019:** (1) amended and (4) R&RE, (SB 19-246), ch. 151, p. 1793, § 8, effective May 10.

**Editor's note:** Section 20(4) of chapter 151 (SB 19-246), Session Laws of Colorado 2019, provides that the act changing this section takes effect only if HB 19-1276 does not become law. HB 19-1276 did not become law.

**Cross references:** For the legislative declaration in the 2010 act amending subsections (2)(b)(V)(H) and (2)(b)(V)(I) and adding subsection (2)(b)(V)(J), see section 1 of chapter 233, Session Laws of Colorado 2010. For the legislative declaration in HB 15-1367, see section 1 of

chapter 271, Session Laws of Colorado 2015. For the legislative declaration in HB 18-1369, see section 1 of chapter 253, Session Laws of Colorado 2018.

**22-14-109.5. Ninth-grade success grant program - created - criteria - use of grant money - report - rules - definitions - repeal.** (1) As used in this section, unless the context otherwise requires:

(a) "Charter school" means a charter school authorized by a school district pursuant to part 1 of article 30.5 of this title 22 or an institute charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title 22.

(b) "Program" means the ninth-grade success grant program created in this section.

(c) "Small rural school district" means a school district in Colorado that the department determines is rural based on the geographic size of the school district and the distance of the school district from the nearest large, urbanized area, and that enrolls fewer than one thousand students in kindergarten through twelfth grade.

(d) "Student group" has the same meaning as provided in section 22-11-103.

(e) "Success team" means a cross-disciplinary team of ninth-grade teachers and support staff as described in subsection (5) of this section.

(2) (a) There is created in the department the ninth-grade success grant program to provide funding to local education providers and charter schools to implement a ninth-grade success program, as described in subsection (5) of this section, to assist students enrolled in ninth grade to develop the skills they need to successfully persist to high school graduation and succeed in their education and professional careers.

(b) Notwithstanding any provision of this section to the contrary, an alternative education campus designated pursuant to section 22-7-604.5 may not apply for or receive money or services through a grant awarded pursuant to this section.

(3) (a) A local education provider or charter school that serves students enrolled in grades nine through twelve and that chooses to apply for a grant through the program must submit a grant application to the department in accordance with rules adopted by the state board. A local education provider or charter school that is selected to receive a grant must, as a condition of accepting the grant, provide a grant match, which may include in-kind contributions, in an amount set by the state board, which amount must not exceed:

(I) Fifteen percent of the grant amount for a local education provider that is a small rural school district or for a charter school; and

(II) Twenty-five percent of the grant amount for all other local education providers.

(b) A grant application at a minimum must include:

(I) The applicant's four-year graduation rate for the three preceding school years;

(II) Whether the applicant has a data system that allows school leaders and teachers real-time access to integrated data concerning a student's behavior, attendance, and grades and allows comparison of the data across demographic categories and student groups;

(III) For a local education provider, designation of the schools in which the local education provider will use the grant money to implement ninth-grade success teams;

(IV) Indication of the applicant's ability to provide the required grant match and any type and value of in-kind contribution that the applicant may provide; and

(V) Any additional information required by rule of the state board that assists the department in determining the likelihood that, in implementing the success teams, the applicant will be successful in improving the success of students enrolled in ninth grade.

(4) The department shall review each of the applications received pursuant to this section and recommend to the state board applicants to receive grants and the amount, duration, and grant match amount of each recommended grant. Beginning in the 2019-20 budget year, the state board, subject to available appropriations, shall award the grants, taking into consideration the recommendations of the department. In awarding a grant, the state board shall specify the amount and duration of the grant and the amount of the grant match, including any type of in-kind contribution, that the grant recipient must provide. The department and the state board in recommending and awarding grants shall prioritize applicants that have a four-year graduation rate that, over the preceding three school years, has consistently ranked within the lowest twenty percent of the four-year graduation rates for public high schools in the state. To the extent practicable, the state board shall also ensure that the grant recipients vary in student population size and are located in urban, suburban, and rural areas throughout the state.

(5) A local education provider or charter school that receives a grant through the program must use the grant money to implement a ninth-grade success program that, at a minimum, must include the following elements:

(a) (I) Creating and implementing a cross-disciplinary success team of ninth-grade teachers and support staff, which must include at least one school counselor, school mental health professional, or school social worker. To the extent practicable, a success team must include all of the ninth-grade teachers who teach core courses, as defined in section 22-11-503.5. The local education provider or charter school shall designate a member of the success team to serve as the success team leader and reduce the team leader's workload to a level that allows the team leader sufficient time to complete the leadership duties, which include team logistics, preparing team meeting agendas, and facilitating team meetings.

(II) The success team must meet at least every two weeks, to the extent practicable, throughout the school year to collaborate on identifying and implementing strategies to improve outcomes for ninth-grade students who are found to be at risk of dropping out of school before graduation and to address systems-level barriers to success for all ninth-grade students. The strategies must be informed by data concerning, at a minimum, ninth-grade students' behavior, attendance, and grades across demographic categories and student groups. The local education provider or charter school shall allow success team members time during the work day for planning and collaboration or provide incentives to meet outside of the work day.

(b) Organizing the school staff to ensure that, to the extent practicable, the ninth-grade classes are taught by a single group of teachers who teach only or mostly ninth-grade classes;

(c) Implementing a data system that provides real-time access to integrated data concerning a student's behavior, attendance, and grades and provides the ability to compare the data across demographic categories and student groups;

(d) Identifying and prioritizing services for ninth-grade students who are at risk of academic failure in ninth grade;

(e) Providing instructional support for ninth-grade students including attendance support, content-specific academic interventions, tutoring, course-completion programs, social-emotional learning, and trauma-informed instruction;

(f) Ensuring that school leadership, guidance counselors, and key members of the success team receive and review data on all incoming ninth-grade students and plan course work and supports for the students based on the data received;

(g) Ensuring that all ninth-grade teachers receive data concerning the incoming ninth-grade students before the start of the school year and receive professional development concerning how to use the data to inform instruction for the students. To the extent possible, the local education provider or charter school shall ensure that middle school teachers provide information to ninth-grade teachers concerning the incoming ninth-grade students.

(h) Providing summer orientation for incoming ninth-grade students and their parents to introduce students to the behavioral and academic expectations of high school; and

(i) Evaluating with rigor the impact of the interventions provided through the ninth-grade success program on student attendance, behavior, course completion, academic results, discipline rates, teacher surveys, student surveys, dropout rates, and graduation rates as the information becomes available for ninth-grade students who receive interventions through the program.

(6) The general assembly may annually appropriate money to the department to implement the program, including money from the marijuana tax cash fund created in section 39-28.8-501. In addition, the department may accept and expend gifts, grants, or donations from private or public sources for the purposes of the program; except that the department may not accept a gift, grant, or donation if it is subject to conditions that are inconsistent with this article or any other law of the state.

(7) (a) Each local education provider and charter school that receives a grant through the program shall submit to the department, in accordance with the reporting timelines specified in rules of the state board, information concerning the implementation of the ninth-grade success program and the evaluation of the impact, as described in subsection (5)(i) of this section, in total and disaggregated by student group. The department shall specify the information to be reported to enable the department to prepare the report required in subsection (7)(b) of this section.

(b) On or before March 15, 2022, and on or before March 15 each year thereafter, the department shall prepare and submit to the state board and to the education committees of the house of representatives and the senate, or any successor committees, a report of the ninth-grade success programs implemented using grants received through the program. At a minimum, the report shall:

(I) Specify the grant recipients and the amount and duration of the grants awarded;

(II) Describe the ninth-grade success programs that are implemented using the grant money; and

(III) Provide a summary of the evaluations of the impact of the interventions provided through the ninth-grade success programs, as described in subsection (5)(i) of this section, in total and disaggregated by student group.

(c) Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the report required in subsection (7)(b) of this section continues indefinitely.

(8) This section is repealed, effective July 1, 2025.

**Source: L. 2019:** Entire section added, (SB 19-246), ch. 151, p. 1789, § 7, effective May 10.

**Editor's note:** Section 20(4) of chapter 151 (SB 19-246), Session Laws of Colorado 2019, provides that the act adding this section takes effect only if HB 19-1276 does not become law. HB 19-1276 did not become law.

**22-14-110. State board - rules.** (1) The state board shall promulgate, pursuant to the "State Administrative Procedure Act", article 4 of title 24, such rules as may be necessary to implement the provisions of this article 14. At a minimum, the rules must include:

(a) The rules required pursuant to section 22-14-103 (4) to establish criteria for identifying high priority and priority local education providers;

(b) The rules required pursuant to section 22-14-109 for the student re-engagement grant program;

(b.5) The rules required pursuant to section 22-14-109.5 for the ninth-grade success grant program; and

(c) Rules to define and calculate the following rates:

(I) The student dropout rate;

(II) The graduation rate;

(III) The completion rate;

(IV) The student re-engagement rate;

(V) The truancy rate;

(VI) The student mobility rate;

(VII) The student suspension rate; and

(VIII) The student expulsion rate.

(2) To the extent the state board, as of May 21, 2009, has already promulgated any of the rules specified in subsection (1) of this section, the state board shall review said rules and determine whether they should be revised based on the provisions of this article.

**Source: L. 2009:** Entire article added, (HB 09-1243), ch. 290, p. 1421, § 1, effective May 21. **L. 2019:** IP(1) and (1)(b) amended and (1)(b.5) added, (SB 19-246), ch. 151, p. 1794, § 9, effective May 10.

**Editor's note:** Section 20(4) of chapter 151 (SB 19-246), Session Laws of Colorado 2019, provides that the act changing this section takes effect only if HB 19-1276 does not become law. HB 19-1276 did not become law.

**22-14-111. Report to general assembly, state board, and governor - exception to three-year expiration.** (1) On or before February 15, 2010, through February 15, 2016, and on or before March 15, 2017, and on or before March 15 each year thereafter, the office shall submit to the state board, to the education committees of the senate and the house of representatives, or any successor committees, and to the governor a report making state policy findings and recommendations to reduce the student dropout rate and increase the student graduation and completion rates. At a minimum, in preparing the findings and recommendations, the office shall:

(a) Consider which state statutes and rules may be appropriately amended to provide incentives and support for and remove barriers to reducing the student dropout rate and increasing the student graduation and completion rates, including but not limited to statutes and

rules pertaining to funding for local education providers' operating costs, funding for categorical programs, and truancy;

(b) Consider research-based dropout prevention and student engagement and re-engagement strategies;

(c) Determine the amount of state moneys spent on reducing the dropout rates in schools operated or approved by local education providers in the preceding fiscal year and determine the effects of those expenditures; and

(d) Consult with the persons specified in section 22-14-104 (2).

(2) Beginning with the report submitted pursuant to this section on February 15, 2012, the office shall add to the report a summary of the actions taken by local education providers statewide to reduce the student dropout rate and increase the graduation and completion rates and the progress made in achieving these goals. At a minimum, the summary shall include:

(a) A summary and evaluation of the student graduation and completion plans adopted by the local education providers;

(b) A list of the local education providers whose schools have experienced the greatest decrease in student dropout rates and the greatest increase in student graduation and completion rates in the state in the preceding academic year;

(c) Identification of local education providers and public schools that are achieving the goals and objectives specified in their student graduation and completion plans and those that are not achieving their goals and objectives;

(d) Explanation of the actions taken and strategies implemented by the local education providers with the highest student dropout rates to reduce those rates and by the local education providers with the lowest student graduation and completion rates to increase those rates;

(e) Identification of the local education providers that have demonstrated the greatest improvement in reducing their student dropout rates and increasing their student graduation and completion rates and descriptions of the actions taken and strategies implemented by the local education providers operating or approving these schools to achieve these improvements; and

(f) An evaluation of the overall progress across the state in meeting the goals specified in section 22-14-101 for reducing the student dropout rate and increasing the student graduation and completion rates.

(3) Notwithstanding the provisions of section 24-1-136 (11), C.R.S., the reporting requirements specified in this article shall not expire but shall continue to be required until repealed by the general assembly.

**Source: L. 2009:** Entire article added, (HB 09-1243), ch. 290, p. 1422, § 1, effective May 21. **L. 2016:** IP(1) amended, (HB 16-1130), ch. 34, p. 86, § 1, effective August 10.

## ARTICLE 15

Interim Committee on School Safety
and Youth in Crisis

**22-15-101. (Repealed)**

**Editor's note:** (1) This article was added in 2015. For amendments to this article prior to its repeal in 2019, consult the 2018 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 22-15-101 provided for the repeal of this article, effective July 1, 2019. (See L. 2015, p. 1042.)

## ARTICLE 16

Student Data Transparency and Security

**22-16-101. Short title.** The short title of this article is the "Student Data Transparency and Security Act".

**Source: L. 2016:** Entire article added, (HB 16-1423), ch. 355, p. 1457, § 1, effective August 10.

**22-16-102. Legislative declaration.** The general assembly recognizes that, with the increasing use of technology in education, it is imperative that information that identifies individual students and their families is vigilantly protected from misappropriation and misuse that could harm students or their families. The general assembly also finds, however, that there are many positive ways in which a student's personally identifiable information may be used to improve the quality of the education the student receives and to positively impact the educational and career outcomes that the student achieves. The general assembly finds, therefore, that student data can be both protected and positively applied by increasing the level of transparency regarding, and specifying and enforcing limitations on, the collection, use, storage, and destruction of student data.

**Source: L. 2016:** Entire article added, (HB 16-1423), ch. 355, p. 1457, § 1, effective August 10.

**22-16-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Aggregate data" means data collected and reported at the group, cohort, or institutional level that is aggregated using protocols that are effective for preserving the anonymity of each individual included in the data.

(2) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(3) "Destroy" means to remove student personally identifiable information so that it is permanently irretrievable in the normal course of business.

(4) "Local education provider" means a school district, a charter school authorized by a school district pursuant to part 1 of article 30.5 of this title, a charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title, or a board of cooperative services created and operating pursuant to article 5 of this title that operates one or more public schools.

(5) "Parent" means a student's biological or adoptive parent or the student's legal guardian.

(6) "Public education entity" means the department, a local education provider, the state charter school institute established in section 22-30.5-503, or a public school.

(7) (a) "School service" means an internet website, online service, online application, or mobile application that:

(I) Is designed and marketed primarily for use in a preschool, elementary school, or secondary school;

(II) Is used at the direction of teachers or other employees of a local education provider; and

(III) Collects, maintains, or uses student personally identifiable information.

(b) "School service" does not include an internet website, online service, online application, or mobile application that is designed and marketed for use by individuals or entities generally, even if it is also marketed to a United States preschool, elementary school, or secondary school.

(8) "School service contract provider" or "contract provider" means an entity, other than a public education entity or an institution of higher education, that enters into a formal, negotiated contract with a public education entity to provide a school service.

(9) "School service on-demand provider" or "on-demand provider" means an entity, other than a public education entity, that provides a school service on occasion to a public education entity, subject to agreement by the public education entity, or an employee of the public education entity, to standard, non-negotiable terms and conditions of service established by the providing entity.

(10) "Small rural school district" means a school district that the department identifies as rural, based on the geographic size of the school district and the distance of the school district from the nearest large, urbanized area, and that enrolls fewer than one thousand students in kindergarten through twelfth grade.

(11) "State board" means the state board of education created in section 1 of article IX of the state constitution.

(12) "Student data system" means the Colorado department of education student data collection system.

(13) "Student personally identifiable information" means information that, alone or in combination, personally identifies an individual student or the student's parent or family, and that is collected, maintained, generated, or inferred by a public education entity, either directly or through a school service, or by a school service contract provider or school service on-demand provider.

(14) "Targeted advertising" means selecting and sending advertisements to a student based on information obtained or inferred over time from the student's online behavior, use of applications, or personally identifiable information. "Targeted advertising" does not include:

(a) Advertising to a student:

(I) At an online location based on the student's current visit to that location or in response to the student's request for information or feedback; and

(II) Without the collection and retention of a student's online activities over time;

(b) Adaptive learning, personalized learning, or customized education; or

(c) With the consent of a student or the student's parent, using the student's personally identifiable information to identify for the student institutions of higher education or scholarship providers that are seeking students who meet specific criteria.

(15) "Unique student identifier" means the number assigned by the department pursuant to section 22-16-105 (1) to each student enrolled in a public school.

(16) "Vendor" means a business or other organization with which a public education entity contracts for a product or service. "Vendor" includes a school service contract provider.

**Source: L. 2016:** Entire article added, (HB 16-1423), ch. 355, p. 1458, § 1, effective August 10.

**Editor's note:** This section is similar to former § 22-2-309 (2) as it existed prior to 2016.

**22-16-104. State board of education - duties - rules.** (1) The state board shall:

(a) Create, publish, and make publicly available a data inventory and dictionary or index of data elements with definitions of individual student data fields used in the student data system including:

(I) Individual student personally identifiable information that school districts and public schools are required to report by state and federal education mandates; and

(II) Individual student personally identifiable information that is proposed for inclusion in the student data system with a statement regarding the purpose or reason for the proposed collection and the use of the collected data;

(b) Develop, publish, and make publicly available policies and procedures to comply with the federal "Family Educational Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232g, and other relevant privacy laws and policies, including but not limited to policies that restrict access to student personally identifiable information in the student data system to:

(I) The authorized staff of the department that require access to perform assigned or contractual duties, including staff and contractors from the office of information and technology that are assigned to the department;

(II) The department's contractors that require access to perform assigned or contractual duties that comply with the requirements specified in paragraph (g) of this subsection (1);

(III) School district administrators, teachers, and school personnel who require access to perform assigned duties;

(IV) Students and their parents; and

(V) The authorized staff of other state agencies, including public institutions of higher education, as required by law or defined by interagency data-sharing agreements;

(c) Develop user-friendly information for the public related to the department's data-sharing agreements that is posted on the department's website as provided in section 22-16-105 (4);

(d) Develop a detailed data security plan that includes:

(I) Guidance for authorizing access to the student data system and to individual student personally identifiable information, including guidance for authenticating authorized access;

(II) Privacy compliance standards;

(III) Privacy and security audits;

(IV) Security breach planning, notice, and procedures;

(V) Student personally identifiable information retention and destruction policies, which must include specific requirements for identifying when and how the student personally identifiable information will be destroyed;

(VI) Guidance for school districts and staff regarding student personally identifiable information use;

(VII) Consequences for security breaches; and

(VIII) Staff training regarding the policies;

(e) Ensure routine and ongoing compliance by the department with the federal "Family Educational Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232g, other relevant privacy laws and policies, and the privacy and security policies and procedures developed under the authority of this article, including the performance of compliance audits;

(f) Ensure that agreements involving the disclosure of student personally identifiable information for research conducted on behalf of the department to develop, validate, or administer predictive tests; administer student aid programs; or improve instruction must:

(I) Specify the purpose, scope, and duration of the study or studies and the information to be disclosed;

(II) Require the entity, and any subcontractors or employees of the entity, to use student personally identifiable information from education records only to meet the purpose or purposes of the study as stated in the written agreement;

(III) Require the entity, and any subcontractors or employees of the entity, to conduct the study in a manner that does not permit access to the student personally identifiable information of parents and students by anyone other than representatives of the entity with legitimate interests;

(IV) Require the entity, and any subcontractors or employees of the entity, to destroy all student personally identifiable information when the information is no longer needed for the purposes for which the study was conducted and to specify the time period in which the information must be destroyed; and

(V) Require the entity, and any subcontractors or employees of the entity, to comply with the requirements specified in sections 22-16-109 (1), (2), and (3)(b) and 22-16-110 (1) and (3) that are imposed on school service contract providers;

(g) Develop requirements that any department contracts that affect databases, assessments, or instructional supports that include student personally identifiable information and are outsourced to vendors include express provisions that safeguard privacy and security, including specifying that student personally identifiable information may be used only for the purpose specified in the contract and must be destroyed when no longer needed for the purpose specified in the contract; specifying the time period in which the information must be destroyed; prohibiting further disclosure of the student personally identifiable information or its use for commercial purposes that are outside the scope of the contract; and specifying penalties for noncompliance, which must include termination of the contract as required in section 22-16-105 (5); and

(h) Promulgate rules as necessary to implement the provisions of this article.

**Source: L. 2016:** Entire article added, (HB 16-1423), ch. 355, p. 1460, § 1, effective August 10.

**Editor's note:** This section is similar to former § 22-2-309 (3) as it existed prior to 2016.

**22-16-105. Department of education - duties.** (1) The department shall assign to each student who is enrolled in a public school a unique student identifier that must neither be nor include the social security number of a student in whole or in sequential part.

(2) (a) The department shall develop a process to consider and review all outside requests for student personally identifiable information, other than aggregate student information already publicly available, by individuals not employed by the state who seek to conduct research using school system data or student personally identifiable information already collected by the department. The department shall implement the process subject to approval by the state board.

(b) (I) Before allowing an individual to receive student personally identifiable information for research purposes, the department must enter into an agreement with the individual that includes the entity that sponsors the individual or with which the individual is affiliated. At a minimum, the agreement must include the items specified in section 22-16-104 (1)(f) and require the individual to comply with the requirements specified in sections 22-16-109 (1), (2), and (3)(b) and 22-16-110 (1) and (3) that are imposed on school service contract providers.

(II) The provisions of this paragraph (b) do not apply to an individual who is seeking only aggregate student information. For each request for aggregate student information, the department shall determine whether the size of the group, cohort, or institution is too small to preserve the anonymity of the individuals included in the data, in which case the student data does not qualify as aggregate data.

(III) Notwithstanding the provisions of subparagraph (I) of this paragraph (b), an individual who conducts research through an institution of higher education may demonstrate to the department compliance with the institution review board practices and requirements, as regulated by federal law, in lieu of the terms specified in section 22-16-104 (1)(f).

(c) The department may enter into a data-sharing agreement with a public institution of higher education to allow the sharing of student personally identifiable information for the purpose of satisfying requirements imposed on the public institution of higher education by the institution's accrediting body. At a minimum, the data-sharing agreement must include the items specified in section 22-16-104 (1)(f) and require the public institution of higher education to comply with the requirements specified in sections 22-16-109 (1), (2), and (3)(b) and 22-16-110 (1) and (3) that are imposed on school service contract providers. For purposes of these requirements, the accrediting body is considered a subcontractor of the public institution of higher education.

(3) (a) The department shall not require a local education provider to provide student personally identifiable information that is not required by state or federal law; except that it may require student personally identifiable information not mandated by state or federal law that is associated with a grant proposal, or the department may ask a local education provider to voluntarily submit data or information as a condition of receiving a benefit, such as grant funding or special designations.

(b) Unless required by state or federal law, the department shall not collect:

(I) Juvenile delinquency records;

(II) Criminal records;

(III) Medical and health records;

(IV) Student social security numbers;

(V) Student biometric information; and

(VI) Information concerning the political affiliations or the beliefs or attitudes of students and their families.

(c) Unless otherwise approved by the state board, the department shall not transfer student personally identifiable information to a federal, state, or local agency or other entity, which agency or entity is outside of the state, except under the following circumstances:

(I) If a student transfers to an education entity in state or out of state or if a school or school district seeks help in locating a student who transfers out of state;

(II) If a student seeks to enroll in or to attend an out-of-state institution of higher education or training program;

(III) If a student participates in a program or assessment for which a data transfer is a condition of participation;

(IV) If a student is classified as "migrant" for federal reporting purposes;

(V) If the department enters into a contract with an out-of-state vendor or researcher that affects databases, assessments, special education, or instructional support related to an audit or evaluation of federal- or state-supported education programs; for the enforcement of or compliance with federal legal requirements that relate to those programs; or for conducting studies for or on behalf of the department to develop, validate, or administer predictive tests, administer student aid programs, or improve instruction; or

(VI) If the disclosure is to comply with a judicial order or lawfully issued subpoena or in connection with a health or safety emergency.

(d) The department shall not sell, trade, gift, or monetize student personally identifiable information for commercial use or investment interests.

(4) The department shall publish and maintain on its website a list of all of the entities or individuals, including but not limited to vendors, individual researchers, research organizations, institutions of higher education, and government agencies, that the department contracts with or has agreements with and that hold student personally identifiable information and a copy of each contract or agreement. The list must include:

(a) The name of the entity or individual. In naming an individual, the list must include the entity that sponsors the individual or with which the individual is affiliated, if any. If the individual is conducting research at an institution of higher education, the list may include the name of the institution of higher education and a contact person in the department that is associated with the research in lieu of the name of the researcher.

(b) The purpose and scope of the contract or agreement;

(c) The duration of the contract or agreement;

(d) The types of student personally identifiable information that the entity or individual holds under the contract or agreement;

(e) The use of the student personally identifiable information under the contract; and

(f) The length of time for which the entity or individual may hold the student personally identifiable information.

(5) (a) The department shall ensure that the terms of each contract that the department enters into or renews with a school service contract provider on and after August 10, 2016, at a minimum, require the contract provider to comply with the requirements in sections 22-16-108 to 22-16-110. If the contract provider commits a material breach of the contract that involves the misuse or unauthorized release of student personally identifiable information, the department

shall determine whether to terminate the contract in accordance with a policy adopted by the state board. At a minimum, the policy must require the state board, within a reasonable time after the department identifies the existence of a material breach, to hold a public hearing that includes discussion of the nature of the material breach, an opportunity for the contract provider to respond concerning the material breach, public testimony, and a decision as to whether to direct the department to terminate or continue the contract.

(b) The department shall ensure that the terms of each contract or other agreement that the department enters into or renews on and after August 10, 2016, which contract or agreement includes access to or use of student personally identifiable information by an individual or entity other than a contract provider, at a minimum, require the individual or entity to comply with the requirements in sections 22-16-109 (1), (2), and (3)(b) and 22-16-110 (1) and (3). If the individual or entity commits a material breach of the contract or agreement that involves the misuse or unauthorized release of student personally identifiable information, the department shall determine whether to terminate the contract or agreement in accordance with the state board policy described in paragraph (a) of this subsection (5).

(c) Notwithstanding any provision of law to the contrary, on and after August 10, 2016, the department shall not enter into or renew:

(I) A contract with a school service contract provider that refuses to accept the terms specified in paragraph (a) of this subsection (5) or that has substantially failed to comply with one or more of the requirements in sections 22-16-108 to 22-16-110; or

(II) A contract or other agreement, which includes access to or use of student personally identifiable information, with an individual or entity other than a contract provider, that refuses to accept the terms specified in paragraph (b) of this subsection (5) or that has substantially failed to comply with one or more of the requirements in section 22-16-109 (1), (2), or (3)(b) or 22-16-110 (1) or (3).

**Source: L. 2016:** Entire article added, (HB 16-1423), ch. 355, p. 1463, § 1, effective August 10.

**Editor's note:** This section is similar to former § 22-2-309 (4), (5), and (6) as it existed prior to 2016.

**22-16-106. Department - support for local education providers.** (1) The department shall develop data security guidance that may be used by local education providers. The department's data security guidance must include:

(a) Guidance for authorizing access to the student data system and to student personally identifiable information, including guidance for authenticating authorized access;

(b) Privacy compliance standards;

(c) Best practices for privacy and security audits;

(d) Security breach planning, notice, and procedures;

(e) Data retention and destruction procedures;

(f) Data collection and sharing procedures;

(g) Recommendations that any contracts that affect databases, assessments, or instructional supports that include student personally identifiable information and are outsourced

to vendors include express provisions that safeguard privacy and security and include penalties for noncompliance;

(h) Best security practices for privacy when using online education services, including websites and applications;

(i) Guidance for contracts involving the outsourcing of educational services;

(j) Guidance for contracts involving online education services;

(k) Guidance for publishing a list of vendors that local education providers contract with that hold student personally identifiable information;

(l) Consequences for security breaches; and

(m) Examples of staff training regarding the procedures.

(2) Based on the data security guidance adopted pursuant to subsection (1) of this section, on or before March 1, 2017, the department shall create and make available to local education providers a sample student information privacy and protection policy. The department shall annually review the sample policy and revise it as necessary to ensure that it remains current and adequate to protect the privacy of student personally identifiable information in light of advances in data technology and dissemination. At a minimum, the sample policy must include protocols for:

(a) Creating and maintaining a student data index;

(b) Retaining and destroying student personally identifiable information;

(c) Using student personally identifiable information for purposes internal to a local education provider;

(d) Preventing breaches in the security of student personally identifiable information and for responding to any security breaches that occur;

(e) Contracting with school service contract providers and using school services provided by school service on-demand providers;

(f) Disclosing student personally identifiable information to school service contract providers, school service on-demand providers, or other third parties;

(g) Notifying parents regarding collection of, retention of, and access to student personally identifiable information; and

(h) Providing training in student information security and privacy to employees of a local education provider.

(3) The department shall prepare and make available to local education providers sample contract language for use in contracting with school service contract providers. The department shall update the sample contract language as necessary to ensure that it remains current and adequate to protect the privacy of student personally identifiable information in light of advances in data technology and dissemination.

(4) The department shall identify and make available to local education providers resources that the local education providers may use in training employees with regard to student information security and privacy. At the request of a local education provider, the department shall provide training related to student information security and privacy.

(5) If the department receives notice that a local education provider has ceased using a school service on-demand provider for reasons described in section 22-16-107 (3), the department shall post the notice on the department's website. The department shall also post any written response from an on-demand provider that the local education provider may submit. The

department shall post the notices and written responses for twenty-four months following the date received.

**Source: L. 2016:** Entire article added, (HB 16-1423), ch. 355, p. 1466, § 1, effective August 10.

**Editor's note:** This section is similar to § 22-2-309 (7) as it existed prior to 2016.

**22-16-107. Local education provider - data collection - data security policy.** (1) (a) Each local education provider shall post and maintain on its website clear information that is understandable by a layperson explaining the data elements of student personally identifiable information that the local education provider collects and maintains in the local education provider's data system, not including the student personally identifiable information that the local education provider transmits to the department. The list must explain how the local education provider uses and shares the student personally identifiable information. The local education provider shall include on its website a link to the data inventory and dictionary or index of data elements that the state board publishes as required in section 22-16-104 (1)(a).

(b) Each local education provider shall post and maintain on its website a list of the school service contract providers that the local education provider contracts with and a copy of each contract.

(2) (a) Each local education provider shall ensure that the terms of each contract that the local education provider enters into or renews with a school service contract provider on and after August 10, 2016, at a minimum, require the contract provider to comply with the requirements in sections 22-16-108 to 22-16-110. If the contract provider commits a material breach of the contract that involves the misuse or unauthorized release of student personally identifiable information, the local education provider shall determine whether to terminate the contract in accordance with a policy adopted by the governing body of the local education provider. At a minimum, the policy must require the governing body, within a reasonable time after the local education provider identifies the existence of a material breach, to hold a public hearing that includes discussion of the nature of the material breach, an opportunity for the contract provider to respond concerning the material breach, public testimony, and a decision as to whether to direct the local education provider to terminate or continue the contract.

(b) On and after August, 10, 2016, a local education provider shall not enter into or renew a contract with a school service contract provider that refuses to accept the terms specified in paragraph (a) of this subsection (2) or that has substantially failed to comply with one or more of the requirements in sections 22-16-108 to 22-16-110.

(3) (a) Each local education provider shall post on its website, to the extent practicable, a list of the school service on-demand providers that the local education provider or an employee of the local education provider uses for school services. At a minimum, the local education provider shall update the list of school service on-demand providers at the beginning and mid-point of each school year. The local education provider, upon the request of a parent, shall assist the parent in obtaining the data privacy policy of a school service on-demand provider that the local education provider or an employee of the local education provider uses.

(b) If a parent has evidence demonstrating that a school service on-demand provider that the local education provider or an employee of the local education provider uses does not

substantially comply with the on-demand provider's privacy policy or does not meet the requirements specified in section 22-16-109 (2) or 22-16-110 (1), the parent may notify the local education provider and provide the evidence for the parent's conclusion.

(c) If a local education provider has evidence demonstrating that a school service on-demand provider does not substantially comply with the on-demand provider's privacy policy or does not meet the requirements specified in section 22-16-109 (2) or 22-16-110 (1), the local education provider is strongly encouraged to cease using or refuse to use the school service on-demand provider and prohibit employees of the local education provider from using the on-demand provider. The local education provider shall notify the on-demand provider that it is ceasing or refusing to use the on-demand provider pursuant to this paragraph (c), and the on-demand provider may submit a written response to the local education provider. The local education provider shall publish and maintain on its website a list of any school service on-demand providers that it ceases using or refuses to use for the reasons described in this paragraph (c), with any written responses that it receives from the on-demand providers. The local education provider shall notify the department if it ceases using an on-demand provider for the reasons described in this paragraph (c) and provide a copy of any written response the on-demand provider may submit.

(d) Each local education provider that uses on-demand school service providers shall post on its website a notice to on-demand providers that, if the local education provider ceases using or refuses to use an on-demand school service provider pursuant to paragraph (c) of this subsection (3), the local education provider will post on its website the name of the on-demand provider, with any written response that the on-demand provider may submit, and will notify the department, which will post on its website the on-demand provider's name and any written response.

(4) (a) On or before December 31, 2017, each local education provider shall adopt a student information privacy and protection policy that, at a minimum, addresses the issues specified in section 22-16-106 (1). The local education provider shall annually review the policy and revise it as necessary to ensure that it remains current and adequate to protect student personally identifiable information privacy in light of advances in data technology and dissemination.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (4), a local education provider that is a small rural school district shall adopt the student information privacy and protection policy by July 1, 2018.

(c) Each local education provider shall make copies of the student information privacy and protection policy available upon request to the parent of a student enrolled by the local education provider and shall post a current copy of the student information privacy protection policy on the local education provider's website.

**Source: L. 2016:** Entire article added, (HB 16-1423), ch. 355, p. 1468, § 1, effective August 10.

**22-16-108. School service contract provider - data transparency.** (1) Each school service contract provider shall provide clear information that is understandable by a layperson explaining the data elements of student personally identifiable information that the school service contract provider collects, the learning purpose for which the school service contract

provider collects the student personally identifiable information, and how the school service contract provider uses and shares the student personally identifiable information. The information must include all student personally identifiable information that the school service contract provider collects regardless of whether it is initially collected or ultimately held individually or in the aggregate. The school service contract provider shall provide the information to each public education entity that the school service contract provider contracts with in a format that is easily accessible through a website, and the public education entity shall post the information on its website. The school service contract provider shall update the information as necessary to maintain accuracy.

(2) Each school service contract provider shall provide clear notice to each public education entity that it contracts with before making material changes to its privacy policy for school services.

(3) Each school service contract provider shall facilitate access to and correction of any factually inaccurate student personally identifiable information by a contracting local education provider in response to a request for correction that the local education provider receives and responds to in accordance with section 22-16-112 (1)(c).

(4) Upon discovering the misuse or unauthorized release of student personally identifiable information held by the contract provider, a subcontractor of the contract provider, or a subsequent subcontractor, the contract provider shall notify the contracting public education entity as soon as possible, regardless of whether the misuse or unauthorized release is a result of a material breach of the terms of the contract.

**Source: L. 2016:** Entire article added, (HB 16-1423), ch. 355, p. 1470, § 1, effective August 10.

**22-16-109. School service contract provider - use of data.** (1) (a) A school service contract provider may collect, use, and share student personally identifiable information only for the purposes authorized in the contract between the school service contract provider and a public education entity or with the consent of the student who is the subject of the information or the student's parent.

(b) A school service contract provider must obtain the consent of the student or the student's parent before using student personally identifiable information in a manner that is materially inconsistent with the school service contract provider's privacy policy or materially inconsistent with the contract between the school service contract provider and the public education entity that applies to the collection of the student personally identifiable information.

(2) A school service contract provider shall not:

(a) Sell student personally identifiable information; except that this prohibition does not apply to the purchase, merger, or other type of acquisition of a school service contract provider, or any assets of a school service contract provider, by another entity, so long as the successor entity continues to be subject to the provisions of this article with respect to student personally identifiable information that the school service contract provider acquired while subject to the provisions of this article;

(b) Use or share student personally identifiable information for purposes of targeted advertising to students; or

(c) Use student personally identifiable information to create a personal profile of a student other than for supporting purposes authorized by the contracting public education entity or with the consent of the student or the student's parent.

(3) Notwithstanding any provision of paragraph (b) of subsection (1) or of subsection (2) of this section to the contrary:

(a) (I) A school service contract provider may use or disclose student personally identifiable information to:

(A) Ensure legal or regulatory compliance or to take precautions against liability;

(B) Respond to or participate in the judicial process;

(C) Protect the safety of users or others on the school service contract provider's website, online service, online application, or mobile application; or

(D) Investigate a matter related to public safety.

(II) If a school service contract provider uses or discloses student personally identifiable information as allowed in subparagraph (I) of this paragraph (a), the contract provider shall notify the contracting public education entity as soon as possible after the use or disclosure of the information.

(b) A school service contract provider may use, or disclose student personally identifiable information to, a subcontractor only if the school service contract provider contractually requires the subcontractor to comply with section 22-16-108, this section, and sections 22-16-110 and 22-16-111. The provisions of this paragraph (b) apply to the ability of an initial or subsequent subcontractor to further subcontract. If a public education entity determines that an initial or subsequent subcontractor has committed a material breach of the contract that involves the misuse or unauthorized release of student personally identifiable information, the public education entity shall comply with the requirements of section 22-16-105 (5)(a) or 22-16-107 (2)(a), as applicable; except that the public education entity is not required to consider terminating the contract if the school service contract provider terminates the contract with the subcontractor as soon as possible after the contract provider knows or has reason to know of the initial or subsequent subcontractor's material breach.

(4) For purposes of this section and section 22-16-110, a student may consent to the use, sharing, or retention of the student's student personally identifiable information only if the student is at least eighteen years of age or legally emancipated.

**Source: L. 2016:** Entire article added, (HB 16-1423), ch. 355, p. 1471, § 1, effective August 10.

**22-16-110. School service contract provider - data security - data destruction.** (1) Each school service contract provider shall maintain a comprehensive information security program that is reasonably designed to protect the security, privacy, confidentiality, and integrity of student personally identifiable information. The information security program must make use of appropriate administrative, technological, and physical safeguards.

(2) During the term of a contract between a school service contract provider and a public education entity, if the contracting public education entity requests destruction of a student's student personally identifiable information collected, generated, or inferred as a result of the contract, the contracting school service contract provider shall destroy the information as soon as practicable after the date of the request unless:

(a) The school service contract provider obtains the consent of the student or the student's parent to retain the student's student personally identifiable information; or

(b) The student has transferred to another public education entity and the receiving public education entity has requested that the school service contract provider retain the student's student personally identifiable information.

(3) Following the termination or conclusion of a contract between a school service contract provider and a public education entity, the school service contract provider shall, within the time period specified in the contract, destroy all student personally identifiable information collected, generated, or inferred as a result of the contract. If the contract does not specify a period for destruction of student personally identifiable information, the contract provider shall destroy the information when the information is no longer needed for the purpose of the contract between the contract provider and the public education entity. The contract provider shall notify the public education entity of the date upon which all of the student personally identifiable information is destroyed.

**Source: L. 2016:** Entire article added, (HB 16-1423), ch. 355, p. 1473, § 1, effective August 10.

**22-16-111. Use of data - exceptions - application of article.** (1) Notwithstanding any provision of this article to the contrary, this article does not prohibit the use of student personally identifiable information to:

(a) Use adaptive learning or design personalized or customized education;

(b) Maintain, develop, support, improve, or diagnose a school service contract provider's website, online service, online application, or mobile application;

(c) Provide recommendations for school, educational, or employment purposes within a school service, so long as the response is not determined in whole or in part by payment or other consideration from a third party;

(d) Respond to a student's request for information or for feedback so long as the information or response is not determined in whole or in part by payment or other consideration from a third party;

(e) Identify for the student, only with the written consent of the student or the student's parent, institutions of higher education or scholarship providers that are seeking students who meet specific criteria, regardless of whether the identified institutions of higher education or scholarship providers provide consideration to the school service contract provider;

(f) In accordance with the terms of a contract between the school service contract provider and a public education entity, produce and distribute, free or for consideration, student class photos and yearbooks only to the public education entity, students, parents, or individuals authorized by parents; or

(g) Provide for the student, only with the express written consent of the student or the student's parent given in response to clear and conspicuous notice, access to employment opportunities, educational scholarships or financial aid, or postsecondary education opportunities, regardless of whether the school service contract provider receives consideration from one or more third parties in exchange for the student personally identifiable information. This exception applies only to school service contract providers that provide nationally

recognized assessments that postsecondary institutions of higher education use in making admissions decisions.

(2) This article does not:

(a) Impose a duty on a provider of an interactive computer service, as defined in 47 U.S.C. sec. 230, to review or enforce compliance with this article by school service contract providers or school service on-demand providers;

(b) Impede the ability of a student to download, export, or otherwise save or maintain his or her own student personally identifiable information or documents;

(c) Limit internet service providers from providing internet connectivity to public schools or to students and their families;

(d) Prohibit a school service contract provider from marketing educational products directly to parents so long as the marketing does not result from the use of student personally identifiable information obtained by the school service contract provider as a result of providing its website, online service, online application, or mobile application; or

(e) Impose a duty on a provider of an electronic store, gateway, marketplace, or other means of purchasing or downloading software or applications to review or enforce compliance with this article on that software or those applications.

(3) The requirements specified in sections 22-16-108 to 22-16-110 apply to school service contract providers that enter into or renew contracts with public education entities on or after August 10, 2016.

**Source: L. 2016:** Entire article added, (HB 16-1423), ch. 355, p. 1473, § 1, effective August 10.

**22-16-112. Parent rights - complaint policy.** (1) The parent of a student enrolled by a local education provider has the right:

(a) To inspect and review his or her child's student personally identifiable information maintained by the local education provider;

(b) To request from the local education provider a paper or electronic copy of his or her child's student personally identifiable information, including student personally identifiable information maintained by a school service contract provider. If a parent requests an electronic copy of the parent's child's student personally identifiable information, the local education provider shall provide an electronic copy of the student personally identifiable information unless the local education provider does not maintain student personally identifiable information in electronic format and reproducing the student personally identifiable information in an electronic format would be unduly burdensome.

(c) To request corrections to factually inaccurate student personally identifiable information maintained by a local education provider. After receiving a request for correction that documents the factual inaccuracy, the local education provider that maintains the student personally identifiable information shall correct the factual inaccuracy and confirm the correction to the parent within a reasonable amount of time.

(2) (a) The governing board of each local education provider shall adopt a policy for hearing complaints from parents regarding the local education provider's compliance with the requirements of this article. At a minimum, the policy must provide a parent the opportunity to submit information to the governing board and receive a hearing by the governing board and

must require the governing board to take action on the parent's complaint within sixty days after the hearing.

(b) If a local education provider does not comply with the requirements specified in this article, a student's parent may submit a complaint to the governing board of the local education provider in accordance with the complaint policy adopted in accordance with paragraph (a) of this subsection (2).

**Source: L. 2016:** Entire article added, (HB 16-1423), ch. 355, p. 1475, § 1, effective August 10.

## COMPENSATORY EDUCATION

## ARTICLE 20

Education of Exceptional Children

**Editor's note:** This article was numbered as article 22 of chapter 123, C.R.S. 1963. The substantive provisions of this article were repealed and reenacted in 1973, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1973, consult the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

**Law reviews:** For article, "Guardian ad Litem and the Educational Surrogate Parent Role", see 19 Colo. Law. 2437 (1990).

### PART 1

### EDUCATION OF CHILDREN WITH DISABILITIES

**22-20-101. Short title.** This article shall be known and may be cited as the "Exceptional Children's Educational Act".

**Source: L. 73:** R&RE, p. 1258, § 1. **C.R.S. 1963:** § 123-22-1. **L. 79:** Entire section amended, p. 775, § 1, effective July 1.

**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 children with disabilities. The final determination for the placement in a special education program of any eligible 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.

(2) It is the intent of the general assembly, in keeping with accepted educational principles, that children from three to twenty-one years of age with disabilities shall be educated in the least restrictive environment to the maximum extent appropriate. To this end, the services of special education personnel shall be utilized within the general school programs to the maximum extent permitted by good educational practices, both in rendering services directly to children and in providing consultative services to general classroom teachers.

(3) It is further the intent of this part 1 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 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 part 1, and the rules promulgated pursuant to this part 1 by the state board, align closely with the federal "Individuals with Disabilities Education Act", 20 U.S.C. sec. 1400 et seq., as amended, and its implementing regulations, 34 CFR part 300 and 34 CFR part 303 as it pertains to child find, in order to minimize the number of rules, regulations, and policies to which administrative units, state-operated programs, and approved facility schools are subject.

(5) Nothing in this part 1 shall be construed to affect the placement of children out of the home or alternatives to such placements as provided in section 19-1-116, C.R.S.

**Source: L. 73:** R&RE, p. 1258, § 1. **C.R.S. 1963:** § 123-22-2. **L. 77:** Entire section amended, p. 1067, § 10, effective July 1. **L. 79:** Entire section amended, p. 775, § 2, effective July 1. **L. 81:** Entire section amended, p. 1054, § 1, effective June 10. **L. 87:** Entire section amended, p. 818, § 27, effective October 1. **L. 93:** Entire section amended, p. 1639, § 28, effective July 1. **L. 2006:** Entire section amended, p. 316, § 1, effective August 7. **L. 2007:** Entire section amended, p. 1551, § 1, effective May 31. **L. 2011:** (1), (3), and (4) amended, (HB 11-1277), ch. 306, p. 1477, § 10, effective August 10; (3), (4), and (5) amended, (HB 11-1077), ch. 30, p. 74, § 1, effective August 10.

**Editor's note:** Amendments to subsections (3) and (4) by House Bill 11-1077 and House Bill 11-1277 were harmonized.

**22-20-102.5. Legislative declaration - identification of gifted children. (Repealed)**

**Source: L. 88:** Entire section added, p. 809, § 4, effective May 24. **L. 93:** Entire section amended, p. 1639, § 29, effective July 1. **L. 2007:** Entire section amended, p. 1763, § 1, effective July 1. **L. 2011:** Entire section repealed, (HB 11-1077), ch. 30, p. 74, § 2, effective August 10.

**22-20-103. Definitions.** As used in this part 1, unless the context otherwise requires:

(1) "Administrative unit" means a school district, a board of cooperative services, a multi-district administrative unit, or the state charter school institute, that is providing

educational services to exceptional children and that is responsible for the local administration of this article.

(2) (Deleted by amendment, L. 2011, (HB 11-1077), ch. 30, p. 75, § 3, effective August 10, 2011.)

(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.

(3) "Board of cooperative services" means a regional educational services unit created pursuant to article 5 of this title and designed to provide supporting, instructional, administrative, facility, community, or any other services contracted by participating members.

(4) "Child find" means the program component of the IDEA that requires states to find, identify, locate, evaluate, and serve all children with disabilities, from birth to twenty-one years of age. Specific responsibilities for child find are described in section 22-20-118. Child find includes:

(a) Part C child find, which means the program component of IDEA that requires states to find, identify, locate, evaluate, and serve children 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:

(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; and

(L) Deaf-blindness.

(M) Repealed.

(II) Those persons from birth through two years of age who have been determined to be an infant or a toddler with a disability;

(III) Those persons from three through eight years of age who have been determined pursuant to 34 CFR 300.8 (b) to be children experiencing developmental delays.

(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.

(6) "Communication mode or language" means one or more of the following systems or methods of communication applicable to children who are deaf or hard of hearing:

(a) American sign language;

(b) English-based manual or sign systems; or

(c) Oral, aural, or speech-based training.

(7) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

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

(8.3) "Early intervening services" means programs and activities for students in kindergarten through grade twelve, with an emphasis on students in kindergarten through grade three, who at the time they receive early intervening services are not identified as children with disabilities, but who need additional academic and behavioral supports in order to succeed in a general education environment.

(8.5) "Early intervention services" means the services and supports specified in section 27-10.5-102 (12), C.R.S., provided to children with disabilities who are less than three 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) (Deleted by amendment, L. 2011, (HB 11-1277), ch. 306, p. 1478, § 11, effective August 10, 2011.)

(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.

(11) "Evaluation" means:

(a) For purposes of part C child find, procedures used to determine a child's initial and continuing eligibility for part C child find, including but not limited to:

(I) Determining the status of the child in each of the developmental areas;

(II) Identifying the child's unique strengths and needs;

(III) Identifying any early intervention services that might serve the child's needs; and

(IV) Identifying priorities and concerns of the family and resources to which the family has access;

(b) For the purposes of part B child find, procedures used under IDEA for children with disabilities to determine whether a child has a disability and the nature and extent of special education and related services that the child will need.

(12) "Exceptional child" means:

(a) A child defined in subsection (5) of this section as a child with 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.

(b) A child defined in section 22-20-202 (11) as a gifted child. Pursuant to section 22-20-204 (1), an administrative unit shall adopt and submit to the department a program plan to identify and serve gifted children who are at least five years of age.

(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" has the same meaning as a "foster care home" as defined in section 26-6-102 (14) and must be licensed by the state department of human services or certified by a county department of human or social services or certified by a child placement agency as defined in section 26-6-102 (7).

(13) (Deleted by amendment, L. 2011, (HB 11-1077), ch. 30, p. 75, § 3, effective August 10, 2011.)

(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.

(13.5) (Deleted by amendment, L. 2011, (HB 11-1077), ch. 30, p. 75, § 3, effective August 10, 2011.)

(14) "IDEA" means the federal "Individuals with Disabilities Education Act", 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 it pertains to child find.

(15) "Individualized education program" or "IEP" means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with this part 1 and the rules promulgated by the state board.

(16) "Individual family service plan" or "IFSP" means a written statement for a child from birth through two years of age with a disability, which statement is developed, reviewed, and revised in accordance with part C child find of IDEA and with rules promulgated by the department of human services.

(17) "Institute charter school" means a charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title.

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

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

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

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

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

(19.3) "Multi-district administrative unit" means a group of two or more school districts that did not form a board of cooperative services but were parties to an agreement existing on January 1, 2011, to provide educational services to exceptional children and to be responsible for the local administration of this article, which group of school districts the department recognized as of January 1, 2011, as an administrative unit.

(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:

(a) Is not an administrative unit; and

(b) Is legally authorized to place a child in 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 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) "School district" means a school district organized and existing pursuant to law, but shall not include a local college district.

(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.

(23) "Special education services" or "special education programs" means the services or programs provided to a child with a disability in conformity with the child's IEP or IFSP.

(24) (Deleted by amendment, L. 2011, (HB 11-1077), ch. 30, p. 75, § 3, effective August 10, 2011.)

(25) "Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written. The disorder may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations, and includes such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. "Specific learning disability" does not include a learning problem that is primarily the result of visual, hearing, or motor disabilities; an intellectual and developmental disability; an emotional disturbance; or an environmental, cultural, or economic disadvantage.

(26) "State board" means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

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

(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 services and the mental health institutes.

**Source: L. 73:** R&RE, p. 1258, § 1. **C.R.S. 1963:** § 123-22-3. **L. 77:** (5.5) added, p. 1067, § 11, effective July 1. **L. 79:** (1), (3), (4), and (5) amended and (3.4) and (3.7) added, p. 775, § 3, effective July 1. **L. 81:** (5.5) amended, p. 1055, § 2, effective June 1. **L. 88:** (3) amended and (5) repealed, pp. 762, 763, §§ 1, 4, effective May 31. **L. 90:** (4) amended, p. 1088, § 57, effective May 31; (3.4) and (4) amended, p. 1044, § 1, effective July 1. **L. 93:** (1.5) added and (3), (3.4), (4), and (5.5) amended, p. 1640, § 30, effective July 1. **L. 94:** (5.7) added, p. 914, § 1, effective July 1. **L. 96:** (1.7) added, p. 40, § 2, effective March 18. **L. 97:** (5.5) amended, p. 422, § 1, effective July 1. **L. 2004:** (1) and (5.5) amended and (2.5) and (11) added, p. 1624, § 22, effective July 1. **L. 2006:** Entire section amended, p. 317, § 2, effective August 7. **L. 2007:** Entire section amended, p. 1552, § 2, effective May 31; (12) amended, p. 1763, § 2, effective July 1. **L. 2008:** (12)(b) and (13) amended and (13.5) added, p. 774, § 1, effective May 14; (9) amended, p. 1386, § 14, effective May 27; (8.3) and (8.5) added, p. 624, § 3, effective July 1. **L. 2011:** IP, (2), (12), (13), (13.5), (15), and (24) amended, (HB 11-1077), ch. 30, p. 75, § 3, effective August 10; (4), (5), (9), (10), IP(12), (12)(a), (14), (18), (20)(b), (21), and (28) amended and (2.5), (2.7), (8.7), (9.5), (12.3), (12.7), (13.3), (19.7), and (22.7) added, (HB 11-1277), ch. 306, p. 1478, § 11, effective August 10. **L. 2012:** (5)(a)(I)(K) and (5)(a)(I)(L) amended, (5)(a)(III) added, and (5)(a)(I)(M) repealed, (HB 12-1345), ch. 188, p. 719, § 6, effective May 19. **L. 2014:** (1) amended and (19.3) added, (HB 14-1208), ch. 71, p. 300, § 1, effective March 27; (12)(b) amended, (HB 14-1102), ch. 330, p. 1472, § 11, effective August 6. **L. 2016:** (12.7) amended, (SB 16-189), ch. 210, p. 762, § 36, effective June 6. **L. 2017:** (28)(c) amended, (HB 17-1329), ch. 381, p. 1979, § 47, effective June 6. **L. 2018:** (12.7) amended, (SB 18-092 ), ch. 38 , p. 438, § 89 , effective August 8; (25) amended, (SB 18-096), ch. 44, p. 472, § 9, effective August 8.

**Editor's note:** (1) Subsection (4) was amended in House Bill 90-1314. Those amendments were superseded by the amendments to subsection (4) in House Bill 90-1137.

(2) Subsection (12) was originally numbered as subsection (3.4), and the amendments to it in House Bill 07-1244 were harmonized with Senate Bill 07-255 and renumbered as subsection (12).

(3) Amendments to subsection (12) by House Bill 11-1077 and House Bill 11-1277 were harmonized.

**Cross references:** For the legislative declaration contained in the 2008 act enacting subsections (8.3) and (8.5), see section 1 of chapter 177, Session Laws of Colorado 2008. For the

legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of Colorado 2018. For the legislative declaration in SB 18-096, see section 1 of chapter 44, Session Laws of Colorado 2018.

**22-20-104. Administration - advisory committee - rules.** (1) (a) This part 1 shall be administered by the department. Administration of this part 1 shall include the recommendation to the state board of reasonable rules necessary to implement this part 1, including but not limited to:

(I) Minimum standards for administrative units, state-operated programs, approved facility schools, and personnel;

(II) Criteria for determining disability and eligibility for special education services;

(III) Procedures regarding the identification of 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.

(XI) (Deleted by amendment, L. 2011, (HB 11-1277), ch. 306, p. 1483, § 12; (HB 11-1077), ch. 30, p. 75, § 4, effective August 10, 2011.)

(b) The state board shall adopt appropriate recommendations as rules to implement this part 1 following public comment and hearing. The rules promulgated by the state board shall be in accord with the legislative declaration set forth in section 22-20-102.

(c) An administrative unit, a state-operated program, or an 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 approved facility school an opportunity to comply with such rules.

(2) (a) In order to assist the state board in the performance of its responsibilities for the implementation of this part 1, the state board shall appoint a state special education advisory committee of an appropriate size. The members of the advisory committee must be representative of the state population and 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; and representatives from the division of youth services in the department of human services and from the department of corrections. A majority of the members of the advisory committee must be individuals with disabilities or parents of children with disabilities. Members are appointed for terms as determined by the by-laws of the advisory committee. Any additions to the composition of the advisory committee must be made pursuant to the procedures of the state board.

(b) (Deleted by amendment, L. 91, p. 694, § 6, effective April 20, 1991.)

(3) Repealed.

(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 expenditures.

(5) and (6) Repealed.

(7) (a) (Deleted by amendment, L. 2011, (HB 11-1077), ch. 30, p. 75, § 4, effective August 10, 2011.)

(b) Repealed.

**Source: L. 73:** R&RE, p. 1260, § 1. **C.R.S. 1963:** § 123-22-4. **L. 77:** (2) amended and (5) and (6) added, pp. 1067, 1068, §§ 12, 13, effective July 1. **L. 79:** (1) amended, p. 776, § 4, effective July 1. **L. 86:** (2) amended, p. 412, § 17, effective March 26. **L. 88:** (7) added, p. 809, § 5, effective May 25. **L. 90:** (5) amended, p. 1045, § 2, effective July 1. **L. 91:** (2) amended, p. 694, § 6, effective April 20. **L. 93:** (1), (2)(a), (3), (5), and (6) amended, p. 1641, § 31, effective July 1. **L. 94:** (2)(a) amended, p. 2689, § 215, effective July 1; (3) and (4) amended and (5) and (6) repealed, p. 1142, §§ 3, 4, 5, effective July 1. **L. 95:** (7)(a) amended, p. 1100, § 23, effective May 31. **L. 96:** (7)(b) repealed, p. 1232, § 62, effective August 7. **L. 98:** (2)(a) amended, p. 113, § 1, effective March 23; (3) repealed, p. 1075, § 2, effective June 1. **L. 2004:** (1) and (4) amended, p. 1625, § 23, effective July 1. **L. 2006:** (1), (2)(a), and (4) amended, p. 320, § 3, effective August 7. **L. 2007:** (1)(a) and (1)(b) amended, p. 1556, § 3, effective May 31; (1)(a)(IX) and (1)(a)(X) amended and (1)(a)(XI) added, p. 1764, § 5, effective July 1. **L. 2008:** (1)(a)(XI) amended, p. 1897, § 72, effective August 5. **L. 2011:** (1), (2)(a), and (4) amended, (HB 11-1277), ch. 306, p. 1483, § 12, effective August 10; (1)(a), (1)(b), (2)(a), and (7)(a) amended, (HB 11-1077), ch. 30, p. 75, § 4, effective August 10. **L. 2017:** (2)(a) amended, (HB 17-1329), ch. 381, p. 1980, § 48, effective June 6.

**Editor's note:** (1) Amendments to subsection (1)(a) by House Bill 07-1244 and Senate Bill 07-255 were harmonized.

(2) Amendments to subsections (1) and (2)(a) by House Bill 11-1077 and House Bill 11-1277 were harmonized.

**Cross references:** For the legislative declaration contained in the 1994 act amending subsection (2)(a), see section 1 of chapter 345, Session Laws of Colorado 1994. For the legislative declaration contained in the 1994 act amending subsections (3) and (4) and repealing

subsections (5) and (6), see section 1 of chapter 198, Session Laws of Colorado 1994. For the legislative declaration contained in the 1996 act repealing subsection (7)(b), see section 1 of chapter 237, Session Laws of Colorado 1996.

**22-20-104.5. Plan for academic excellence - inclusion of gifted children - cooperation - rules. (Repealed)**

**Source: L. 88:** Entire section added, p. 809, § 4, effective May 24. **L. 94:** (3) added, p. 1142, § 6, effective July 1. **L. 96:** (4) added, p. 1800, § 23, effective June 4. **L. 2001:** (4) amended, p. 361, § 28, effective April 16. **L. 2006:** (1) amended, p. 322, § 4, effective August 7; (4) amended, p. 598, § 12, effective August 7. **L. 2007:** (1) amended, p. 1764, § 3, effective July 1. **L. 2008:** (1) amended and (1.5) and (5) added, p. 775, § 2, effective May 14. **L. 2009:** (1) amended, (SB 09-163), ch. 293, p. 1532, § 18, effective May 21. **L. 2011:** Entire section repealed, (HB 11-1077), ch. 30, p. 77, § 5, effective August 10.

**22-20-105. Depository and retrieval network for visually and hearing impaired children. (Repealed)**

**Source: L. 73:** R&RE, p. 1260, § 1. **C.R.S. 1963:** § 123-22-5. **L. 93:** Entire section amended, p. 1642, § 32, effective July 1. **L. 2006:** Entire section repealed, p. 322, § 5, effective August 7.

**22-20-105.5. Statewide information and communication network. (Repealed)**

**Source: L. 88:** Entire section added, p. 809, § 4, effective May 24.

**Editor's note:** Subsection (2) provided for the repeal of this section, effective July 1, 1993. (See L. 88, p. 809.)

**22-20-106. Special education programs - early intervening services - rules.** (1) (a) Every school district in the state shall be either an administrative unit in itself or in a board of cooperative services that the department designates as an administrative unit or participate in a multi-district administrative unit. The department shall not recognize or authorize a group of school districts as an administrative unit unless the group of school districts qualifies as a multi-district administrative unit or is a board of cooperative services.

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

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

(2) (a) Each administrative unit, state-operated program, and 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 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.

(b) (Deleted by amendment, L. 2011, (HB 11-1077), ch. 30, p. 77, § 6, effective August 10, 2011.)

(3) (a) Each administrative unit, state-operated program, and 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 part 1. 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 special education services, an administrative unit, state-operated program, or approved facility school may pay for 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 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.

(3.5) (a) An administrative unit may provide early intervening services to a student who is not identified as a child with a disability at the time the early intervening services are provided. An administrative unit may provide early intervening services to students in kindergarten through grade twelve, with an emphasis on students in kindergarten through grade three.

(b) Early intervening services may include programs and activities, including response to intervention, as determined by the state board and set forth in rules promulgated by the state board pursuant to this subsection (3.5).

(c) An administrative unit may annually use no more than fifteen percent of the funding amount that the administrative unit annually receives pursuant to this part 1 for the provision of early intervening services.

(d) Each participating administrative unit shall collect information and report to the department, on an annual basis, the uniquely identifying student numbers of the students receiving early intervening services pursuant to this subsection (3.5).

(e) Nothing in this subsection (3.5) shall be construed to create a right for a student to receive early intervening services nor act to improperly delay the determination, pursuant to section 22-20-108, that a child has a disability and is eligible for special education services.

(f) The state board by rule shall identify the programs and activities that qualify as early intervening services and the allowable expenses related to those programs and activities. The state board may also promulgate such other rules as may be necessary to implement this subsection (3.5).

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

(5) Each administrative unit shall employ a director of special education. Each state-operated program or 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 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.

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

(9) (Deleted by amendment, L. 2006, p. 323, § 6, effective August 7, 2006.)

(10) Repealed.

**Source: L. 73:** R&RE, p. 1260, § 1. **C.R.S. 1963:** § 123-22-6. **L. 76:** (3) amended, p. 564, § 1, effective July 1. **L. 77:** (6) R&RE, p. 1038, § 1, effective May 14. **L. 79:** (6) amended, p. 780, § 1, effective June 21; (2) to (4) amended, p. 777, § 1, effective July 1. **L. 90:** (9) and (10) added, p. 1088, § 58, effective May 31; (2) and (3) amended and (9) and (10) added, p. 1045, § 3, effective July 1. **L. 93:** (2), (3), (6), (7), and (9) amended, p. 1642, § 33, effective July 1. **L. 94:** (3) and (6) amended, p. 1143, § 7, effective July 1. **L. 98:** (10) repealed, p. 1075, § 3, effective June 1. **L. 2000:** (6) amended, p. 1854, § 50, effective August 2. **L. 2004:** (1), (2), and (3) amended, p. 1625, § 24, effective July 1. **L. 2006:** Entire section amended, p. 323, § 6, effective August 7; (5) amended, p. 598, § 13, effective August 7. **L. 2007:** (3)(a) amended, p. 1764, § 4, effective July 1. **L. 2008:** (3.5) added, p. 624, § 2, effective July 1. **L. 2011:** (1)(b),

(2)(b), (3)(a), (3.5)(c), and (4) amended, (HB 11-1077), ch. 30, p. 77, § 6, effective August 10; (2)(a)(I), (3), (5), (6), and (7) amended, (HB 11-1277), ch. 306, p. 1484, § 13, effective August 10. **L. 2014:** (1)(a) amended, (HB 14-1208), ch. 71, p. 301, § 2, effective March 27.

**Editor's note:** (1) Subsection (9) was added in House Bill 90-1314. That subsection was superseded by the addition of subsection (9) in House Bill 90-1137.

(2) Amendments to this section by Senate Bill 06-118 and Senate Bill 06-137 were harmonized.

(3) Amendments to subsection (3)(a) by House Bill 11-1077 and House Bill 11-1277 were harmonized.

(4) Section 6 of House Bill 11-1077 incorrectly states that it amends subsection (3)(c) when the actual provision it amends is subsection (3.5)(c) and it fails to include the subsection (3.5) designation before the amended paragraph (c).

**Cross references:** For the legislative declaration contained in the 1994 act amending subsections (3) and (6), see section 1 of chapter 198, Session Laws of Colorado 1994. For the legislative declaration contained in the 2008 act enacting subsection (3.5), see section 1 of chapter 177, Session Laws of Colorado 2008.

**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 25.5-10-206, C.R.S., for the provision by the administrative unit of an education and training program for children with disabilities. If 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.

(2) Repealed.

**Source: L. 73:** R&RE, p. 1262, § 1. **C.R.S. 1963:** § 123-22-7. **L. 77:** (2) amended, p. 1040, § 1, effective May 26. **L. 85:** Entire section amended, p. 1014, § 40, effective July 1. **L. 93:** Entire section amended, p. 1643, § 34, effective July 1. **L. 94:** (2) repealed, p. 1143, § 8, effective July 1. **L. 2011:** (1) amended, (HB 11-1277), ch. 306, p. 1486, § 14, effective August 10. **L. 2013:** (1) amended, (HB 13-1314), ch. 323, p. 1805, § 32, effective March 1, 2014.

**Cross references:** For the legislative declaration contained in the 1994 act repealing subsection (2), see section 1 of chapter 198, Session Laws of Colorado 1994.

**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) 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 a regional center, a mental health institute, a facility, or a group home, and the district of residence cannot be determined due to the inability to locate a parent or due to the homelessness of a parent, the child shall be considered a resident of the school district in which the regional center, mental health institute, facility, or group home is located.

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

**Source: L. 81:** Entire section added, p. 1055, § 3, effective June 10. **L. 83:** Entire section amended, p. 1159, § 14, effective April 26. **L. 84:** Entire section amended, p. 590, § 1, effective March 5. **L. 90:** Entire section amended, p. 1041, § 3, effective April 3. **L. 91:** Entire section amended, p. 1144, § 9, effective May 18. **L. 93:** Entire section amended, p. 1644, § 35, effective July 1. **L. 94:** Entire section amended, p. 650, § 1, effective April 14; entire section amended, p. 2616, § 25, effective July 1. **L. 2006:** Entire section amended, p. 325, § 7, effective August 7. **L. 2011:** (1) amended, (HB 11-1277), ch. 306, p. 1486, § 15, effective August 10.

**Editor's note:** Amendments to this section in Senate Bill 94-185 and House Bill 94-1029 were harmonized.

**Cross references:** For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 345, Session Laws of Colorado 1994.

**22-20-108. Determination of disability - enrollment.** (1) (a) The determination that a child has a disability and is eligible for special education services shall be made by a multidisciplinary team that shall include, at a minimum, the parent of the child and professionally qualified personnel designated by the responsible administrative unit or state-operated program. The composition of the multidisciplinary team and the procedures to be used for determining a child's eligibility for special education services shall be prescribed by rules promulgated by the state board pursuant to this part 1.

(b) The development of an IEP for a child with 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 part 1.

(2) (Deleted by amendment, L. 2006, p. 325, § 8, effective August 7, 2006.)

(3) (a) In the event of a dispute between the parents of a child with a disability and an administrative unit or state-operated program, the parents or the administrative unit or state-

operated program shall have the same rights to an impartial due process hearing as are provided in the IDEA and the federal regulations, 34 CFR part 300, implementing the act. To request a due process hearing, the parents of a child with a disability or the administrative unit or state-operated program shall simultaneously file complete copies of the due process complaint with the opposing party and with the commissioner of education or his or her designee to ensure the timely assignment of an impartial hearing officer.

(b) If a due process hearing is requested pursuant to paragraph (a) of this subsection (3), the department shall provide the hearing in compliance with the requirements and provisions of IDEA and the federal regulations, 34 CFR part 300, implementing the act, including but not limited to the requirements governing due process complaints, resolution meetings, impartial due process hearing procedures, hearing rights, timelines, hearing decisions, and civil actions.

(c) The findings and decision made by the department shall be final. Any party aggrieved by the department's findings and decision has the right to bring a civil action pursuant to the provisions of IDEA and the federal regulations, 34 CFR 300.516 (a), implementing the act.

(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 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 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 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 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 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) (a) In developing the IEP pursuant to subsection (4) of this section for a child who is blind or visually impaired, in addition to any other requirements established by the state board, the IEP team shall assess and determine which literacy mode or modes would be most appropriate for the child's instruction. The IEP for a child who is blind or visually impaired shall specify the following:

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

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

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

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

(b) A child who is blind or visually impaired shall not be denied the opportunity for instruction in braille solely because the child has some remaining vision. Any child for whom instruction in braille is determined to be beneficial shall receive such instruction as part of such child's IEP.

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

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

(e) Nothing in this subsection (4.5) shall require an administrative unit, a state-operated program, or an approved facility school to expend additional resources or hire additional personnel to implement the provisions of this section.

(f) The department shall develop guidelines for caseload management for instructors of children who are blind or visually impaired in the schools of the administrative units. Such guidelines will evaluate how much instructional time should be allotted for children who are blind or visually impaired, will reflect the varying levels of severity of such children's needs, and will be renewed and updated on a periodic basis to incorporate current research and practice.

(4.7) (a) In developing an 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:

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

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

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

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

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

(b) To enable a parent to make informed decisions concerning which educational options are best suited to the parent's child, all of the educational options provided by the 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.

(c) A child who is deaf or hard-of-hearing shall not be denied the opportunity for instruction in a particular communication mode or language solely because:

(I) The child has some remaining hearing;

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

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

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

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

(f) Nothing in this subsection (4.7) shall abrogate parental choice among public educational programs as provided in section 22-20-109 or article 30.5 or 36 of this title or as otherwise provided by law.

(g) Nothing in this subsection (4.7) shall require an administrative unit to expend additional resources or hire additional personnel to implement the provisions of this subsection (4.7).

(5) In formulating recommendations for the least restrictive environment for a child with a disability, the IEP team shall:

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

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

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

(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.

(6) (Deleted by amendment, L. 2011, (HB 11-1077), ch. 30, p. 78, § 7, effective August 10, 2011.)

(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 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 child.

(c) In no event shall the public agency place a child in an administrative unit or approved facility school that is unable to ensure the provision of special education services that are appropriate for the child. The costs of educating the child shall be the responsibility of the school district of residence, and 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, 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 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 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 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 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 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.

(10) (Deleted by amendment, L. 2006, p. 325, § 8, effective August 7, 2006.)

**Source: L. 73:** R&RE, p. 1262, § 1. **C.R.S. 1963:** § 123-22-8. **L. 76:** (1) amended, p. 564, § 2, effective July 1. **L. 79:** (6) added, p. 778, § 6, effective July 1. **L. 81:** (3) and (4) R&RE and (7) added, pp. 1055, 1056, §§ 4, 5, effective June 10. **L. 83:** (4) and (7) amended and (8) added, p. 739, § 2, effective June 10. **L. 87:** (3) amended, p. 956, § 60, effective March 13; (7)(b) amended, p. 826, § 2, effective May 16. **L. 93:** (4) amended, p. 1047, § 4, effective June 3; (1), (3)(a), (4), (5), and (7)(b) amended, p. 1645, § 36, effective July 1. **L. 94:** (1), (2), (3)(a), and (4) amended and (4.5) added, p. 915, § 2, effective July 1; (5) amended, p. 2690, § 216, effective

July 1. **L. 96:** (4.7) added, p. 41, § 3, effective March 18. **L. 97:** (1) and (5) amended and (9) added, p. 423, § 2, effective July 1. **L. 98:** (10) added, p. 964, § 3, effective May 27. **L. 2004:** (1), (3), (4), (4.5)(e), (4.5)(f), (4.7)(b), (4.7)(g), (5)(d), (7)(a), (9), and (10) amended, p. 1626, § 25, effective July 1. **L. 2006:** Entire section amended, p. 325, § 8, effective August 7. **L. 2011:** (3) amended, (SB 11-061), ch. 40, p. 106, § 1, effective July 1; (1), (3)(a), and (6) amended, (HB 11-1077), ch. 30, p. 78, § 7, effective August 10; (1)(b), (4), (4.5)(e), (4.7)(a)(IV), (4.7)(b), IP(5), (5.5), (7), (8), and (9) amended, (HB 11-1277), ch. 306, p. 1487, § 16, effective August 10.

**Editor's note:** (1) Amendments to subsection (4) in Senate Bill 93-242 and House Bill 93-1313 were harmonized.

(2) Subsection (3)(a) was amended by House Bill 11-1077, effective August 10, 2011. However, those amendments were superseded by the amendments to subsection (3) by Senate Bill 11-061, effective July 1, 2011.

(3) Amendments to subsection (1) by House Bill 11-1077 and House Bill 11-1277 were harmonized.

**Cross references:** For the legislative declaration contained in the 1994 act amending subsection (5), see section 1 of chapter 345, Session Laws of Colorado 1994. For the legislative declaration contained in the 1996 act enacting subsection (4.7), see section 1 of chapter 14, Session Laws of Colorado 1996.

**22-20-109. Tuition - rules.** (1) (a) An administrative unit of residence may contract with another administrative unit or an approved facility school to provide a special education program for a child with a disability. 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) 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 must 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 may 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 is responsible for paying as tuition any excess costs above the amount the department pays 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 online program or online school 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) (Deleted by amendment, L. 2011, (HB 11-1277), ch. 306, p. 1489, § 17, effective August 10, 2011.)

(4) (a) When a child with a disability enrolls and attends a school in an administrative unit other than the child's administrative unit of residence pursuant to the provisions of section 22-36-101, and the school does not provide the child an online program or online school 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) (Deleted by amendment, L. 2011, (HB 11-1277), ch. 306, p. 1489, § 17, effective August 10, 2011.)

(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 online program or operates as an online school 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.

(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 online program or online school 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 online program or online school the tuition charge for the excess costs incurred in educating the child.

(b) The provider of the online program or online school 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 online program or online school unless the child meets the criteria for funding pursuant to section 22-20-114 (1)(c)(II).

(c) The online 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 online program or online school. 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 online 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 online programs and online schools. 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 online provider shall 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, online program, or online school 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 online program or online school;

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

(e) (Deleted by amendment, L. 2011, (HB 11-1277), ch. 306, p. 1489, § 17, effective August 10, 2011.)

(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 entities described in subsection (5) of this section.

(8) Repealed.

**Source: L. 73:** R&RE, p. 1263, § 1. **C.R.S. 1963:** § 123-22-9. **L. 77:** Entire section amended, p. 1042, § 1, effective July 1. **L. 79:** Entire section amended, p. 778, § 7, effective July 1. **L. 83:** Entire section amended, p. 741, § 3, effective June 10. **L. 84:** Entire section amended, p. 590, § 2, effective March 5. **L. 85:** Entire section amended, p. 1014, § 41, effective July 1. **L. 87:** Entire section R&RE, p. 827, § 3, effective May 16. **L. 88:** (2) amended, p. 810, § 6, effective January 1, 1989. **L. 93:** (1) and (2) amended, p. 1646, § 37, effective July 1. **L. 94:** (2) amended, p. 810, § 19, effective April 27; (4) added, p. 1284, § 11, effective May 22; (5) added, p. 1380, § 6, effective May 25; entire section amended, p. 1144, § 9, effective July 1. **L. 96:** (5) amended, p. 668, § 8, effective May 2; (5) amended, p. 755, § 11, effective May 22. **L. 2001:** (2) amended, p. 345, § 7, effective April 16. **L. 2004:** (4) and (5) amended and (6) and (7) added, p. 1394, § 15, effective May 28; (5) amended, p. 1629, § 26, effective July 1. **L. 2006:** (4)(a), (5)(a), and (6) amended and (8) added, p. 662, § 6, effective April 28; (1), (2), IP(7), (7)(f), and (7)(g) amended, p. 332, § 9, effective August 7. **L. 2007:** (4)(a), (5)(a), and (6) amended, p. 1087, § 11, effective July 1. **L. 2008:** (3) amended, p. 1207, § 16, effective May 22; (1) and (2) amended, p. 1386, § 15, effective May 27. **L. 2009:** (3) amended, (HB 09-1189), ch. 99, p. 370, § 2, effective April 3. **L. 2010:** (2) amended, (HB 10-1013), ch. 399, p. 1912, § 36, effective June 10. **L. 2011:** Entire section amended, (HB 11-1277), ch. 306, p. 1489, § 17, effective August 10. **L. 2012:** (2.5)(a), (4)(a), (5)(a), (6), IP(7), (7)(b), (7)(c), and (7)(d) amended, (HB 12-1240), ch. 258, p. 1314, § 24, effective June 4. **L. 2017:** (2)(b) amended, (SB 17-294), ch. 264, p. 1395, § 45, effective May 25.

**Editor's note:** (1) Amendments to subsection (2) by House Bill 94-1001 and House Bill 94-1198 were harmonized. Amendments to subsection (5) by House Bill 96-1293 and Senate Bill 96-77 were harmonized. Amendments to subsection (5) by House Bill 04-1362 and House Bill 04-1397 were harmonized.

(2) Subsection (8)(c) provided for the repeal of subsection (8), effective January 1, 2007. (See L. 2006, p. 662.)

**Cross references:** For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 198, Session Laws of Colorado 1994. For the legislative declaration contained in the 2008 act amending subsection (3), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-20-110. Maintenance. (Repealed)**

**Source: L. 73:** R&RE, p. 1263, § 1. **C.R.S. 1963:** § 123-22-10. **L. 87:** Entire section repealed, p. 828, § 5, effective May 16.

**22-20-111. Equipment.** An administrative unit, a state-operated program, or an eligible facility may purchase equipment for the instruction or support of children with disabilities.

**Source: L. 73:** R&RE, p. 1263, § 1. **C.R.S. 1963:** § 123-22-11. **L. 79:** Entire section amended, p. 778, § 8, effective July 1. **L. 88:** Entire section amended, p. 762, § 2, effective May 31. **L. 93:** Entire section amended, p. 1647, § 38, effective July 1. **L. 94:** Entire section amended, p. 1145, § 10, effective July 1. **L. 2006:** Entire section amended, p. 333, § 10, effective August 7.

**Cross references:** For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 198, Session Laws of Colorado 1994.

**22-20-112. Length of school year.** (1) An administrative unit may conduct special education programs as prescribed in this part 1 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 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.

**Source: L. 73:** R&RE, p. 1263, § 1. **C.R.S. 1963:** § 123-22-12. **L. 2006:** Entire section amended, p. 333, § 11, effective August 7. **L. 2008:** (1) amended, p. 1207, § 17, effective May 22. **L. 2011:** Entire section amended, (HB 11-1277), ch. 306, p. 1495, § 18, effective August 10; (1) amended, (HB 11-1077), ch. 30, p. 78, § 8, effective August 10.

**Editor's note:** Amendments to subsection (1) by House Bill 11-1077 and House Bill 11-1277 were harmonized.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsection (1), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-20-113. School district report. (Repealed)**

**Source: L. 73:** R&RE, p. 1263, § 1. **C.R.S. 1963:** § 123-22-13. **L. 94:** Entire section repealed, p. 1145, § 11, effective July 1.

**22-20-114. Funding of programs - legislative declaration.** (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 administrative units that enroll children with disabilities:

(A) For whom tuition is paid by the administrative units for the children to receive educational services at 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 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.

(a.5) (I) Repealed.

(II) (A) For the 2008-09 budget year and for each budget year thereafter, a portion calculated pursuant to sub-subparagraph (B) or (C) of this subparagraph (II) of the total amount of state funds appropriated for the payment of costs incurred by administrative units for the provision of special education programs, to offset the costs incurred by administrative units in conducting child find activities under part C of IDEA pursuant to section 22-20-118 for children who are less than three years of age. For the 2008-09 budget year, the department shall allocate said moneys among administrative units based on the number of children less than three years of age who were evaluated in each administrative unit during the 2005-06 budget year and who are or may be eligible for early intervention services under part C of IDEA. For the 2009-10 budget year and for each budget year thereafter, the department shall allocate said moneys among administrative units based on the number of children less than three years of age who were evaluated in each administrative unit during the preceding budget year and who are or may be eligible for early intervention services under part C of IDEA.

(B) For the 2008-09 budget year, the portion of the appropriation allocated pursuant to sub-subparagraph (A) of this subparagraph (II) shall be calculated as follows:

(The dollar amount allocated per child less than three years of age who was evaluated in the 2005-06 budget year) x (the lesser of the rate of inflation, as defined in section 22-55-102 (7), or the percentage change in the total state funds appropriated for the provision of special education services over the preceding budget year) x (the total number of children less than three years of age who were evaluated under part C of IDEA by administrative units in the 2005-06 budget year).

(C) For the 2009-10 budget year and for each budget year thereafter, the portion of the appropriation allocated pursuant to sub-subparagraph (A) of this subparagraph (II) shall be calculated as follows:

(The dollar amount allocated per child less than three years of age who was evaluated under part C of IDEA in the preceding budget year) x (the lesser of the rate of inflation, as defined in section 22-55-102 (7), or the percentage change in the total state funds appropriated for the provision of special education services over the preceding budget year) x (the total number of children less than three years of age who were evaluated under part C of IDEA by administrative units in the preceding budget year).

(b) An amount equal to one thousand two hundred fifty dollars for each child with disabilities receiving special education services from the administrative unit; and

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

(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 visual impairment, including blindness, as defined by the state board;

(B) A hearing impairment, including deafness, as defined by the state board;

(C) Deaf-blindness, as defined by the state board;

(D) A 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) An intellectual disability as defined by the state board.

(III) (A) For the 2013-14 budget year and each budget year thereafter, in addition to any amount that is available pursuant to subsection (1)(c)(I) of this section, the general assembly shall appropriate twenty million dollars from the state education fund to the department for the purposes of this subsection (1)(c).

(B) For the 2019-20 budget year and each budget year thereafter, in addition to any amount that is available pursuant to subsections (1)(c)(I) and (1)(c)(III)(A) of this section, the general assembly shall appropriate twenty-two million dollars, which amount may be appropriated from the state education fund or the general fund or as amounts from both funds, to the department for the purposes of this subsection (1)(c).

(C) The general assembly finds and declares that, for the purposes of section 17 of article IX of the state constitution, providing additional money to children with one or more disabilities, as described in subsection (1)(c)(II) of this section, for a percentage of such children receiving special education services from an administrative unit is a program for accountable education reform and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

(2) (a) (I) In addition to the amount appropriated for distribution pursuant to subsection (1) of this section, for the 2006-07 and 2007-08 budget years, subject to available appropriations, the general assembly shall appropriate two million dollars from the general fund or from any other source to the department to fund grants to administrative units as provided in section 22-20-114.5 for reimbursement of high costs incurred in providing special education services in the preceding budget year.

(II) (A) In addition to the amount appropriated for distribution pursuant to subsection (1) of this section, for the 2008-09 budget year and each budget year thereafter, subject to available

appropriations, the general assembly shall appropriate four million dollars from the general fund or from any other source to the department to fund grants to administrative units as provided in section 22-20-114.5 for reimbursement of high costs incurred in providing special education services in the preceding budget year.

(B) The general assembly hereby finds and declares that for the purposes of section 17 of article IX of the state constitution, providing grants to administrative units for reimbursement for high costs incurred in providing special education services is a program for accountable education reform and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

(b) Any amount received by an administrative unit as a reimbursement pursuant to this subsection (2) shall be in addition to the amount received by the administrative unit pursuant to subsection (1) of this section. The moneys appropriated by the general assembly to the department shall be distributed by the Colorado special education fiscal advisory committee in accordance with section 22-20-114.5.

(3) (a) Except as otherwise provided in paragraph (b) of this subsection (3), for the 2005-06 budget year, the department shall recalculate the distribution of funds to administrative units for providing educational services to children with disabilities as necessary to comply with the provisions of subsection (1) of this section.

(b) Notwithstanding the provisions of subsection (1) of this section, if the application of the provisions of subsection (1) of this section would result in an administrative unit receiving a lesser amount for providing educational services to children with disabilities for the 2005-06 budget year than it would have received under the provisions of this section as they existed prior to April 28, 2006, then the department shall not recalculate the distribution of funds for the administrative unit for the 2005-06 budget year.

(4) An administrative unit shall not receive the amount of funding to which it is entitled under the provisions of subsection (1) of this section unless the administrative unit has provided to the department the data collected concerning special education programs, as required by subsection (6) of this section, including the count of assessed children with disabilities.

(5) Payments made under the provisions of this part 1 shall not affect the amount of other state aid for which an administrative unit may qualify.

(6) Each administrative unit shall be required to collect the data required by the federal government concerning special education programs. Each administrative unit shall provide to the department the data collected concerning special education programs in order to receive the amount of funding to which it is entitled under the provisions of subsection (1) of this section.

(7) It is the general assembly's intent that, as a result of receiving an increase in the distribution of state moneys, an administrative unit, in complying with the maintenance of effort requirement specified in the federal "No Child Left Behind Act of 2001", 20 U.S.C. sec. 6381 et seq., shall not reduce the level of state and local expenditures below the level of state and local expenditures for the preceding budget year. Any additional appropriation of moneys for distribution pursuant to this section is intended to alter the ratio between state and local expenditures, but the overall level of expenditures may remain the same, thereby satisfying the federal maintenance of effort requirements.

**Source: L. 73:** R&RE, p. 1263, § 1. **C.R.S. 1963:** § 123-22-14. **L. 74:** (5) amended, p. 366, § 1, effective April 26; (1)(b)(III) amended and (1)(b)(VI) added, p. 365, § 1, effective July

1. **L. 77:** (1)(b)(VII) added, p. 1038, § 2, effective May 14; (1)(b)(V) and (3) amended and (1)(e) R&RE, pp. 1042, 1043, §§ 2, 3, effective July 1; (3) amended, p. 1068, § 14, effective July 1. **L. 79:** IP(1), (1)(c), (1)(d), (3), and (4) amended, p. 778, § 9, effective July 1. **L. 83:** (1)(b)(IV) amended, p. 745, § 1, effective May 17; (1)(b)(V) amended, p. 741, § 4, effective June 10. **L. 84:** (1)(b)(V) amended, p. 591, § 3, effective March 3. **L. 85:** (1)(b)(V) amended, p. 1015, § 42, effective July 1. **L. 88:** (1)(b)(I) repealed, p. 777, § 7, effective May 29; (5) amended and (6) added, p. 764, effective May 29; (1)(c) repealed and (1)(d) R&RE, pp. 763, 762, §§ 4, 3, effective May 31; (6) amended, p. 1439, § 45, effective June 11; (1)(b)(V) amended, p. 810, § 7, effective January 1, 1989. **L. 90:** (5) amended, p. 1046, § 4, effective July 1. **L. 93:** (1)(b)(V), (1)(d), (3)(c), and (5) amended, p. 1647, § 39, effective July 1. **L. 94:** (1)(b)(V) and (5) amended, p. 811, § 20, effective April 27; entire section amended, p. 1138, § 2, effective July 1. **L. 95:** (1)(a) and (1)(b) amended and (1)(b.5) added, p. 606, § 1, effective May 22. **L. 97:** (1)(b.5) amended and (1)(b.7) added, p. 593, § 30, effective April 30. **L. 2000:** (1)(b.8) added, p. 486, § 9, effective April 28. **L. 2004:** (1)(b.7)(II) and (2) amended, p. 1629, § 27, effective July 1. **L. 2006:** Entire section R&RE, p. 664, § 7, effective April 28. **L. 2007:** (1)(a.5) added and (1)(c)(I) amended, p. 1567, § 11, effective May 31. **L. 2008:** (2) amended, p. 1208, § 18, effective May 22; (1)(a) amended, p. 1387, § 16, effective May 27. **L. 2011:** (1)(a) and (1)(c)(II) amended, (HB 11-1277), ch. 306, p. 1496, § 19, effective August 10; (5) amended, (HB 11-1077), ch. 30, p. 78, § 9, effective August 10. **L. 2013:** (1)(c)(I) amended and (1)(c)(III) and (7) added, (SB 13-260), ch. 236, p. 1142, § 9, effective May 17. **L. 2018:** (1)(a.5)(I) repealed, (HB 18-1333), ch. 176, p. 1213, § 6, effective April 30. **L. 2019:** (1)(c)(III) amended, (SB 19-246), ch. 151, p. 1788, § 5, effective May 10.

**Editor's note:** (1) Amendments to subsection (3) by Senate Bill 77-138 and House Bill 77-1022 were harmonized.

(2) Subsections (1)(b)(V) and (5) were amended in House Bill 94-1001. Those amendments were superseded by the amendment of the entire section in House Bill 94-1198.

**Cross references:** For the legislative declaration contained in the 1994 act amending this section, see section 1 of chapter 198, Session Laws of Colorado 1994. For the legislative declaration contained in the 2008 act amending subsection (2), see section 1 of chapter 286, Session Laws of Colorado 2008.

**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:

(a) "Committee" means the Colorado special education fiscal advisory committee created in subsection (2) of this section.

(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 education services, either directly or by contract, to a child with disabilities regardless of the child's district of residence.

(c) Repealed.

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

(I) A representative from the unit in the department responsible for the administration of special education programs;

(II) (Deleted by amendment, L. 2011, (HB 11-1277), ch. 306, p. 1497, § 20, effective August 10, 2011.)

(III) A special education director from a board of cooperative services with expertise in special education finance selected 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.

(b) The members of the committee shall serve without compensation but shall be reimbursed by the department for any necessary expenses incurred in the conduct of their official duties on the committee.

(c) This subsection (2) is repealed, effective September 1, 2021. Before its repeal, the committee is scheduled for review in accordance with section 2-3-1203, C.R.S.

(3) (a) An administrative unit that incurs high costs in providing special 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 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 education services.

(b) (I) Subject to the requirements of paragraph (a.5) of this subsection (3), the committee shall have the discretion to award a grant to an administrative unit that applies and qualifies to receive a grant pursuant to paragraph (a) of this subsection (3). In determining whether to award a grant to an administrative unit and the amount of the grant to be awarded, the committee shall consider the administrative unit's annual audited operating expenses for the preceding budget year and the percentage of the administrative unit's annual audited operating expenses that represents the high costs incurred by the administrative unit in the preceding budget year. All grants awarded by the committee shall be subject to approval by the state board.

(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 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 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 in-district placements.

(c) An administrative unit shall not receive a grant in an amount that exceeds one hundred percent of the high costs that the administrative unit incurred in the preceding budget year.

(d) The committee shall not award a grant to an administrative unit that fails to provide the department with the data collected concerning special education programs, as required by section 22-20-114 (6), including the count of assessed special education students.

(e) For the purpose of grants awarded in the 2006-07 budget year, the threshold amount of costs incurred in providing special education services to a child with disabilities above which an administrative unit may receive reimbursement in the form of a grant pursuant to the provisions of this subsection (3) is forty thousand dollars. For the purpose of grants awarded in the 2007-08 budget year and each budget year thereafter, the committee shall annually determine the threshold amount of costs incurred in providing special education services to a child with disabilities above which an administrative unit may receive reimbursement in the form of a grant.

(4) (a) The department shall gather and provide to the committee data that includes but need not be limited to the following:

(I) The extent to which the amount appropriated pursuant to section 22-20-114 (1) is distributed based on the needs of children with disabilities and the severity of the needs of such children;

(II) The number of children with disabilities who receive special education services from each administrative unit and the nature of the disability of each child who receives special education services from each administrative unit;

(III) Patterns of identifying children with disabilities that include but need not be limited to recognized incidence rates of over- and under-identification of children with disabilities at the administrative unit, state, and national levels;

(IV) The number of hours of special education services that each administrative unit provides, disaggregated by disability; and

(V) The percentage of the school day during which children with disabilities receive special education services from the administrative unit, disaggregated by disability.

(b) On or before January 1, 2008, the committee shall submit to the state board, the education committees of the house of representatives and the senate, or any successor committees, a statewide organization of special education directors, and the financial policies and procedures advisory committee created in the department, a report that includes but need not be limited to the following:

(I) The information that the department gathered pursuant to paragraph (a) of this subsection (4) and any analysis conducted by the committee;

(II) Recommended changes, if any, to the manner of distributing funds to administrative units for special education programs pursuant to section 22-20-114 (1)(a) and (1)(b); and

(III) Recommended changes, if any, to the categorization of children with disabilities pursuant to section 22-20-114 (1)(b) and (1)(c) for the purpose of distributing funds for the provision of special education programs.

(5) On January 15, 2008, and on January 15 of each year thereafter, the committee shall submit to the education committees of the house of representatives and the senate, or any successor committees, a report that includes but need not be limited to a list of the administrative units that applied for and received a grant pursuant to subsection (3) of this section during the preceding budget year.

(6) (a) In addition to awarding grants pursuant to subsection (3) of this section, the committee shall award high-cost special education trust fund grants and report on those grants pursuant to section 22-20-114.7.

(b) This subsection (6) is repealed, effective July 1, 2027.

**Source: L. 2006:** Entire section added, p. 666, § 8, effective April 28. **L. 2007:** (1)(b), (3)(a), and (3)(b) amended and (1)(c) repealed, pp. 738, 745, §§ 10, 28, effective May 9. **L. 2008:** (3)(a.5) added and (3)(b) amended, p. 1208, § 19, effective May 22. **L. 2011:** (1)(b), (3)(a), (3)(a.5), and (3)(b)(II)(A) amended, (HB 11-1077), ch. 30, p. 78, § 10, effective August 10; (1)(b), (2)(a), (3)(a), (3)(a.5), and (3)(b)(II) amended, (HB 11-1277), ch. 306, p. 1497, § 20, effective August 10. **L. 2016:** (2)(c) amended, (HB 16-1171), ch. 244, p. 992, § 1, effective June 8. **L. 2019:** (6) added, (SB 19-066), ch. 368, p. 3374, § 2, effective May 30.

**Cross references:** For the legislative declaration contained in the 2008 act enacting subsection (3)(a.5) and amending subsection (3)(b), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-20-114.7. High-cost special education trust fund - creation - grants - eligibility - legislative declaration - definition - annual report - repeal.** (1) (a) The general assembly finds and declares that:

(I) Providing equal access to high-quality public education for all students, including children with disabilities, is a top priority for the state;

(II) Each administrative unit in the state is responsible for making available special education services required by the IEP for any child with a disability for whom it is responsible;

(III) Each year, a small number of cases, randomly affecting administrative units across the state, become extraordinarily expensive, threatening to jeopardize the administrative unit's ability to provide equal access to each child and to maintain financial stability;

(IV) Ensuring that financial support is available to help administrative units defray the costs associated with providing high-cost special education services is a statewide concern; and

(V) Building a reserve that may provide necessary funding for administrative units experiencing high costs will help bring equity and stability to the state's special education programs.

(b) Therefore, the general assembly declares that it is necessary and appropriate to create a high-cost special education trust fund to build a reserve for high-cost special education services.

(2) (a) The high-cost special education trust fund, referred to in this section as the "trust fund", is created in the state treasury. The trust fund is administered by the Colorado special

education fiscal advisory committee, created in the department of education pursuant to section 22-20-114.5 (2), and referred to in this section as the "committee".

(b) (I) On July 1, 2019, the state treasurer shall transfer two million five hundred thousand dollars from the marijuana tax cash fund, created in section 39-28.8-501, to the trust fund.

(II) The general assembly is encouraged to prioritize the transfer or appropriation of money to the trust fund in future fiscal years.

(c) The trust fund consists of money transferred to the trust fund pursuant to subsection (2)(b) of this section and any other money that the general assembly may appropriate to the trust fund and the interest and income earned on the principal of the trust fund.

(d) Transfers to the trust fund pursuant to subsection (2)(b) of this section and any money appropriated to the trust fund pursuant to subsection (2)(c) of this section constitute the principal of the trust fund. The principal of the trust fund remains in the trust fund and shall not be appropriated, transferred, or expended.

(e) The state treasurer is authorized and directed to manage the trust fund through prudent investments and shall credit all interest and income derived from the deposit and investment of money in the trust fund to the trust fund.

(f) Trust fund interest and income is continuously appropriated to the department for high-cost special education trust fund grants awarded by the committee pursuant to subsection (3) of this section. Interest and income not expended during the fiscal year for high-cost special education trust fund grants may be expended in subsequent fiscal years for that purpose.

(g) Notwithstanding any provision of this subsection (2) to the contrary, on July 1, 2020, the state treasurer shall transfer the amount of any unexpended and unencumbered trust fund principal to the state public school fund created in section 22-54-114.

(3) (a) The committee may award high-cost special education trust fund grants from interest and income in the trust fund.

(b) An administrative unit may apply to the committee for a high-cost special education trust fund grant if the administrative unit:

(I) Has expenditures, as defined in subsection (3)(c) of this section, in the preceding budget year to meet the needs of a single student with an IEP; and

(II) The expenditures exceed the lesser of:

(A) One hundred thousand dollars; or

(B) Two and one-half percent of the administrative unit's annual audited operating expenses for the preceding budget year.

(c) For the purposes of subsection (3)(b) of this section, "expenditures" includes items that are allowable special education expenditures pursuant to state and federal law. An administrative unit applying for a high-cost special education trust fund grant shall provide documentation or other certification of expenditures, as required by the committee.

(d) If the committee determines that an administrative unit is eligible for a high-cost special education trust fund grant, the committee shall consider the following criteria in determining whether to award a trust fund grant and in what amount:

(I) Number of applications received in a given year;

(II) The amount of high-cost special education trust fund grant money available for distribution in a given year; and

(III) Any special circumstances associated with the individual high-cost special education trust fund grant request.

(e) The committee shall make the final determination as to the high-cost special education trust fund grant award and amount; however, the committee shall attempt to award trust fund grants in proportion to the need presented by individual cases and the number of applications presented by administrative units in a given year.

(f) The committee may request additional information from administrative units prior to the distribution of high-cost special education trust fund grants.

(g) The committee is encouraged to work directly with an administrative unit to help tailor high-cost special education trust fund grants to the specific needs of the individual administrative unit for the most efficient use of trust fund grant money.

(4) (a) For each fiscal year in which the committee awards a high-cost special education trust fund grant, the committee shall incorporate the following information regarding the special education trust fund grant into the annual special education fiscal advisory committee report to the state board of education and the education committees of the house of representatives and of the senate, or any successor committees:

(I) The number of applications received for a high-cost special education trust fund grant;

(II) The number of high-cost special education trust fund grants awarded during the fiscal year;

(III) The name of the administrative unit receiving a high-cost special education trust fund grant and the amount of money awarded for each trust fund grant; and

(IV) The balance in the trust fund, including principal and available interest and income in the trust fund.

(b) Notwithstanding the provisions of section 24-1-136 (11)(a)(I) to the contrary, the report required pursuant to this subsection (4) continues indefinitely.

(5) (a) This section is repealed, effective July 1, 2027.

(b) Prior to such repeal, the state treasurer shall:

(I) Transfer any unexpended and unencumbered trust fund interest and income to the general fund; and

(II) Transfer any remaining marijuana tax cash fund money transferred to the trust fund pursuant to subsection (2)(b) of this section to the marijuana tax cash fund, created in section 39-28.8-501.

**Source: L. 2019:** Entire section added, (SB 19-066), ch. 368, p. 3371, § 1, effective May 30. **L. 2020:** (2)(g) added, (HB 20-1418), ch. 197, p. 949, § 28, effective June 30.

**Cross references:** For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

**22-20-115. Study - report to general assembly. (Repealed)**

**Source: L. 87:** Entire section added, p. 828, § 4, effective May 16. **L. 93:** Entire section amended, p. 1648, § 40, effective July 1. **L. 96:** Entire section repealed, p. 1232, § 61, effective August 7.

**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 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 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 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 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 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 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 approved facility school shall meet the minimum standards for educational interpreters for the deaf as established by rules of the state board.

**Source: L. 97:** Entire section added, p. 70, § 1, effective March 24. **L. 2003:** (4) and (5) repealed, p. 1991, § 35, effective May 22. **L. 2004:** (6) and (7) amended, p. 1629, § 28, effective July 1. **L. 2006:** Entire section amended, p. 333, § 12, effective August 7. **L. 2011:** Entire section amended, (HB 11-1277), ch. 306, p. 1498, § 21, effective August 10.

**Editor's note:** Subsection (3)(d) provided for the repeal of subsection (3), effective July 1, 1998. (See L. 97, p. 70.)

**22-20-117. Study of funding education programs for children with disabilities - report to the general assembly - repeal. (Repealed)**

**Source: L. 2000:** Entire section added, p. 486, § 8, effective April 28.

**Editor's note:** Subsection (3) provided for the repeal of this section, effective January 1, 2001. (See L. 2000, p. 486.)

**22-20-118. Child find from birth through two years of age - responsibilities - rules - interagency operating agreements - funding.** (1) The department shall have the following responsibilities concerning part C child find:

(a) To ensure that administrative units perform the necessary screening and evaluation of children with disabilities from birth through two years of age;

(b) To promulgate rules and administrative remedies to ensure that the IDEA timelines and requirements of part C child find are met by administrative units and to establish a process for addressing situations where administrative units fail to meet the timelines and requirements;

(c) To establish state-level interagency operating agreements, including but not limited to:

(I) Working with the department of human services as necessary and within existing resources to assist in developing and implementing the department of human services' statewide plan described in section 27-10.5-103, C.R.S., for community education outreach and awareness efforts related to part C child find and the availability of early intervention services. The department's responsibilities shall be limited to those activities that relate to facilitating the implementation of part C child find activities and a collaborative system of early intervention services.

(II) Coordinating a process with the department of human services to provide for, accept, and assist with referrals to families in finding the appropriate agency for intake and case management as defined in section 27-10.5-102, C.R.S.;

(III) Facilitating the implementation of part C child find and the use of medicaid funds related to part C child find activities, including sharing of information where appropriate with the department of human services or the department of health care policy and financing as it provides part C child find services, provided that both departments act in compliance with the federal "Health Insurance Portability and Accountability Act of 1996", 42 U.S.C. sec. 1320, as amended, and the federal "Family Educational Rights and Privacy Act of 1974", 20 U.S.C. sec. 1232g, and all federal regulations and applicable guidelines adopted thereto; and

(IV) Monitoring screenings and evaluations by administrative units of children with disabilities.

(1.5) On or before October 1, 2018, the department shall enter into an interagency agreement with the department of human services pursuant to section 27-10.5-703.5.

(2) The administrative units shall:

(a) Establish local-level interagency operating agreements with community-centered boards, as described in section 27-10.5-102, C.R.S., as necessary to assist in developing and implementing the department of human services' statewide plan defined in section 27-10.5-704, C.R.S., for community education outreach and awareness efforts related to part C child find and the availability of early intervention services. The administrative units' responsibilities shall be limited to those activities that relate to facilitating the implementation of part C child find activities and a collaborative system of early intervention services.

(b) Screen and evaluate children from birth through two years of age who have been referred to the administrative unit for services under part C child find. Administrative units may

elect to serve children from birth through two years of age identified as needing services under part C child find as defined in section 22-20-103 (4)(a).

(c) Pursuant to the development of the IFSP, coordinate with community centered boards to have the same representative who conducts a part C child find evaluation attend the mandatory meeting at which the family receives information concerning the results of the part C child find evaluation; and

(d) Pursuant to section 27-10.5-704, C.R.S., coordinate with community centered boards, the department of human services, and the department to assist a child with disabilities as he or she transitions from the developmental disabilities system into the public education system no later than the age of three.

**Source: L. 2007:** Entire section added, p. 1557, § 4, effective May 31. **L. 2008:** (2)(d) amended, p. 1468, § 13, effective August 5. **L. 2013:** (2)(a) amended, (HB 13-1314), ch. 323, p. 1805, § 33, effective March 1, 2014. **L. 2017:** (1)(c)(III) amended, (SB 17-294), ch. 264, p. 1395, § 46, effective May 25. **L. 2018:** (1.5) added, (HB 18-1333), ch. 176, p. 1213, § 7, effective April 30.

**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.

**Source: L. 2011:** Entire section added, (HB 11-1277), ch. 306, p. 1499, § 22, effective August 10.

**22-20-120. Parents encouraging parents conference - legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) Parents of children with disabilities often support their children until their death;

(b) There are no resources that adequately prepare parents for the task of supporting children with disabilities;

(c) Parents of children with disabilities struggle to obtain time away from caring for their child in order to gain personal insight and support from each other while learning of educational, legal, behavioral, and community resources;

(d) Both parents and professionals play critical interactive roles in a child's educational success and in developing and sustaining family and school partnerships;

(e) The parents encouraging parents conference uniquely motivates interpersonal and intrapersonal insight that is critical for successful parent and professional partnerships;

(f) The parents encouraging parents program was founded in 1978 and has made a difference in the lives of thousands of families; and

(g) Parents encouraging parents program evaluations have shown that participating parents feel less isolated than before participation and feel more hopeful and empowered to engage in advocacy for their child's education and life plans.

(2) Therefore, the general assembly declares that it is necessary to continue the parents encouraging parents program for families of children with disabilities.

(3) Subject to available federal funds, or subject to state appropriations, the department shall provide up to four parents encouraging parents conferences, referred to in this section as "conference", per year. The parents of a child with a disability are encouraged to attend as a couple. Alternatively, a parent is encouraged to attend with a support person.

(4) The department shall develop and facilitate an application process for people who want to attend a conference. At a minimum, a person is eligible to attend a conference if he or she is the parent of a child with a disability.

(5) A conference must be provided of sufficient length for content to be delivered, including at least one overnight stay.

(6) A conference shall be held at a venue equipped to meet regional conference participant needs.

(7) The department shall provide all conference participants with lodging and food, subject to available funding and consistent with state fiscal rules.

(8) The conference curriculum must include topics that enable parents to effectively partner with their children's teachers and schools to provide children with appropriate education services such as, but not limited to, the stages of grieving; special education in Colorado and the program standards for parent engagement in schools; an individual with a disability's legal rights under the federal "Individuals with Disabilities Education Act", 20 U.S.C. 1400 et seq., as amended, or other related federal or state laws; participation in regional work sessions on family and school partnerships and resources; and how parents of children with a disability can advocate for their children.

(9) The conference must provide peer support for parents at working meals and during breaks.

**Source: L. 2019:** Entire section added, (SB 19-215), ch. 345, p. 3195, § 1, effective May 29.

## PART 2

## EDUCATION OF GIFTED CHILDREN

**22-20-201. 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 part 2 is to provide means for identifying and educating those children who are gifted.

(2) It is the intent of the general assembly that:

(a) Evidence-based practices support instruction and the social and emotional development of gifted children; and

(b) Each gifted child is educated in a rigorous learning environment and culture that develops the child's areas of exceptionality and coordinates programs and services among available support systems.

(3) The general assembly further finds and declares that traditional assessment methods may not adequately identify some gifted children, including children from all socioeconomic, ethnic, and cultural populations and gifted children who also have disabilities. It is therefore the general assembly's intent that the state board, the department, and every administrative unit include all student groups in each administrative unit's procedures for identifying gifted children and for developing educational programs that include gifted children.

(4) The general assembly declares that, for purposes of section 17 of article IX of the state constitution, gifted education programs are accountable programs to meet state academic standards and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 2011:** Entire part added, (HB 11-1077), ch. 30, p. 79, § 11, effective August 10. **L. 2014:** Entire section amended, (HB 14-1102), ch. 330, p. 1461, § 1, effective August 6.

**22-20-202. Definitions.** As used in this part 2, unless the context otherwise requires:

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

(2) "Advanced learning plan" means a written record of a gifted student's strengths and academic and affective learning goals and the resulting programming utilized with each gifted child and considered in educational planning and decision-making.

(3) "Annual plan" means an administrative unit's comprehensive gifted education plan and annual proposed budget form that the administrative unit submits to the department pursuant to state board rules.

(4) "Aptitude" means an exceptional ability to reason and learn. Screening procedures for gifted children may consider aptitude in the context of a defined top range of performance or test scores for purposes of recognizing gifted potential or for identifying a talent pool for developing giftedness in one or more domains, as defined by rule of the state board.

(5) "Assessment" means methods, tools, and data collected as a body of evidence for use in the following gifted education processes:

(a) Identification and programming; and

(b) Monitoring the gifted child's performance and outcomes.

(6) "Board of cooperative services" means a regional educational services unit created pursuant to article 5 of this title and designed to provide supporting, instructional, administrative, facility, community, or any other services contracted by participating members.

(7) "Competence" means documented performance, achievement, or test scores on standardized or locally normed test results. Screening procedures may consider competence in the context of a defined range of student performance, as described by rule of the state board, for purposes of recognizing gifted potential or identifying a talent pool for developing giftedness.

(8) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(9) "Evaluation" means evaluation procedures, methods, and tools used to initially identify a gifted child, assess and monitor the child's progress, and evaluate the child and the gifted program. Evaluation includes, but needs not be limited to:

(a) Identifying the child's unique strengths, interests, and needs;

(b) Monitoring the child's academic achievement and growth;

(c) Identifying the priorities and concerns of the child's family and resources to which the family and the child's school have access; and

(d) Determining program strengths and areas for program improvement.

(10) "Exceptional child" means:

(a) A child defined in section 22-20-103 (5) as a child with 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.

(b) A child defined in subsection (11) of this section as a gifted child. Pursuant to section 22-20-204 (1), an administrative unit shall adopt and submit to the department a program plan to identify and serve gifted children who are at least five years of age.

(11) "Gifted child" means a person from four to twenty-one years of age whose aptitude or competence in abilities and talents and potential for accomplishments in one or more domains, as defined by state board rule, are so outstanding that he or she requires special provisions to meet his or her educational needs.

(12) "Gifted education services" or "gifted education programs" means the services or programs provided to gifted children pursuant to this part 2. "Gifted education services" and "gifted education programs" include, but need not be limited to, strategies, programming options, and interventions reflecting evidence-based practices, such as acceleration, concurrent enrollment, differentiated instruction, and affective guidance.

(13) "Highly advanced gifted child" means a gifted child that an administrative unit, using criteria and a process established by rules that the state board promulgates pursuant to section 22-20-204.5 (4), has identified as a highly advanced gifted child.

(14) "Individual career and academic plan" means the plan created for each student pursuant to sections 22-30.5-525 and 22-32-109 (1)(oo).

(15) "Program elements" means components of a program plan, which include, but need not be limited to, definition, communication, identification, programming, personnel, accountability, reporting, record keeping, and resolution of disagreements.

(16) "Program plan" means a comprehensive and complete narrative of program elements described in state board rules. A program plan must include, but need not be limited to:

(a) The procedures the administrative unit will use to identify gifted students;

(b) The programming and documentation options that the administrative unit will implement in operating the gifted program; and

(c) Actions and tools for ensuring accountability for the academic achievement of gifted children and for evaluating the gifted program, which actions and tools are aligned with state accountability and program evaluations.

(17) "Qualified person" or "qualified personnel" means an educator that holds or is working toward attaining a gifted education license endorsement, a director of gifted education license endorsement, or a master's degree or higher in gifted education.

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

(19) "State board" means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

**Source: L. 2011:** Entire part added, (HB 11-1077), ch. 30, p. 79, § 11, effective August 10. **L. 2014:** Entire section amended, (HB 14-1102), ch. 330, p. 1462, § 2, effective August 6.

**22-20-203. Administration - rules - state advisory committee.** (1) (a) The department shall administer this part 2, which includes recommending to the state board reasonable rules necessary to implement this part 2, including but not limited to:

(I) Procedures regarding the identification of gifted children and the collection of data on their areas of giftedness;

(II) Criteria that administrative units must satisfy in adopting program plans to identify and serve gifted children;

(III) Required contents of an advanced learning plan and the procedures and responsibilities for creating a gifted child's advanced learning plan;

(IV) Statewide procedures to ensure the portability of a gifted child's identification as gifted;

(V) Criteria and procedures to ensure accountability for gifted students' academic achievement and for evaluation of gifted education programs;

(VI) Criteria to ensure administrative units' accountability for annual gifted education program budgets and expenditures;

(VII) Procedures for parent, family, and student engagement and communication with regard to gifted education programs; and

(VIII) Procedures that an administrative unit must use in resolving disagreements with parents.

(b) The state board shall adopt appropriate recommendations as rules to implement this part 2 following public comment and hearing. The rules that the state board promulgates must be in accord with the legislative declaration set forth in section 22-20-201. The state board rules that are in effect to implement this part 2 before August 6, 2014, may continue in effect after that date to the extent the state board finds that the rules continue to be appropriate, and the state board shall promulgate pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., such additional rules as may be necessary to implement this part 2.

(c) The department shall provide to an administrative unit that provides gifted education program plans, programs, advanced learning plans, or services that do not comply with the state board rules, a detailed analysis of any discrepancies noted along with specific recommendations to correct the discrepancies. The department must allocate or continue allocating to the administrative unit applicable federal and state funding for a reasonable period of time, as determined by the department, to allow the administrative unit an opportunity to comply with the rules. An administrative unit may establish a claim for variance based on conditions indigenous to or unique to the administrative unit.

(2) To implement the provisions of this part 2, the state board and the department may provide for such personnel within the department as are deemed necessary for these purposes.

(3) The general assembly recognizes that, to assist the state board in performing its responsibilities in implementing this part 2, the state board has appointed a state gifted education advisory committee of an appropriate size. On and after August 6, 2014, the membership of the

advisory committee must continue to include representatives from each congressional district in the state and consist of persons involved in or concerned with the education of gifted children. The state board shall continue to appoint members for terms as stated in the bylaws of the advisory committee. Members of the advisory committee continue to serve without compensation but may receive reimbursement for expenses.

**Source: L. 2011:** Entire part added, (HB 11-1077), ch. 30, p. 80, § 11, effective August 10. **L. 2014:** Entire section amended, (HB 14-1102), ch. 330, p. 1464, § 3, effective August 6.

**22-20-204. Gifted education - program plans - implementation - qualified personnel - local advisory committees.** (1) Each administrative unit shall provide a gifted education program in accordance with this part 2 and the rules of the state board. Each administrative unit shall adopt a gifted education program plan that the administrative unit can implement within the local, state, and federal moneys and resources that are available to the administrative unit for gifted education. Each administrative unit shall submit the program plan to the department, as provided in state board rule. At a minimum, each program plan must:

(a) Include procedures for reporting data collection and maintenance concerning implementation of the gifted education program;

(b) Include appropriate opportunities for concurrent enrollment, as provided in article 35 of this title, if indicated by a gifted child's advanced learning plan or individual career and academic plan;

(c) Satisfy any criteria established by rules promulgated by the state board for the implementation of this part 2; and

(d) Be consistent with the advanced learning plans of the gifted children that the administrative unit identifies.

(2) Each administrative unit is also strongly encouraged to include in the program plan a universal screening, as defined by state board rule, of enrolled students no later than second grade to identify gifted children and a second screening of gifted children in conjunction with the creation of each child's individual career and academic plan.

(3) To implement the program plan that each administrative unit adopts pursuant to this section, each administrative unit shall ensure that its constituent schools and school districts make available the gifted education services specified in each gifted child's advanced learning plan to the extent described in the administrative unit's program plan.

(4) To comply with this section, an administrative unit may contract with one or more administrative units to establish and maintain gifted education programs for the education of gifted children, sharing the costs of the gifted education programs in accordance with the terms of the contract. An administrative unit that has fewer than six children who need a particular kind of gifted education program may purchase services from one or more administrative units that provide the appropriate gifted education program.

(5) (a) Each administrative unit shall make a good-faith effort to hire and retain on at least a half-time basis at least one qualified person in gifted education to administer the administrative unit's gifted programs and implement the administrative unit's program plan. The qualified person must meet the qualification standards set by rule of the state board.

(b) Institutions of higher education that are located within the state are encouraged to work with the administrative units, the state board, and the department to provide endorsement

and degree programs, other staff development, and in-service opportunities to increase the number of qualified persons and to increase the capacity of all educators to implement each administrative unit's gifted education program and to implement gifted students' advanced learning plans.

(6) To assist an administrative unit in implementing its program plan and providing services to gifted children, each administrative unit is strongly encouraged to establish and maintain a local advisory committee that includes persons who are involved in or concerned with gifted education and concerned with improving the delivery of and communication concerning gifted education.

**Source: L. 2011:** Entire part added, (HB 11-1077), ch. 30, p. 81, § 11, effective August 10. **L. 2014:** Entire section R&RE, (HB 14-1102), ch. 330, p. 1466, § 4, effective August 6.

**22-20-204.3. Identification of gifted children - advanced learning plans - creation - rules.** (1) Each administrative unit, through its program plan, shall use an identification assessment and review by a team, as described in state board rule, to identify gifted children. The team shall use a body of evidence upon which to base the determination of giftedness, which evidence must include, at a minimum, the identification assessment results, parental input, and multiple types of measures and data sources.

(2) When a child is identified as gifted, the administrative unit shall ensure that an advanced learning plan is created for the child, which specifies the programming, services, and interventions that correspond to the child's strengths and needs. The administrative unit shall implement each gifted child's advanced learning plan in accordance with the administrative unit's program plan.

(3) The state board shall promulgate rules that specify the procedures and criteria for identifying gifted children and creating advanced learning plans.

**Source: L. 2014:** Entire section added, (HB 14-1102), ch. 330, p. 1467, § 5, effective August 6.

**22-20-204.5. Highly advanced gifted children - identification - rules - legislative declaration.** (1) (a) In adopting and implementing a program plan to identify and serve gifted children pursuant to section 22-20-204, each administrative unit may include in its program plan provisions to identify and serve highly advanced gifted children who are:

(I) Four years of age and for whom early access to kindergarten is deemed appropriate by the administrative unit; and

(II) Five years of age and for whom early access to first grade is deemed appropriate by the administrative unit.

(b) In making determinations pursuant to paragraph (a) of this subsection (1), an administrative unit shall apply the criteria and process established by rules promulgated by the state board pursuant to subsection (4) of this section.

(2) If an administrative unit includes in its program plan provisions to identify and serve highly advanced gifted children as described in subsection (1) of this section, the administrative unit must make available to a person upon request the administrative unit's criteria and process for identifying a highly advanced gifted child for whom early access to kindergarten or first

grade is deemed appropriate. At a minimum, the administrative unit must provide the time frames, deadlines, and any specific tests and threshold scores that the administrative unit uses to identify and make a final determination concerning a highly advanced gifted child.

(3) If an administrative unit includes in its program plan provisions to identify and serve highly advanced gifted children as described in subsection (1) of this section, the administrative unit may charge a fee for any assessments or other procedures that the administrative unit performs to identify a highly advanced gifted child for whom early access to kindergarten or first grade is deemed appropriate; except that an administrative unit shall not charge a fee for any assessments or other procedures if the child who is the subject of the assessments or other procedures is eligible for a free or reduced-price meal pursuant to the federal "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq.

(4) (a) The state board shall promulgate rules to establish criteria and a process that an administrative unit must use, pursuant to subsection (1) of this section, to make determinations regarding the advanced placement of highly advanced gifted children.

(b) At a minimum, the criteria established by rules must include consideration of a child's:

(I) Aptitude;

(II) Achievement;

(III) Performance;

(IV) Readiness for advanced placement;

(V) Observable social behavior;

(VI) Motivation to learn; and

(VII) Support from parents, teachers, and school administrators.

(c) The process established by rules must include:

(I) A timeline according to which a child's parents may apply for advanced placement for the child;

(II) A description of the administrative unit personnel who are involved in the process of identifying highly advanced gifted children for whom advanced placement is appropriate;

(III) A description of how the administrative unit personnel must evaluate each child for whom the child's parents are seeking advanced placement;

(IV) A description of the entire body of evidence that the administrative unit personnel must use to evaluate each child for whom the child's parents are seeking advanced placement;

(V) A description of how administrative unit personnel must collaboratively make decisions concerning the advanced placement of highly advanced gifted children; and

(VI) A description of how an administrative unit must monitor the performance of a child who has received an advanced placement pursuant to this section.

(5) The general assembly hereby finds and declares that, for purposes of section 17 of article IX of the state constitution, provisions to identify and serve highly advanced gifted children who are four years of age and for whom early access to kindergarten is deemed appropriate by an administrative unit or who are five years of age and for whom early access to first grade is deemed appropriate by an administrative unit are important elements of accountable education reform and expanding the availability of preschool and kindergarten programs and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 2014:** Entire section added, (HB 14-1102), ch. 330, p. 1468, § 5, effective August 6.

**22-20-205. Gifted education - funding.** (1) For each fiscal year, the appropriations that the general assembly makes to fund programs for gifted children must be designated by a separate line item in the annual general appropriation act. The moneys that the general assembly appropriates for gifted education programs must supplement, not supplant, funding for programs for students with disabilities.

(2) (a) The general assembly shall appropriate moneys to offset the costs incurred by administrative units in:

(I) Conducting a universal screening of enrolled students no later than second grade to identify gifted children and a second screening of gifted children in conjunction with the creation of each child's individual career and academic plan;

(II) Employing a qualified person in gifted education as described in section 22-20-204 (4)(a).

(b) An administrative unit may conduct either or both the universal screening of enrolled students no later than second grade and the second screening in conjunction with the creation of each child's individual career and academic plan. An administrative unit may apply to the department for a grant for the screenings it conducts. The department shall distribute moneys appropriated for the costs of conducting the screenings to each administrative unit that applies for a grant. The amount of each grant must be based on the number of students who participate in the screening and the per pupil cost of the screening.

(c) An administrative unit that hires a qualified person on at least a half-time basis to administer the administrative unit's gifted programs and implement the administrative unit's program plan may apply to the department for a grant to offset the costs incurred in employing the qualified person on a half-time basis. The department shall distribute moneys appropriated for the costs of employing qualified persons on a half-time basis to each administrative unit that applies for a grant. The amount of each grant must be equal to the costs incurred by the applying administrative unit in employing the qualified person on a half-time basis.

(d) The state board shall promulgate rules as necessary to implement paragraphs (b) and (c) of this subsection (2), including, but not limited to, rules to specify the deadline by which administrative units must apply for grants pursuant to paragraphs (b) and (c) of this subsection (2). The department shall distribute any amount remaining of the moneys appropriated for purposes of paragraphs (b) and (c) of this subsection (2) to administrative units in the same manner that it distributes the moneys appropriated pursuant to subsection (1) of this section. Notwithstanding any provision of this section to the contrary, in a budget year in which the general assembly does not appropriate moneys pursuant to paragraph (a) of this subsection (2) in an amount that is sufficient to fully fund the grants authorized in paragraph (b) or (c) of this subsection (2), the department shall distribute moneys to grant applicants, subject to the available appropriations, based on the order in which it receives applications.

(e) If an administrative unit is conducting the universal screening and the second screening or employing a qualified person in gifted education before August 6, 2014, the administrative unit must use the moneys received pursuant to paragraph (b) or (c) of this subsection (2) for other costs incurred in implementing the administrative unit's gifted education program as provided in subsection (4) of this section.

(3) An administrative unit may not refuse to accept state or federal moneys for implementing a program plan, but shall adopt and implement a program plan that the administrative unit can implement within the local, state, and federal moneys and resources that are available to the administrative unit for gifted education.

(4) An administrative unit may use funding for gifted education programs only for the costs associated with:

(a) Appropriately licensed and endorsed personnel;

(b) Programming options and counseling related to serving gifted children;

(c) Materials used in serving gifted children;

(d) Professional development for personnel who serve gifted children; and

(e) The direct administrative costs and other limited expenditures, as defined by state board rule, that the administrative unit incurs in implementing the gifted education program.

**Source: L. 2011:** Entire part added, (HB 11-1077), ch. 30, p. 84, § 11, effective August 10. **L. 2014:** Entire section R&RE, (HB 14-1102), ch. 330, p. 1469, § 6, effective August 6.

**22-20-206. Length of gifted education program.** An administrative unit shall ensure that its gifted education program provides programs and services for gifted children for at least the number of days calendared for the school year by each school district in which the administrative unit provides the gifted education program.

**Source: L. 2011:** Entire part added, (HB 11-1077), ch. 30, p. 84, § 11, effective August 10. **L. 2014:** Entire section R&RE, (HB 14-1102), ch. 330, p. 1471, § 7, effective August 6.

## ARTICLE 20.5

Education of Children with Dyslexia

**22-20.5-101. Legislative declaration.** (1) The general assembly finds that various educational advocacy groups, including parents of children identified as having dyslexia, have voiced concerns related to the adequacy and effectiveness of the methods and tools for identifying students who have dyslexia and the adequacy of the educational supports for these students. While there have been various efforts at both the state and school district levels to address the issues related to effective identification and support for students with dyslexia, these efforts have not resulted in significant progress in educating these students. Therefore, 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, finds that it is necessary to create a working group of parents and educational experts to review the work of educational experts and local education providers in Colorado and in other states in the area of identification of and educational support for students with dyslexia and to use their findings to inform future efforts by the state and local education providers to identify and effectively support students with dyslexia.

(2) The general assembly further finds that a pilot program through which the department of education works with a group of volunteer local education providers to use early literacy assessment results to identify markers of dyslexia and provide support to young students

who may demonstrate the early markers for dyslexia will strengthen the ability of local education providers throughout the state to identify and effectively support students with dyslexia.

**Source: L. 2019:** Entire article added, (HB 19-1134), ch. 407, p. 3590, § 1, effective May 31.

**22-20.5-102. Definitions.** As used in this article 20.5, unless the context otherwise requires:

(1) "Commissioner of education" or "commissioner" means the office of the commissioner of education created and existing pursuant to section 1 of article IX of the state constitution.

(2) "Department" means the department of education created and existing pursuant to section 24-1-115.

(3) "Dyslexia" means a specific learning disability that is neurobiological in origin and characterized by difficulties with accurate and fluent word recognition and by poor spelling and decoding abilities, which difficulties typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction. The secondary consequences of dyslexia may include problems in reading comprehension and reduced reading experience that may impede growth of vocabulary and background knowledge.

(4) "Local education provider" means a school district, a board of cooperative services created pursuant to article 5 of this title 22 that operates a public school, a charter school authorized by a school district pursuant to part 1 of article 30.5 of this title 22, a charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title 22, or the state charter school institute established in section 22-30.5-503.

(5) "Pilot program" means the pilot program to identify markers of dyslexia and enable effective interventions operated pursuant to section 22-20.5-104.

(6) "Rural school district" means a school district in Colorado that the department determines is rural, based on the geographic size of the school district and the distance of the school district from the nearest large, urbanized area.

(7) "Small rural school district" means a rural school district that enrolls fewer than one thousand students in kindergarten through twelfth grade.

(8) "Working group" means the working group for identification of and educational support for students with dyslexia convened by the commissioner pursuant to section 22-20.5-103.

**Source: L. 2019:** Entire article added, (HB 19-1134), ch. 407, p. 3591, § 1, effective May 31.

**22-20.5-103. Working group for identification of and educational support for students with dyslexia - convened - duties - report - repeal.** (1) The commissioner of education shall convene a working group for identification of and educational support for students with dyslexia to review data concerning the identification of and educational support for students with dyslexia and efforts in Colorado and other states to improve educational outcomes

for students with dyslexia. In convening the working group, the commissioner shall appoint the following members:

(a) A parent of a child who is identified as having dyslexia;

(b) A parent of a child who is identified as having dyslexia and a disability;

(c) A school district literacy specialist;

(d) A school district director of special education;

(e) A state or national literacy expert;

(f) A state or national dyslexia expert;

(g) Two elementary grade teachers, one of whom teaches in a rural school district or a small rural school district;

(h) A principal who is employed at an elementary school in a rural school district or an employee of a board of cooperative services, created pursuant to article 5 of this title 22, who has expertise as a literacy specialist;

(i) A faculty member of an institution of higher education who teaches in an approved educator preparation program for elementary grade teachers; and

(j) A member of the local chapter of an international dyslexia association.

(2) The working group shall:

(a) Analyze current national and statewide data related to students identified as having dyslexia, including but not limited to identification rates and achievement rates;

(b) Analyze the implementation and demonstrated effectiveness in other states of statewide legislation for dyslexia screening, educator training, and other dyslexia-related laws;

(c) Identify and recommend appropriate dyslexia screening tools and processes as well as comprehensive assessments that address the recognized challenges of dyslexia, including phonological processing, phonemic awareness, and decoding and encoding skills;

(d) Identify and recommend a statewide plan for supporting students who are identified as having dyslexia, including specific intervention structures and their components, which must include evidence-based interventions, progress-monitoring systems, and data-collection systems. The recommendations for a statewide plan must consider legal requirements included in the "Colorado READ Act", part 12 of article 7 of this title 22, and its implementing rules; the "Exceptional Children's Educational Act", article 20 of this title 22, and its implementing rules; the federal "Individuals with Disabilities Education Act", 20 U.S.C. sec. 1400 et seq., as amended, and its implementing regulations; and section 504 of the federal "Rehabilitation Act of 1973", 29 U.S.C. sec. 701 et seq., as amended, and its implementing regulations.

(e) Identify and recommend components of dyslexia awareness training for Colorado educators, including the content, target audience, time frame for training, and projected cost;

(f) Identify and recommend educator training for in-state approved programs of preparation for teachers and alternative teacher programs and recommended training for current educators, based on effective practices in other states, as well as recommendations from state and national organizations focusing on literacy. The recommendations concerning educator training may include the content, target audience, time frame for training, and projected cost.

(g) Provide recommendations to the department concerning the design and implementation of the pilot program.

(3) In completing the duties described in subsections (2)(c) to (2)(g) of this section, the working group shall analyze and integrate, as appropriate, the work and recommendations of

other previous and ongoing state initiatives related to improving the identification and support of students who have dyslexia.

(4) The working group shall submit a progress report to the commissioner by December 31, 2019, which must include a summary of the progress the working group is making regarding the items described in subsection (2) of this section and may include preliminary policy recommendations. By July 1, 2020, and by July 1 each year thereafter, the working group shall submit to the commissioner a report of its policy recommendations with regard to the items described in subsection (2) of this section. On or before February 1, 2021, and on or before February 1 each year thereafter, the commissioner shall submit the report, with any recommendations for legislation, to the state board of education and the education committees of the house of representatives and the senate, or any successor committees. Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the requirement to submit the report specified in this subsection (4) continues indefinitely.

(5) This section is repealed, effective September 1, 2029. Before the repeal, the working group is scheduled for review in accordance with section 2-3-1203.

**Source: L. 2019:** Entire article added, (HB 19-1134), ch. 407, p. 3592, § 1, effective May 31.

**22-20.5-104. Pilot program - dyslexia markers - effective interventions - created - evaluation report - repeal.** (1) Beginning in the 2020-21 school year, the department shall implement a pilot program to develop and pilot screening and identification processes and intervention strategies for early identification of and support for students enrolled in kindergarten through third grade who may have dyslexia. The department shall consult with the working group concerning the design and implementation of the pilot program. The department shall provide information concerning the pilot program to local education providers throughout the state and select up to five local education providers who volunteer to participate in the pilot program. In selecting the participating local education providers, the department shall ensure to the extent practicable that the affected student populations are representative of the demographic diversity within the state and that the local education providers are located throughout the state. The local education providers that participate in the pilot program will work with the department to use the results obtained from assessments administered pursuant to the "Colorado READ Act", part 12 of article 7 of this title 22, in a research-based process to identify markers of dyslexia and provide support for young readers who may exhibit the markers for dyslexia.

(2) In implementing the pilot program, the department shall:

(a) Provide targeted support for educators employed by the participating local education providers in understanding the unique needs of young students who are at risk for reading delays related to dyslexia;

(b) Assist the participating local education providers in implementing a dyslexia identification process that uses the READ act interim assessment as a screening tool and uses a research-based identification process to use the results of the assessments to identify the presence of dyslexia; and

(c) Support the participating local education providers in pairing assessment processes with implementation of research-based instructional and intervention strategies to provide timely and appropriate support for students at risk for identification of dyslexia.

(3) At the end of the 2021-22 school year, the department shall evaluate the implementation of the pilot program and the effectiveness of the strategies in identifying and supporting more students in the participating local education providers than were identified and supported in nonparticipating local education providers. Based on the evaluation, the department shall refine the resources for technical support, identification, and interventions, as necessary, and disseminate the resources to all local education providers in the state. Upon request, the department shall also provide the technical support necessary to effectively use the resources.

(4) On or before December 31, 2022, the department shall submit to the state board of education and the education committees of the senate and the house of representatives, or any successor committees, a report concerning the implementation and evaluation of the pilot program. The department may include in the report any recommendations for legislation that the department deems necessary based on the evaluation of the pilot program.

(5) This section is repealed, effective July 1, 2023.

**Source: L. 2019:** Entire article added, (HB 19-1134), ch. 407, p. 3594, § 1, effective May 31. **L. 2020:** (4) amended, (HB 20-1402), ch. 216, p. 1049, § 38, effective June 30.

## ARTICLE 21

Public Education Incentive Program

**22-21-101 to 22-21-107. (Repealed)**

**Source: L. 2000:** Entire article repealed, p. 375, § 31, effective April 10.

**Editor's note:** This article was numbered as article 40 of chapter 123 in the 1969 cumulative supplement to C.R.S. 1963 and was not amended prior to its repeal in 2000. For the text of this article prior to 2000, consult the 1999 Colorado Revised Statutes.

## ARTICLE 22

Educational Achievement Act

**22-22-101 to 22-22-106. (Repealed)**

**Source: L. 84:** Entire article repealed, p. 592, § 1, effective March 16.

**Editor's note:** This article was numbered as article 39 of chapter 123 in C.R.S. 1963. For amendments to this article prior to its repeal in 1984, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

## ARTICLE 23

Education of Migrant Children

**Editor's note:** This article was numbered as article 29 of chapter 123, C.R.S. 1963. The substantive provisions of this article were repealed and reenacted in 1965, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1965, consult the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

**22-23-101. Short title.** This article shall be known and may be cited as the "Migrant Children Educational Act".

**Source: L. 65:** R&RE, p. 1019, § 1. **C.R.S. 1963:** § 123-29-1.

**22-23-102. Legislative declaration.** In order to facilitate the education of migrant children who are unable to receive continuous education during the regular school term and to develop fully the capacities and potentialities of migrant children for the benefit of themselves and society, a program for the education of migrant children is hereby established.

**Source: L. 65:** R&RE, p. 1019, § 1. **C.R.S. 1963:** § 123-29-2.

**22-23-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Migrant agricultural worker" means any person engaged in agricultural labor in this state who is residing in a school district which is not his regular domicile during the performance of such agricultural labor.

(2) "Migrant children" or "migrant child" means any child of school age who is in the custody of migrant agricultural workers, regardless of whether they are his parents.

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

**Source: L. 65:** R&RE, p. 1019, § 1. **C.R.S. 1963:** § 123-29-3.

**22-23-104. Administration.** (1) The state board may employ necessary personnel, pay necessary travel expenses of such personnel, and purchase supplies and equipment as may be needed to carry out the administration of the program for the education of migrant children as provided in this article, and may make such rules and regulations as it may deem necessary for the proper and efficient administration of said program.

(2) Any school district which maintains a school in its district, and wherein there are migrant children, may make application to the state board to participate in the program established by this article. Any school district participating in said program shall administer the program in its district in accordance with rules and regulations of the state board.

**Source: L. 65:** R&RE, p. 1020, § 1. **C.R.S. 1963:** § 123-29-4.

**22-23-105. Regular school session requirements.** (1) The following standards shall apply during the regular terms of school and shall be applicable equally in every school district:

(a) The residence of a migrant child, for purposes of education, shall be the school district where the migrant child is receiving shelter and the necessities of life, and the provisions of section 22-32-116 shall not apply to this section.

(b) A migrant child shall attend school while residing in any school district in the state when the regular terms of school are in session, unless excused in compliance with the provisions of the "School Attendance Law of 1963", article 33 of this title; and the board of education of a school district shall enforce the attendance in a school of the district of any such migrant child residing in said district.

(c) The payment of additional necessary costs in administering and maintaining the program authorized by this section shall be paid jointly by the state and the participating school district. The per capita additional cost of educating a migrant child in a school district participating in said program may include the following expenses, under rules and regulations prescribed by the state board:

(I) Salaries of personnel, assistants to teachers, and clerical, health, and custodial employees and specialized instructional services as needed;

(II) Necessary additional textbooks, educational supplies, and equipment;

(III) School lunch operation;

(IV) School bus transportation;

(V) Provision of and physical plant operation, including rent, heat, light, water, repairs, adjustments, and maintenance, if regular school facilities are not used; except that provision of and operation of the school plant shall be a contribution of the school district if regular school facilities are used.

(2) Upon submission and approval by the state board of itemized statements from the boards of education of the participating school districts for additional moneys to cover expenses incurred by them in conducting said programs, such school districts shall be reimbursed for such additional expenses as specified in subsection (1)(c) of this section. Applications by participating school districts for reimbursement shall be made on forms prescribed by the state board at such time or times during the year as determined by the state board.

**Source: L. 65:** R&RE, p. 1020, § 1. **C.R.S. 1963:** § 123-29-5.

**22-23-106. Summer schools.** (1) The program established by this section shall be under the general supervision of the state board. An educational program for migrant children may be operated within the period from the termination of the regular school term in the spring until the regular school term convenes in the fall.

(2) Any school district wherein there are migrant children in the summer period may make application to the state board to participate in the summer school program authorized by this section. From such applications the state board shall select school districts to operate summer schools for migrant children in accordance with the amount of funds available, the number of migrant children in the school districts, and other criteria specified by the state board.

(3) Residence requirements for migrant children under the summer school program shall be the same as set forth in section 22-23-105.

(4) For the purpose of the summer school program, in addition to "migrant child" defined in section 22-23-103, a child of school age shall be considered a migrant child if he was not able to attend the full number of days prescribed by law during the previous school year as a direct result of being in the custody of a migrant agricultural worker.

(5) The board of education of a school district has the authority to determine whether attendance at summer school shall be voluntary or compulsory. If attendance is compulsory,

migrant children shall attend unless excused in compliance with the "School Attendance Law of 1963", article 33 of this title.

(6) Each school district participating in the summer school program shall be reimbursed from state funds for actual costs incurred in the operation of the program, including allotments for classroom units and supervisory units based upon the formulas set forth in section 22-23-107. The school district shall also receive reimbursement, under rules of the state board, for the net cost of its school lunch operation and for school vehicle operations at rates fixed by the state board. School districts shall report all such costs on forms prescribed by the state board.

**Source: L. 65:** R&RE, p. 1021, § 1. **C.R.S. 1963:** § 123-29-6. **L. 2010:** (6) amended, (HB 10-1232), ch. 163, p. 569, § 3, effective April 28.

**22-23-107. Computation for reimbursement.** (1) **Classroom unit (CU) formula.** A classroom unit (CU) shall consist of fifteen children in average daily attendance. The number of classroom units and fractions thereof shall be multiplied by the number of school days in the term plus one day in order to determine the number of daily classroom units allowable. The number of daily classroom units shall be multiplied by the value of state aid for a daily classroom unit in order to determine the total amount of classroom unit state aid. The value of the daily classroom unit state aid shall be determined annually by the state board.

(2) **Supervisory unit (SU) formula.** The number of supervisory units in a school of one to ten or more teachers shall be 1.00 plus .05 for each classroom unit allowable through ten, to a maximum of 1.50 for ten teachers, plus .02 for each teacher beyond ten teachers. The number of supervisory units shall be multiplied by the number of days in the term plus two days in order to determine the number of daily supervisory units allowable. The number of daily supervisory units shall be multiplied by the value of state aid for a daily classroom unit in order to determine the total amount of supervisory unit state aid.

**Source: L. 65:** R&RE, p. 1022, § 1. **C.R.S. 1963:** § 123-29-7.

## ARTICLE 24

English Language Proficiency Act

**Editor's note:** This article was added in 1975. It was repealed and reenacted in 1981 and was subsequently repealed and reenacted in 2014, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 2014, consult the 2013 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

**Law reviews:** For article, "Equal Educational Opportunities for Language Minority Children", see 55 U. Colo. L. Rev. 559 (1984).

**22-24-101. Short title.** This article shall be known and may be cited as the "English Language Proficiency Act".

**Source: L. 2014:** Entire article R&RE, (HB 14-1298), ch. 244, p. 926, § 13, effective May 21.

**22-24-102. Legislative declaration.** (1) The general assembly finds that:

(a) There is a substantial number of students in Colorado who are English language learners;

(b) Local education providers must provide evidence-based English language proficiency programs for English language learners to enable them to develop and acquire English language proficiency while achieving and maintaining grade-level performance in academic content areas;

(c) To improve the educational and career opportunities for every student in Colorado, the state must ensure support for local education providers to establish evidence-based English language proficiency programs;

(d) The state and local education providers must enhance all educators' effectiveness in supporting English language development and in enabling English language learners to achieve and maintain grade-level performance in academic content areas;

(e) The state must develop an educator workforce that can support the educational approach and goals of local education providers to help ensure that English language learners are postsecondary and workforce ready at graduation;

(f) The state must appropriate and allocate moneys to local education providers to help ensure that English language learners are postsecondary and workforce ready at graduation;

(g) The department of education and the state board of education must hold local education providers accountable through the "Education Accountability Act of 2009", article 11 of this title, and by English language development measures mandated by this article for meeting the English language development and academic achievement goals for English language learners; and

(h) The department of education and the state board of education must recognize local education providers who provide effective English language proficiency programs by awarding grants through a competitive program that is supported with annual appropriations.

**Source: L. 2014:** Entire article R&RE, (HB 14-1298), ch. 244, p. 926, § 13, effective May 21.

**22-24-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Charter school" means a charter school authorized by a district pursuant to part 1 of article 30.5 of this title or an institute charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title.

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

(3) "District" means a school district organized and existing pursuant to article 30 of this title or a board of cooperative services organized and existing pursuant to article 5 of this title.

(4) "English language learner" means a student who is linguistically diverse and who is identified pursuant to section 22-24-105 (2) as having a level of English language proficiency that requires language support to achieve standards in grade-level content in English.

(5) "English language proficiency program" means a program implemented by a local education provider that is designed to develop English language proficiency for an English

language learner while enabling the English language learner to achieve and maintain grade-level performance in academic content areas.

(6) "Evidence-based" means the instruction or item described is based on reliable, trustworthy, and valid evidence that the instruction or item shows promise or has demonstrated a record of success in achieving objectives that are relevant to English language development, English language proficiency, and achievement in grade-level content for English language learners.

(7) "Facility school" means an approved facility school as defined in section 22-2-402 (1).

(8) "Local education provider" means a district, the state charter school institute, or a facility school.

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

**Source: L. 2014:** Entire article R&RE, (HB 14-1298), ch. 244, p. 927, § 13, effective May 21.

**22-24-104. English language proficiency program established - funding.** (1) There is established the state English language proficiency program to assist local education providers in administering and implementing English language proficiency programs for English language learners in kindergarten and grades one through twelve.

(2) (a) A student who is identified for inclusion in an English language proficiency program may receive funding pursuant to this section for up to a total of five budget years regardless of whether the student transfers enrollment among local education providers during the five years. The five budget years in which a student receives funding pursuant to this section are not required to be consecutive if a student exits an English language proficiency program and is subsequently re-identified for inclusion in an English language proficiency program. A student is not eligible for funding in a school year in which the student does not receive educational support through an English language proficiency program. The department shall allocate state moneys pursuant to this section on the student's behalf to the local education provider that enrolls the student.

(b) If a student was identified for inclusion in an English language proficiency program before May 21, 2014, and received state funding pursuant to this article as it existed before May 21, 2014, the department must include the budget years for which the student received funding before May 21, 2014, in calculating the five-year limit on funding for the student.

(3) (a) The general assembly shall annually appropriate money to the department to implement this section. The department shall allocate the money annually appropriated to local education providers on a per-pupil basis using the number of English language learners certified pursuant to section 22-24-105, subject to the time limit specified in subsection (2) of this section. The local education providers shall use the allocated amount to provide services to the certified English language learners.

(b) (I) The department shall distribute a portion of the amount annually appropriated to the department pursuant to subsection (3)(a) of this section to local education providers based on the percentage of certified English language learners who:

(A) Speak a language other than English and do not comprehend or speak English;

(B) Comprehend or speak some English but whose primary comprehension or speech is in a language other than English; and

(C) Are eligible for funding pursuant to the time limit specified in subsection (2) of this section.

(II) A student shall not be funded pursuant to this paragraph (b) for more than four hundred dollars per year or an amount equal to twenty percent of the state average per pupil revenues, as defined in section 22-54-103 (12), for the preceding budget year as determined by the department, whichever is greater.

(c) (I) The department shall distribute a portion of the amount annually appropriated pursuant to subsection (3)(a) of this section to local education providers based on the percentage of certified English language learners who are eligible for funding pursuant to the time limit specified in subsection (2) of this section and who comprehend and speak English and one or more other languages but whose English language development and comprehension is:

(A) At or below the mean of students enrolled in the local education provider or below the mean or equivalent on a nationally standardized test; or

(B) Below the acceptable proficiency level based on the assessments identified by the department pursuant to section 22-24-106 (1)(a).

(II) A student shall not be funded pursuant to this paragraph (c) for more than two hundred dollars per year or an amount equal to ten percent of the state average per pupil revenues, as defined in section 22-54-103 (12), for the preceding budget year as determined by the department, whichever is greater.

(4) Each local education provider shall provide English language proficiency programs for English language learners who are enrolled in the public schools operated by the local education provider; except that local education providers may cooperate in carrying out the provisions of this article.

(5) This article does not prohibit a local education provider from using the moneys allocated pursuant to this article for bilingual programs, English-as-a-second-language programs, or any other method of achieving the purposes of this article. A local education provider that administers any of these programs shall receive moneys pursuant to this article only on the basis of the number of English language learners enrolled in the programs.

**Source: L. 2014:** Entire article R&RE, (HB 14-1298), ch. 244, p. 928, § 13, effective May 21. **L. 2018:** (3)(a), (3)(b)(I), and (3)(c)(I) amended, (HB 18-1379), ch. 250, p. 1540, § 5, effective May 24.

**22-24-105. Local education provider - duties.** (1) Each local education provider shall provide an English language proficiency program for all English language learners who are enrolled in the public schools of the local education provider.

(2) Each local education provider shall identify English language learners who are enrolled in the public schools of the local education provider using the state-approved assessment for English language proficiency. The local education provider shall annually certify to the department the number of English language learners who are enrolled in the public schools of the local education provider.

(3) Each local education provider shall annually report to the department the number of English language learners who exit the English language proficiency program.

**Source: L. 2014:** Entire article R&RE, (HB 14-1298), ch. 244, p. 929, § 13, effective May 21. **L. 2018:** (2) amended, (HB 18-1379), ch. 250, p. 1541, § 8, effective May 24.

**22-24-106. Department of education - powers - duties - state board of education - rules.** (1) The department shall:

(a) Identify the English language proficiency assessments that local education providers must use to identify students who are eligible for inclusion in English language proficiency programs, which may include the assessments in use prior to May 21, 2014;

(b) Annually review the statewide levels of proficiency on the statewide assessments administered pursuant to section 22-7-1006 for those English language learners who are required to take the statewide assessment;

(c) Establish, by guidelines, any accommodations that a local education provider must allow and the circumstances in which a local education provider must allow the accommodations for English language learners who are taking assessments pursuant to section 22-7-1006.3;

(d) Provide guidance documents and technical assistance to assist local education providers in identifying and assessing English language learners and in developing, implementing, and evaluating English language proficiency programs;

(e) Identify, based on the certifications received from local education providers, the students who are counted as English language learners for purposes of calculating each local education provider's allocation of moneys pursuant to section 22-24-104 (3);

(f) Annually allocate the moneys appropriated for implementation of this article, including allocating the moneys specified in section 22-24-104 (3) on a per-pupil basis, using the number of English language learners identified pursuant to paragraph (e) of this subsection (1) and participating in the English language proficiency program;

(g) For each local education provider, monitor and report through the data portal operated pursuant to section 22-11-502, the number of English language learners who exit the English language proficiency program, the length of time English language learners remain in the English language proficiency program, and the number of English language learners who reenter the English language proficiency program;

(h) Disaggregate the data received through the state assessment program pursuant to section 22-7-1006.3 and report the English language proficiency and academic achievement of English language learners, while they are receiving services through the English language proficiency program and after they exit the English language proficiency program through high school graduation, as provided in part 5 of article 11 of this title; and

(i) Administer the English language proficiency act excellence award program created in section 22-24-107 and the professional development and student support program created in section 22-24-108.

(2) In implementing the provisions of this article, the department shall not require local education providers to submit reports or otherwise provide data that is required by or that the department collects under other state or federal data-collection or reporting statutory or regulatory requirements.

(3) The state board rules that are in effect to implement this article prior to May 21, 2014, may continue in effect after that date to the extent the state board finds that the rules continue to be appropriate, and the state board shall promulgate pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., such additional rules as may be

necessary to implement this article. The state board by rule may identify measures that are specific to the English language proficiency assessment, which measures the department must use to determine a local education provider's level of achievement in meeting the English language development and academic achievement goals for English language learners.

**Source: L. 2014:** Entire article R&RE, (HB 14-1298), ch. 244, p. 930, § 13, effective May 21. **L. 2015:** (1)(c) and (1)(h) amended, (HB 15-1323), ch. 204, p. 723, § 27, effective May 20.

**22-24-107. English language proficiency act excellence award program - created - rules - legislative declaration.** (1) There is created in the department the English language proficiency act excellence award program to award grants to local education providers and charter schools that achieve the highest English language and academic growth among English language learners and the highest academic achievement for English language learners who transition out of the English language proficiency program. The department shall administer the program by annually identifying, based on rules of the state board, the local education providers and charter schools that qualify for grants and distributing the moneys that the general assembly appropriates to the department for the program. The state board by rule shall set the grant amount based on the student enrollment of the local education providers and charter schools that qualify for grants and the concentration of English language learners enrolled by the local education providers and charter schools as a percentage of the total student enrollment. Subject to available appropriations, the department shall distribute the moneys in accordance with the rules to the local education providers and charter schools that qualify for the grants.

(2) The state board shall promulgate rules that create the criteria or measures that the department must apply to identify the local education providers and charter schools that achieve the highest English language and academic growth among English language learners and that achieve the highest academic achievement for English language learners who transition out of the English language proficiency program.

(3) (a) Each local education provider and charter school that receives a grant pursuant to this section, at the conclusion of each school year for which it receives a grant, must submit to the department:

(I) A data analysis and summary of the local education provider's or charter school's English language proficiency program; and

(II) A report of the local education provider's or charter school's use of the grant moneys received.

(b) The department shall provide the information received pursuant to paragraph (a) of this subsection (3) to local education providers and shall make the information available to the public through the data portal operated pursuant to section 22-11-502.

(4) Repealed.

(5) The general assembly finds that, for purposes of section 17 of article IX of the state constitution, the English language proficiency act excellence award program is an important component of an accountable program to meet state academic standards and, therefore, may be funded from moneys in the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 2014:** Entire article R&RE, (HB 14-1298), ch. 244, p. 931, § 13, effective May 21. **L. 2015:** (1) amended and (4)(c) and (4)(d) added, (SB 15-108), ch. 12, p. 29, § 6, effective March 13.

**Editor's note:** Subsection (4)(d) provided for the repeal of subsection (4), effective July 1, 2016. (See L. 2015, p. 29.)

**22-24-108. Professional development and student support program - created - rules.** (1) There is created in the department the professional development and student support program, referred to in this section as the "support program", to provide moneys to local education providers to:

(a) Offset the costs incurred in complying with the requirements specified in section 22-24-105 (3);

(b) Provide effective professional development activities related to teaching English language learners for all educators who may work with English language learners in the classroom; and

(c) Expand programs to assist students who, at any time, have been identified as English language learners in achieving greater content proficiency.

(2) (a) The department shall distribute the amount that the general assembly annually appropriates for the support program as follows:

(I) A portion of the amount annually appropriated to local education providers to provide services to English language learners, and professional development activities for educators who work with English language learners, based on the percentage of certified English language learners who:

(A) Speak a language other than English and do not comprehend or speak English;

(B) Comprehend or speak some English but whose primary comprehension or speech is in a language other than English; and

(C) Are eligible for funding pursuant to the time limit specified in section 22-24-104 (2); and

(II) The remaining portion of the amount annually appropriated to local education providers to provide services to, and to provide professional development activities for educators who work with, English language learners who comprehend and speak English and one or more other languages but whose English language development and comprehension is:

(A) At or below the mean of students enrolled in the local education provider or below the mean or equivalent on a nationally standardized test; or

(B) Below the acceptable proficiency level based on the assessments identified by the department pursuant to section 22-24-106 (1)(a).

(b) Each district shall annually distribute to each charter school one hundred percent of the amount that the district receives pursuant to paragraph (a) of this subsection (2) on behalf of the English language learners enrolled in each charter school for the applicable budget year. The moneys a district distributes to charter schools pursuant to this paragraph (b) are in addition to the moneys the district distributes pursuant to part 1 of article 30.5 of this title.

(c) The state charter school institute shall annually distribute to each institute charter school one hundred percent of the amount that the state charter school institute receives on behalf of the English language learners enrolled in each institute charter school for the applicable

budget year. The moneys the state charter school institute distributes to institute charter schools pursuant to this paragraph (c) are in addition to the moneys the institute distributes pursuant to part 5 of article 30.5 of this title.

(3) Repealed.

(4) The general assembly finds that, for purposes of section 17 of article IX of the state constitution, the professional development and student support program is an important component of an accountable program to meet state academic standards and, therefore, may be funded from moneys in the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 2014:** Entire article R&RE, (HB 14-1298), ch. 244, p. 932, § 13, effective May 21. **L. 2015:** IP(2)(a), IP(2)(a)(I), and IP(2)(a)(II) amended and (3)(c) and (3)(d) added, (SB 15-108), ch. 12, p. 29, § 7, effective March 13. **L. 2019:** (2)(a)(I) and IP(2)(a)(II) amended, (SB 19-246), ch. 151, p. 1786, § 3, effective May 10.

**Editor's note:** Subsection (3)(d) provided for the repeal of subsection (3), effective July 1, 2016. (See L. 2015, p. 29.)

## ARTICLE 25

Colorado Comprehensive Health
Education Act

**Editor's note:** This article was added in 1975. This article was repealed and reenacted in 1990, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1990, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

**22-25-101. Short title.** This article shall be known and may be cited as the "Colorado Comprehensive Health Education Act".

**Source: L. 90:** Entire article R&RE, p. 1093, § 62, effective May 31.

**Editor's note:** This section is similar to former § 22-25-101 as it existed prior to 1990.

**22-25-102. Legislative declaration.** (1) The general assembly hereby finds and declares that comprehensive health education is an essential element of public education in the state of Colorado. The school system is a logical vehicle for conveying to children and parents significant health information, developing an awareness of the value of good health to the individual and to the community, promoting healthy behavior and positive self-concepts, and providing means for dealing with peer and other pressures. It is further declared that many serious health problems in Colorado, including high-risk behaviors, are directly attributable to the insufficient health knowledge and motivation of the school-age population and the general

public and that studies have demonstrated the effectiveness of a planned school curriculum throughout the elementary and secondary grades in developing healthy behavior. The purpose of this article is to foster healthy behaviors in our children and communities through a comprehensive educational plan which has as its goal not only the increase of health knowledge but also the modification of high-risk behaviors.

(2) Since the enactment of this article, the general assembly has further determined that the insidious attractions of gangs and substance abuse are endangering the youth of Colorado and, by doing so, are endangering all Colorado citizens. Accordingly, the general assembly finds and declares that the implementation of educational programs in the public schools, including facility schools, is necessary to assist young people in avoiding gang involvement and substance abuse.

(3) The general assembly further finds that:

(a) For students to reach their full potential, school communities need to address comprehensive issues of student wellness, including but not limited to addressing the physical, mental, emotional, and social needs of students;

(b) High-quality physical education programs taught by persons who are licensed and endorsed in physical education may be a factor in battling the rising incidence of obesity by ensuring not only that children receive a healthy level of physical activity but that they also learn skills and develop knowledge that will enable them to maintain a healthy level of activity throughout their lifetimes;

(c) It is therefore appropriate for the general assembly to expand the "Colorado Comprehensive Health Education Act" to include funding for local student wellness programs that are coordinated with local comprehensive health education programs in public schools, including facility schools.

**Source: L. 90:** Entire article R&RE, p. 1093, § 62, effective May 31. **L. 94:** Entire section amended, p. 1256, § 1, effective May 22. **L. 2008:** (2) amended, p. 1391, § 22, effective May 27; (3) added, p. 672, § 2, effective August 5; (3)(c) amended, p. 1391, § 23, effective August 5.

**Editor's note:** This section is similar to former § 22-25-102 as it existed prior to 1990.

**22-25-103. Definitions.** As used in this article 25, unless the context otherwise requires:

(1) "Colorado comprehensive health education program" means the program created by section 22-25-104 (1) for the purpose of encouraging the teaching of comprehensive health education for the students of the schools in Colorado.

(2) "Commissioner" means the office of the commissioner of education created and existing pursuant to section 1 of article IX of the state constitution.

(3) "Comprehensive health education" means a planned, sequential health program of learning experiences in preschool, kindergarten, and grades one through twelve that must include, but is not limited to, the following topics:

(a) Communicable diseases, including, but not limited to, acquired immune deficiency syndrome (AIDS) and human immunodeficiency virus (HIV) related illness;

(b) Community and environmental health;

(c) Consumer health;

(d) Dental health;
(e) Tobacco, alcohol, and other drug use;
(f) Human growth and development;
(g) Hereditary and developmental conditions;
(h) Mental and emotional health;
(i) Nutrition, personal health, and physical fitness;
(j) Family life education;
(k) Injury prevention, safety, motor vehicle safety, and emergency care;
(l) High-risk behaviors and concerns;
(m) Age-appropriate instruction on family roles and expectations, child development, and parenting; and
(n) If not included in other curricula or programs provided to students, age-appropriate information concerning sections 18-6-401 (9) and 19-3-304.5, or any successor laws, referred to generally as "safe haven laws", relating to the safe abandonment of a child to a firefighter at a fire station, or to a staff member at a hospital or a community clinic emergency center, within the first seventy-two hours of the child's life.

(3.1) "Culturally sensitive" means the integration of knowledge about individuals and groups of people into specific standards, requirements, policies, practices, and attitudes used to increase the quality of services. "Culturally sensitive" includes resources, references, and information that are meaningful to the experiences and needs of communities of color; immigrant communities; lesbian, gay, bisexual, and transgender communities; people with physical or intellectual disabilities; people who have experienced sexual victimization; and others whose experiences have traditionally been left out of sexual health education, programs, and policies.

(3.2) "Evidence-based program" means a program that:
(a) Was evaluated using a rigorous research design, including:
(I) Measuring knowledge, attitude, and behavior;
(II) Having an adequate sample size;
(III) Using sound research methods and processes;
(IV) Replicating in different locations and finding similar evaluation results; and
(V) Publishing results in a peer-reviewed journal;
(b) Research has shown to be effective in changing at least one of the following behaviors that contribute to early pregnancy, sexually transmitted infections, including HIV:
(I) Delaying sexual initiation;
(II) Reducing the frequency of sexual intercourse;
(III) Reducing the number of sexual partners; or
(IV) Increasing the use of condoms and other contraceptives.

(3.3) "Facility school" means an approved facility school as defined in section 22-2-402 (1).

(3.5) "Gang" means a group of three or more individuals with a common interest, bond, or activity characterized by criminal or delinquent conduct, engaged in either collectively or individually.

(4) "High-risk behaviors" means actions by children and adolescents which present a danger to their physical or mental health or which may impede their ability to lead healthy and productive lives. "High-risk behaviors" includes, but is not limited to, dropping out of school,

incest and other sexual activity with adults, sexual activity by school aged children, physical and mental abuse, violence, and use of tobacco, alcohol, or other drugs.

(4.5) "Law-related education program" means an educational program for teaching nonlawyers about law, the legal system, and the fundamental principles and values on which our constitutional democracy is based, which program's approach is characterized by relevant curriculum materials, interactive teaching strategies, and extensive use of community resource persons and experience.

(5) "Local comprehensive health education program" means a health education program instituted by a school board, board of cooperative services, or facility school in accordance with the requirements of this article.

(5.5) "Local student wellness program" means a program adopted by a school district, board of cooperative services, or facility school that is coordinated with health education and is designed to provide services to students in one or more of the following areas:

(a) Physical education;

(b) Nutrition services;

(c) Mental health counseling and services;

(d) Promotion of a healthy school environment;

(e) Health education;

(f) Health services;

(g) Involvement of students' families and communities in supporting and reinforcing healthy choices.

(5.7) "Positive youth development" means an approach that emphasizes the many positive attributes of young people and focuses on developing inherent strengths and assets to promote health. Positive youth development is culturally sensitive, inclusive of all youth, collaborative, and strength-based.

(6) "State board" means the state board of education created pursuant to section 1 of article IX of the state constitution.

**Source: L. 90:** Entire article R&RE, p. 1093, § 62, effective May 31. **L. 94:** (3.5), (4.5), and (6) added, p. 1257, § 2, effective May 22. **L. 2008:** (3.3) added and (5) amended, p. 1392, § 25, effective May 27; (5.5) added, p. 672, § 3, effective August 5; IP(5.5) amended, p. 1391, § 24, effective August 5. **L. 2013:** (3.1), (3.2), and (5.7) added, (HB 13-1081), ch. 303, p. 1612, § 4, effective May 28. **L. 2019:** IP, IP(3), (3)(l), and (3)(m) amended and (3)(n) added, (SB 19-025), ch. 49, p. 162, § 1, effective August 2.

**Editor's note:** This section is similar to former § 22-25-103 as it existed prior to 1990.

**22-25-104. Colorado comprehensive health education program - role of department of education - recommended curriculum guidelines - allocation of funds - rules.** (1) There is hereby created the Colorado comprehensive health education program, which shall be a voluntary program in which school districts, boards of cooperative services, and facility schools may participate through the creation of local comprehensive health education programs, which may include coordination with local student wellness programs. Implementation of the Colorado comprehensive health education program shall be a cooperative effort among the department of education, the Colorado commission on higher education, the department of public health and

environment and other health education professionals, and participating school districts and boards of cooperative services.

(2) The department of education shall have the authority to promote the development and implementation of local comprehensive health education programs and local student wellness programs.

(3) (a) With the assistance of parents, school districts, the department of public health and environment, the Colorado commission on higher education, and other interested parties, the department of education shall develop recommended guidelines for the implementation of local comprehensive health education programs and local student wellness programs. The guidelines developed pursuant to this subsection (3) must comply with the requirements of section 22-1-128 and shall apply to all school districts.

(b) The guidelines developed by the department of education pursuant to paragraph (a) of this subsection (3) shall include, but shall not be limited to, the following for preschool, kindergarten, and grades one through twelve:

(I) The recommended information and topics to be covered in the local comprehensive health education program or local student wellness program and the recommended methods of instruction to be used by teachers for such program;

(II) The recommended hours of instruction required to ensure that positive health knowledge, attitudes, and practices are achieved and maintained by the students;

(III) The recommended hours of instruction in physical education required to ensure that students not only develop healthy muscular and cardiovascular systems, but that they also develop skills and knowledge to enable them to remain active and healthy throughout their lifetimes; and

(IV) The recommended training the school district, the facility school, or board of cooperative services may require for staff who instruct in local comprehensive health education programs or local student wellness programs.

(4) (a) The department of education shall develop a plan for the training of teachers to provide comprehensive health education and student wellness and shall promote the proper training of staff in health education and in student wellness programs.

(b) As part of the plan to train teachers to instruct in comprehensive health education and student wellness, the Colorado department of education and the Colorado commission on higher education shall cooperatively develop course work or instructor endorsements in health, physical education, and high-risk behaviors education in order that both interested students seeking teacher licensure and practicing teachers may secure endorsement in health education, physical education, and other areas of student wellness.

(4.5) The department of education shall identify programs that are evidence-based, culturally sensitive, and reflective of positive youth development guidelines for use by school districts in local comprehensive health education programs related to comprehensive human sexuality education.

(5) Upon the request of a school district or board of cooperative services, the department of education shall provide, within available resources, such technical assistance as may be necessary to develop a local comprehensive health education program or local student wellness program.

(6) (a) Any curriculum and materials developed and used in teaching sexuality and human reproduction shall include values and responsibility and shall give primary emphasis to abstinence by school aged children.

(b) Repealed.

(c) The provisions of paragraph (d) of this subsection (6) shall not apply to a local comprehensive health education program provided by a facility school.

(d) For those schools receiving funds pursuant to this article, school officials must receive prior written consent from a parent or guardian before his or her child is excluded from any program discussing or teaching sexuality and human reproduction. At least two weeks prior to when instruction begins for such a program, each parent must receive an overview of the topics and materials to be presented in the curriculum and a written form allowing him or her to decline to have his or her child participate in the program.

(7) The department of education shall promulgate, in accordance with article 4 of title 24, C.R.S., such rules and regulations as may be necessary to carry out the duties of the department of education as set forth in this article.

**Source: L. 90:** Entire article R&RE, p. 1094, § 62, effective May 31. **L. 94:** (1) and (3)(a) amended, p. 2737, § 367, effective July 1. **L. 2000:** (4)(b) amended, p. 1855, § 52, effective August 2; (6) amended, p. 372, § 24, effective April 10. **L. 2007:** (3)(a) amended, p. 829, § 3, effective July 1. **L. 2008:** (1), (3)(b)(IV), and (6) amended, p. 1392, § 26, effective May 27; (1) to (5) amended, p. 673, § 4, effective August 5. **L. 2013:** (3)(a) and (6)(c) amended, (4.5) and (6)(d) added, and (6)(b) repealed, (HB 13-1081), ch. 303, p. 1613, § 5, effective May 28.

**Editor's note:** (1) This section is similar to former §§ 22-25-104, 22-25-105, and 22-25-106 as they existed prior to 1990.

(2) Amendments to subsection (1) by House Bill 08-1204 and House Bill 08-1224 were harmonized.

(3) Subsection (3)(b)(IV) was originally numbered as (3)(b)(III), and the amendments to it in House Bill 08-1204 were harmonized with subsection (3)(b)(IV) as amended and renumbered by House Bill 08-1224.

**Cross references:** For the legislative declaration contained in the 1994 act amending subsections (1) and (3)(a), see section 1 of chapter 345, Session Laws of Colorado 1994. For the legislative declaration contained in the 2007 act amending subsection (3)(a), see section 1 of chapter 212, Session Laws of Colorado 2007.

**22-25-104.5. Law-related education program - creation.** (1) (a) There is hereby created, within the Colorado department of education prevention initiatives unit, the Colorado law-related education program for the purpose of promoting behavior which will reduce through education the incidence of gang or other antisocial behavior and substance abuse by students in the public school system.

(b) Under the program, each school district and facility school in the state is strongly encouraged to implement a law-related education program pursuant to the requirements of this article, which program shall specifically address the development of resistance to antisocial gang behavior and substance abuse without compromising academics.

(2) (a) A law-related education program implemented by a school district or facility school may be designed to promote responsible citizenship and reduce antisocial behavior without compromising academics. Specific grade levels should be determined by school districts and facility schools based on local curricular frameworks and review of what is known about existing and promising programs. All topics addressed in such law-related education program shall be taught in a manner which is appropriate for the ages of the students to be instructed.

(b) The topics for instruction in a law-related education program shall include instruction on the United States constitution and the declaration of independence and may include, but need not be limited to, the following:

(I) The rights and responsibilities of citizenship;

(II) The foundations and principles of American constitutional democracy;

(III) The role of law in American society;

(IV) The organization and purpose of legal and political systems;

(V) The disposition to abide by law;

(VI) The opportunities for responsible participation;

(VII) The alternative dispute resolution approach including mediation and conflict resolution.

(c) (Deleted by amendment, L. 2000, p. 372, § 25, effective April 10, 2000.)

(3) and (4) (Deleted by amendment, L. 99, p. 106, § 1, effective March 24, 1999.)

(5) (a) The state board shall promulgate guidelines to provide grants to and to assist school districts and facility schools in the implementation of effective, comprehensive law-related education programs addressing gang awareness and substance abuse resistance. Such guidelines shall include, but shall not be limited to, the following:

(I) Suggested topics for instruction;

(II) Suggested texts and other instructional materials; and

(III) The necessary training for instructors.

(b) The state board shall make such guidelines available to all school districts and facility schools for use in implementing law-related education programs.

(c) The department of education, through the coordinator and staff of the prevention initiatives unit, shall be responsible for implementation, monitoring, and administration of the program and shall maintain certifications and records and act as a statewide clearinghouse for information and assistance for the law-related education programs.

(6) (a) All school districts and facility schools are encouraged to create programs for the training of instructors and administrators in gang awareness and substance abuse resistance education in order to provide effective instruction to students concerning the dangers of gang involvement and substance abuse.

(b) Upon the request of school district officials, the state board shall assist school district officials in the preparation of plans for the creation by school districts of training programs for instructors and administrators in gang awareness and substance abuse resistance education.

(7) (a) Each school district and facility school may prepare an annual report concerning the progress of the school district or facility school in implementing a law-related education program. The report shall be filed with the state board on or before October 1 of each year.

(b) Each annual report prepared pursuant to paragraph (a) of this subsection (7) shall include, but shall not be limited to, an analysis by school district or facility school officials of the

effect of the law-related education program on the incidence of gang involvement and substance abuse by the students in the school district or facility school.

**Source: L. 94:** Entire section added, p. 1257, § 3, effective May 22. **L. 99:** (3) to (6) amended, p. 106, § 1, effective March 24. **L. 2000:** IP(2)(b) and (2)(c) amended, p. 372, § 25, effective April 10. **L. 2006:** (7)(a) amended, p. 598, § 14, effective August 7. **L. 2008:** Entire section amended, p. 1393, § 27, effective May 27.

**22-25-105. Review of local comprehensive health education programs and local student wellness programs - allocation of funds by the state board of education.** (1) A school district, facility school, or board of cooperative services that is seeking funding for a local comprehensive health education program or a local student wellness program under this article shall file an application with the department of education in such form as the department of education shall require. An application for a local comprehensive health education program shall include provisions for the implementation of a law-related education program for the purpose of reducing the incidence of gang involvement and substance abuse by students through education.

(2) The commissioner or the commissioner's designee, with the assistance of the executive director of the department of public health and environment or his or her designee, shall review all applications for review of local comprehensive health education programs and local student wellness programs submitted to the department of education.

(3) (a) The state board of education shall establish a review and prioritization process for the allocation of available funds to school districts, boards of cooperative services, and facility schools based upon applications submitted to the department of education and giving due consideration to the guidelines developed pursuant to section 22-25-104 (3)(a). Funding may be made available to districts or facility schools to implement portions of a comprehensive health education program or portions of a local student wellness program that are coordinated with health education, according to the needs of the individual school district or facility school. Pursuant to the review and prioritization process, the state board of education shall allocate available funds to the applying school districts, boards of cooperative services, and facility schools based on whether the state board of education finds that a school district, a board of cooperative services, or a facility school has planned or developed a local comprehensive health education program or a local school wellness program that will serve the objectives of this article. Funding for local comprehensive health education programs and local school wellness programs may include, but shall not be limited to, the implementation of training programs, in-service education institutes, and curriculum development programs for staff who shall instruct in comprehensive health education or for staff who shall instruct in or otherwise provide services through student wellness programs that are coordinated with health education. The state board of education shall not allocate funds to school districts, boards of cooperative services, or facility schools pursuant to the provisions of this subsection (3) until the department determines the amount of money that will be available for allocation.

(b) If sufficient moneys are not available to fund programs in every school district, the department may establish pilot programs for school districts that express an interest in developing or expanding a local comprehensive health education program or one or more components of a local student wellness program, which components include and are coordinated with health education, and in which districts there is a need for a program.

(c) (Deleted by amendment, L. 2010, (SB 10-151), ch. 109, p. 364, § 1, effective July 1, 2010.)

(4) (a) A school district may receive funding for a local student wellness program only if it includes or is otherwise coordinated with health education.

(b) A school district or board of cooperative services may receive funding for a local student wellness program that includes physical education only if each person who teaches one or more physical education courses in the school district or for the board of cooperative services is licensed and endorsed pursuant to article 60.5 of this title in physical education; except that this requirement shall not apply to a school district that enrolls one thousand five hundred or fewer students.

**Source: L. 90:** Entire article R&RE, p. 1095, § 62, effective May 31. **L. 94:** (1) amended, p. 1261, § 4, effective May 22; (2) amended, p. 2738, § 368, effective July 1. **L. 2008:** Entire section amended, p. 1394, § 28, effective May 27; entire section amended, p. 674, § 5, effective August 5. **L. 2010:** (3) amended, (SB 10-151), ch. 109, p. 364, § 1, effective July 1.

**Editor's note:** (1) This section is similar to former § 22-25-107 as it existed prior to 1990.

(2) Amendments to this section by House Bill 08-1204 and House Bill 08-1224 were harmonized.

**Cross references:** For the legislative declaration contained in the 1994 act amending subsection (2), see section 1 of chapter 345, Session Laws of Colorado 1994.

**22-25-106. Local comprehensive health education programs - local student wellness programs - establishment of comprehensive health education advisory councils.** (1) (a) Each school district and board of cooperative services may and is encouraged to establish a local comprehensive health education program. To ensure that a local comprehensive health education program reflects the health issues and values of the community, each school district or board of cooperative services may establish a comprehensive health education advisory council, or may add necessary representatives to the school district's accountability committee created pursuant to section 22-11-301 or other appropriate committee, to address and make recommendations to the school district or board of cooperative services concerning the curriculum of the local comprehensive health education program.

(b) Each school district and board of cooperative services is further encouraged to establish a local student wellness program that includes or is otherwise coordinated with health education. A school district's or board of cooperative services' comprehensive health education advisory council or accountability committee may address and make recommendations to the school district or the board of cooperative services concerning the local student wellness program, including but not limited to the programs to be provided and best practices and strategies for involving families and the community in the local student wellness programs.

(2) In establishing a comprehensive health education advisory council or in supplementing an accountability committee or other appropriate committee, the board of a school district or board of cooperative services is encouraged to appoint members of the community who represent various points of view within the school district concerning

comprehensive health education; however, a majority of the committee shall be comprised of parents of children enrolled in the district. Members may include, but shall not be limited to, parents, a member of the clergy, teachers, school administrators, pupils, health care professionals, members of the business community, law enforcement representatives, senior citizens, and other interested residents of the school district.

(3) In addition to the requirements of section 22-25-104 (3)(b), each school district and board of cooperative services is encouraged to include instruction in its local comprehensive health education program which:

(a) Promotes parental involvement, promotes abstinence from high-risk behaviors, fosters positive self-concepts, develops decision-making skills, and provides mechanisms for coping with and resisting peer pressure;

(b) Focuses on the dynamic relationship among physical, mental, emotional, and social well-being; and

(c) Integrates available community resources into the educational program.

(4) (a) Each local comprehensive health education program which is adopted by a school district or board of cooperative services shall include a procedure to exempt a student, upon request of the parent or guardian of such student, from a specific portion of the program on the grounds that it is contrary to the religious beliefs and teachings of the student or the student's parent or guardian.

(b) Any local school district or board of cooperative services which adopts a local comprehensive health education program shall ensure that at a minimum the following public information requirements are met:

(I) Written notification of such local comprehensive health education program shall be given to the parents or guardians of all students within such school district or board of cooperative services, including notification that a student is allowed an exemption which permits such a student, at the request of the parent or guardian of the student, to be excused from all or any part of the local comprehensive health education program; and

(II) The curriculum and materials to be used shall be made available for public inspection at reasonable times and reasonable hours and a public forum to receive public comment upon such curriculum and materials shall be held.

**Source: L. 90:** Entire article R&RE, p. 1096, § 62, effective May 31. **L. 92:** (4) amended, p. 550, § 28, effective May 28. **L. 2002:** (1) and (2) amended, p. 1018, § 27, effective June 1. **L. 2008:** (1) amended, p. 675, § 6, effective August 5. **L. 2009:** (1)(a) amended, (SB 09-163), ch. 293, p. 1533, § 20, effective May 21.

**22-25-107. Reports required.** (1) Each school district, facility school, or board of cooperative services that receives funding for a local comprehensive health education program or a local student wellness program pursuant to this article shall annually file a written report with the department of education concerning the status of the program. The report shall include such information and data as the department of education shall require, including but not limited to the information received in the public forum held pursuant to section 22-25-106 (4), if applicable. The report shall be filed on or before such date as the department of education shall determine.

(2) Repealed.

**Source: L. 90:** Entire article R&RE, p. 1097, § 62, effective May 31. **L. 94:** (2) amended, p. 2738, § 369, effective July 1. **L. 98:** (2) repealed, p. 1076, § 4, effective June 1. **L. 2008:** (1) amended, p. 1395, § 29, effective May 27; (1) amended, p. 676, § 7, effective August 5.

**Editor's note:** (1) This section is similar to former § 22-25-108 as it existed prior to 1990.

(2) Amendments to subsection (1) by House Bill 08-1204 and House Bill 08-1224 were harmonized.

**Cross references:** For the legislative declaration contained in the 1994 act amending subsection (2), see section 1 of chapter 345, Session Laws of Colorado 1994.

**22-25-108. Participation of nonpublic school personnel.** Teachers, school nurses, or school administrators employed by a nonpublic school may participate as students in in-service education institutes or curriculum development programs conducted by school districts or boards of cooperative services pursuant to this article. At the discretion of the school district or board of cooperative services conducting such institutes or programs, such participants may be required to pay the pro rata share of the cost of participation.

**Source: L. 90:** Entire article R&RE, p. 1098, § 62, effective May 31.

**Editor's note:** This section is similar to former § 22-25-109 as it existed prior to 1990.

**22-25-109. Colorado comprehensive health education fund - creation - acceptance of funds - repeal. (Repealed)**

**Source: L. 90:** Entire article R&RE, p. 1098, § 62, effective May 31. **L. 94:** (1) amended, p. 812, § 22, effective April 27. **L. 2010:** (3) added, (SB 10-151), ch. 109, p. 365, § 2, effective April 15.

**Editor's note:** (1) This section was similar to former § 22-25-112 as it existed prior to 1990.

(2) Subsection (3) provided for the repeal of this section, effective July 1, 2010. (See L. 2010, p. 365.)

**22-25-110. Funding of existing programs - operation of other health education programs.** (1) Nothing in this article shall be interpreted to prevent a school district or board of cooperative services currently offering health education programs from being eligible to receive funding pursuant to this article.

(2) Nothing in this article 25 requires a school district or board of cooperative services to establish a local comprehensive health education program nor shall it be interpreted to prevent a school district or board of cooperative services from offering a health education program that is not operated under the requirements of this article 25; except that any school district or board of cooperative services offering such a health education program shall:

(a) Comply with the public information requirements contained in section 22-25-106 (4); and

(b) Establish a procedure to exempt a student, upon request of the parent or guardian of such student, from a specific portion of the health education program on the grounds that it is contrary to the religious or personal beliefs and teachings of the student or the student's parent or guardian.

(c) Repealed.

**Source: L. 90:** Entire article R&RE, p. 1098, § 62, effective May 31. **L. 92:** (2) amended, p. 551, § 29, effective May 28. **L. 2007:** (2) amended, p. 829, § 4, effective July 1. **L. 2013:** (2)(c) amended, (HB 13-1081), ch. 303, p. 1613, § 6, effective May 28. **L. 2019:** IP(2) amended and (2)(c) repealed, (HB 19-1032), ch. 408, p. 3604, § 8, effective May 31.

**Cross references:** For the legislative declaration contained in the 2007 act amending subsection (2), see section 1 of chapter 212, Session Laws of Colorado 2007. For the legislative declaration in HB 19-1032, see section 1 of chapter 408, Session Laws of Colorado 2019.

## ARTICLE 26

Gifted and Talented Students

**22-26-101 to 22-26-108. (Repealed)**

**Source: L. 2011:** Entire article repealed, (HB 11-1077), ch. 30, p. 84, § 12, effective August 10.

**Editor's note:** This article was added in 1985. For amendments to this article prior to its repeal in 2011, consult the 2010 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

**Cross references:** For education of gifted children, see part 2 of article 20 of this title.

## ARTICLE 27

Educational Clinics for
Public School Dropouts

**22-27-101 to 22-27-110. (Repealed)**

**Source: L. 2006:** Entire article repealed, p. 598, § 15, effective August 7.

**Editor's note:** This article was added in 1987. For amendments to this article prior to its repeal in 2006, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

## ARTICLE 27.5

Before- and After-School
Dropout Prevention Programs

**22-27.5-101. Legislative declaration.** (1) The general assembly hereby finds that:

(a) The unacceptably high dropout rate in public schools in Colorado is detrimental to the economic and cultural health of the state, and the state should take additional measures to more fully and productively engage students in public education and thereby reduce this rate;

(b) Often, students who choose to drop out of school prior to graduation are bored with the standard classroom curriculum. Students who are involved with extracurricular school activities before or after school are more likely to be invested in their education and less likely to drop out of school.

(c) With the increased difficulties in funding public education and increased emphasis on core academic subjects, schools have been forced to focus their resources on teaching the core curriculum subjects of reading, writing, and mathematics and have been less able to fund visual arts or performing arts education or to provide career and technical education;

(d) Just as all students can learn, all students are talented to varying degrees in varying arts and endeavors. In addition to ensuring a student has the necessary skills in reading, writing, and mathematics to be successful in a career, educating a student should include providing the student the opportunity to experience and participate in a wide range of artistic and vocational activities to allow the student to discover his or her talents and be successful in life.

(e) A grant program to provide additional funding for schools to sponsor before- and after-school programs in visual arts and performing arts and in career and technical education subjects will have the combined benefits of providing a wider range of visual arts, performing arts, and career and technical education, exposing students to a wide range of opportunities in visual arts and performing arts, assisting students in obtaining skills in a wide variety of vocations, enabling students to discover their artistic and vocation-related talents, and providing greater incentives for some students to stay in school.

**Source: L. 2005:** Entire article added, p. 511, § 1, effective May 24. **L. 2010:** (1)(c) and (1)(e) amended, (HB 10-1273), ch. 233, p. 1024, § 15, effective May 18.

**Cross references:** For the legislative declaration in the 2010 act amending subsections (1)(c) and (1)(e), see section 1 of chapter 233, Session Laws of Colorado 2010.

**22-27.5-102. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Arts-based activity program" means a before- or after-school program that provides students with an opportunity to learn about and participate in an activity in visual arts or performing arts.

(2) "Department" means the department of education, created and operating pursuant to section 24-1-115, C.R.S.

(3) "District board" means a school district board of education created pursuant to law.

(4) "Dropout prevention activity grant program" or "grant program" means the grant program created pursuant to section 22-27.5-103 to fund before- and after-school arts-based and vocational activity programs for students in grades six through twelve.

(4.5) "Facility school" means an approved facility school as defined in section 22-2-402 (1).

(5) "Fund" means the dropout prevention activity grant fund created pursuant to section 22-27.5-105.

(5.5) "Performing arts" shall have the same meaning as provided in section 22-1-104.5 (1)(b).

(6) "Qualified community organization" means a nonprofit or not-for-profit, nonsectarian, community-based organization that provides before- and after-school, arts-based or vocational activity programs to low-income youth enrolled in grades six through twelve.

(7) "Qualified school" means a public school, including but not limited to a charter school, that serves any of grades six through twelve and that is required to implement a priority improvement or turnaround plan pursuant to section 22-11-405 or 22-11-406, respectively, or is subject to restructuring pursuant to section 22-11-210 for the school year in which the public school seeks a grant through the grant program.

(8) "State board" means the state board of education created pursuant to section 1 of article IX of the state constitution.

(8.5) "Visual arts" shall have the same meaning as provided in section 22-1-104.5 (1)(c).

(9) "Vocational activity program" means a before- or after-school program that provides students with an opportunity to learn and develop skills in a variety of vocations, including but not limited to carpentry, plumbing, welding, culinary arts, floral design, automotive maintenance, driver's training, and hotel and restaurant management.

**Source: L. 2005:** Entire article added, p. 512, § 1, effective May 24. **L. 2008:** (4.5) added, p. 1396, § 34, effective May 27. **L. 2009:** (7) amended, (SB 09-163), ch. 293, p. 1533, § 21, effective May 21. **L. 2010:** (1) amended and (5.5) and (8.5) added, (HB 10-1273), ch. 233, p. 1025, § 16, effective May 18.

**Cross references:** For the legislative declaration in the 2010 act amending subsection (1) and adding subsections (5.5) and (8.5), see section 1 of chapter 233, Session Laws of Colorado 2010.

**22-27.5-103. Dropout prevention activity grant program - created - applications.** (1) There is hereby created a grant program to fund before- and after-school arts-based and vocational activity programs for students enrolled in grades six through twelve. The goal in funding arts-based and vocational activity programs is to reduce the number of students who choose to drop out of school prior to graduation. A facility school, a qualified school, with the approval of its district board, or a qualified community organization in partnership with a qualified school may apply to the department, in accordance with procedures and time lines adopted by rule of the state board, to receive moneys through the dropout prevention activity grant program. The department shall administer the grant program as provided in this article and pursuant to rules adopted by the state board.

(2) In any year in which the department of education receives gifts, grants, or donations for the fund, the department of education shall notify the facility schools and the district boards, in the manner provided by rule of the state board, of the amount of money to be deposited in the fund and available for grants pursuant to this section. The notice may also specify the time and procedure for applying for a grant from the dropout prevention activity grant program. Each district board shall forward the notice to the qualified schools of the school district. The department shall also post the notice on the department website as notice to qualified community organizations that may be interested in applying for moneys through the grant program.

(3) (a) A qualified school that chooses to seek a grant through the dropout prevention activity grant program shall notify its district board, specifying the amount requested and describing the arts-based or vocational activity program for which the grant would be used. The district board shall consider the qualified school's request and either approve or disapprove the qualified school's application. If the district board approves the application, the qualified school shall apply to the department, in accordance with the procedures and using the application form specified by rule of the state board, for a grant through the dropout prevention activity grant program.

(b) Each district board shall adopt policies specifying the time frames during which a qualified school may request a dropout prevention activity grant and the procedure for the request. The district board shall ensure that its policies are coordinated with the rules of the state board to allow a qualified school to apply for a grant in accordance with the rules of the state board.

(c) A qualified school that receives a grant through the dropout prevention activity grant program shall use the moneys received to provide arts-based or vocational activity programs only to students enrolled in grades six through twelve.

(3.5) (a) A facility school that chooses to seek a grant through the dropout prevention activity grant program shall apply to the department, in accordance with the procedures and using the application form specified by rule of the state board, for a grant through the dropout prevention activity grant program.

(b) A facility school that receives a grant through the dropout prevention activity grant program shall use the moneys received to provide arts-based or vocational activity programs only to students enrolled in grades six through twelve.

(4) A qualified community organization that chooses to seek a grant through the dropout prevention activity grant program shall enter into a partnership agreement with a qualified school or a facility school pursuant to which the qualified community organization may operate an arts-based or vocational activity program in collaboration with the qualified school or facility school for students enrolled in any of grades six through twelve. At a minimum, the partnership agreement shall specify the amount of the grant to be requested from the grant program and describe the arts-based or vocational activity program for which the grant would be used. The qualified school's participation in the partnership agreement shall be subject to the approval of the school's district board. A qualified community organization that applies for a grant through the dropout prevention activity grant program shall submit a copy of the signed partnership agreement with its grant application.

**Source: L. 2005:** Entire article added, p. 513, § 1, effective May 24. **L. 2008:** (1), (2), and (4) amended and (3.5) added, p. 1397, § 35, effective May 27. **L. 2011:** (2) amended, (HB 11-1303), ch. 264, p. 1160, § 44, effective August 10.

**22-27.5-104. Dropout prevention activity grant program - rules - awarding grants.** (1) The state board shall promulgate rules in accordance with the "State Administrative Procedure Act", article 4 of title 24, C.R.S., for the implementation of the dropout prevention activity grant program. At a minimum, the rules shall specify the procedures for applying for a grant, the form of the grant application, the information to be provided by the applicant, and the criteria for awarding grants.

(2) The department shall review each grant application received from a facility school, a qualified school, or a qualified community organization pursuant to section 22-27.5-103 and shall make recommendations to the state board concerning whether the grant should be awarded and the amount of the grant. If the department determines an application is missing any information required by rules to be included with the application, the department may contact the applicant to obtain the missing information. In making its recommendations, in addition to any criteria identified by rule of the state board, the department shall:

(a) Give first priority to applications to fund arts-based or vocational activity programs at qualified schools that experience high dropout rates for the three school years preceding the year in which the application is submitted and to fund arts-based or vocational activity programs at facility schools;

(b) Consider the percentage of students enrolled at the affected qualified school or facility school who are minority students or students who qualify for free or reduced-cost lunch pursuant to the provisions of the federal "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq., with the goal of funding arts-based and vocational activity programs at qualified schools and facility schools that enroll high percentages of minority students and students who qualify for free or reduced-cost lunch;

(c) Consider the format of the arts-based or vocational activity program for which funding is requested and determine the cost-effectiveness of the program, the number of students who will be able to participate, and the quality of the participatory experience offered, with the goal of funding arts-based and vocational activity programs that provide a large number of students the opportunity to directly participate in and experience an arts-based or vocational activity;

(d) Consider whether the arts-based or vocational activity program for which funding is requested includes a partnering relationship with businesses in the community or a component of community service, with the goal of funding those arts-based and vocational activity programs that demonstrate a connection with the community outside the school or facility school and provide a benefit to that community.

(3) In each year in which moneys are credited to the fund, the state board shall award grants to applicants through the dropout prevention activity grant program. The state board shall take into consideration the recommendations received from the department. In addition to any criteria adopted by rule, the state board in awarding grants shall apply the priority and considerations specified in subsection (2) of this section. A grant awarded pursuant to this article shall be valid for one year.

**Source: L. 2005:** Entire article added, p. 514, § 1, effective May 24. **L. 2008:** (2) amended, p. 1398, § 36, effective May 27.

**22-27.5-105. Dropout prevention activity grant fund - created - administrative costs.** (1) (a) There is hereby created in the state treasury the dropout prevention activity grant fund. The fund shall consist of any gifts, grants, or donations received by the department for the fund pursuant to subsection (2) of this section. The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs associated with the implementation of the dropout prevention activity grant program pursuant to this article.

(b) Any moneys in the fund not expended for the purpose of this article may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

(2) The department is authorized to seek and accept gifts, grants, and donations from private or public sources for the implementation of the dropout prevention activity grant program pursuant to this article. All private and public funds received through gifts, grants, and donations shall be transmitted to the state treasurer, who shall credit the same to the fund.

(3) The department may expend up to two percent of the moneys annually appropriated from the fund to offset the direct and indirect costs incurred in implementing the dropout prevention activity grant program pursuant to this article.

(4) (Deleted by amendment, L. 2011, (HB 11-1303), ch. 264, p. 1160, § 45, effective August 10, 2011.)

**Source: L. 2005:** Entire article added, p. 515, § 1, effective May 24. **L. 2011:** (1)(a) and (4) amended, (HB 11-1303), ch. 264, p. 1160, § 45, effective August 10.

**22-27.5-106. Dropout prevention activity grant programs - report.** (1) Each facility school, qualified school, and qualified community organization that receives a dropout prevention activity program grant shall, in each year that it receives the grant, report to the department a description of the arts-based or vocational activity program and the projects accomplished through the program and an indication of the number of students who participated in the program.

(2) On or before January 15, 2007, and on or before January 15 each year thereafter, the department shall report to the education committees of the house of representatives and the senate and to the governor the following information from the preceding school year:

(a) The number and amounts of dropout prevention activity program grants awarded;

(b) A description of the arts-based and vocational activity programs that received grants;

(c) The number of students who participated in the arts-based and vocational activity programs that received grants; and

(d) The student dropout rates of the qualified schools at which the funded arts-based and vocational activity programs were operated.

**Source: L. 2005:** Entire article added, p. 516, § 1, effective May 24. **L. 2008:** (1) amended, p. 1398, § 37, effective May 27.

## ARTICLE 28

Colorado Preschool Program Act

**22-28-101. Short title.** This article shall be known and may be cited as the "Colorado Preschool Program Act".

**Source: L. 88:** Entire article added, p. 824, § 40, effective May 24. **L. 92:** Entire section amended, p. 487, § 2, effective May 26. **L. 2006:** Entire section amended, p. 683, § 25, effective April 28. **L. 2009:** Entire section amended, (SB 09-292), ch. 369, p. 1952, § 44, effective August 5.

**22-28-102. Legislative declaration.** (1) The general assembly hereby finds, determines, and declares that there are substantial numbers of children in this state entering kindergarten and the primary grades who are not adequately prepared to learn. The general assembly further finds that early school failure may ultimately contribute to such children dropping out of school at an early age, failing to achieve their full potential, becoming dependent upon public assistance, or becoming involved in criminal activities. By enacting this article, the general assembly acknowledges the need to adequately prepare all children to learn through preschool programs in school districts with high dropout rates or low performance of children in kindergarten and primary grades. In establishing the programs, the general assembly encourages school districts and parents to work together to ensure that the children benefit from the programs.

(2) The general assembly intends to fully fund the Colorado preschool program by increasing the number of children who may be served through the program over the 2006-07, 2007-08, and 2008-09 budget years.

**Source: L. 88:** Entire article added, p. 824, § 40, effective May 24. **L. 92:** Entire section amended, p. 487, § 3, effective May 26. **L. 2006:** Entire section amended, p. 683, § 26, effective April 28. **L. 2008:** (1) amended, p. 1224, § 35, effective May 22. **L. 2009:** (2) amended, (SB 09-292), ch. 369, p. 1952, § 45, effective August 5.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsection (1), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-28-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Board of education" means the board of education of a school district.

(1.5) "Charter authorizer" means a school district, the state charter school institute, or the board of the Colorado school for the deaf and the blind acting in the capacity of authorizing a public charter school.

(1.7) "Charter school" means a charter school authorized pursuant to part 1 of article 30.5 of this title, an institute charter school authorized pursuant to part 5 of article 30.5 of this title, or a charter school authorized pursuant to section 22-80-102 (4)(b).

(2) "Child care agency" means a facility defined as a child care center pursuant to the provisions of section 26-6-102 (5), C.R.S.

(2.5) "Colorado preschool program" means all the district preschool programs established in the state pursuant to the provisions of this article.

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

(4) "District advisory council" means the district preschool program advisory council established by a school district pursuant to the provisions of section 22-28-105.

(5) "District preschool program" means a preschool program established by a school district pursuant to the provisions of section 22-28-107.

(6) "Head start agency" means the local public or private nonprofit agency designated by the federal department of health and human services to operate a head start program under the provisions of Title V of the federal "Economic Opportunity Act of 1964", as amended.

(7) "Parent" includes a legal guardian or any other person who has physical custody of the child.

(8) "School district" means any public school district organized under the laws of Colorado or an institute charter school created pursuant to part 5 of article 30.5 of this title. "School district" shall not include a local college district.

(8.5) "State board" means the state board of education created pursuant to section 1 of article IX of the state constitution.

(9) (Deleted by amendment, L. 2008, p. 1224, § 36, effective May 22, 2008.)

**Source: L. 88:** Entire article added, p. 825, § 40, effective May 24. **L. 92:** (9) amended, p. 492, § 11, effective May 26. **L. 96:** (2) amended, p. 266, § 18, effective July 1. **L. 2006:** (4), (5), and (9) amended and (8.5) added, p. 684, § 27, effective April 28. **L. 2007:** (8) amended, p. 743, § 23, effective May 9. **L. 2008:** (2.5) added and (5) and (9) amended, p. 1224, § 36, effective May 22. **L. 2009:** (4) amended, (SB 09-292), ch. 369, p. 1953, § 46, effective August 5. **L. 2012:** (1.5) and (1.7) added, (HB 12-1240), ch. 258, p. 1332, § 50, effective June 4. **L. 2016:** (2) amended, (SB 16-189), ch. 210, p. 762, § 37, effective June 6.

**Cross references:** For the legislative declaration contained in the 2008 act enacting subsection (2.5) and amending subsections (5) and (9), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-28-104. Establishment of public preschool programs.** (1) There is hereby established a Colorado preschool program, which shall be implemented in school districts beginning in the 2006-07 budget year. The purposes of the program are:

(a) To serve three-year-old, four-year-old, and five-year-old children who lack overall learning readiness due to significant family risk factors, who are in need of language development, or who are receiving services from the department of human services pursuant to article 5 of title 26, C.R.S., as neglected or dependent children and who would benefit from participation in the Colorado preschool program;

(b) To determine the school districts in which participation in the Colorado preschool program would be the most beneficial;

(c) To establish criteria to be followed by school districts in establishing district preschool programs; and

(d) To encourage parents to participate with their children in district preschool programs.

(2) (a) (I) and (II) (Deleted by amendment, L. 2008, p. 1224, § 37, effective May 22, 2008.)

(III) For the 2008-09 budget year and each budget year thereafter, twenty thousand one hundred sixty children may annually participate in the Colorado preschool program.

(b) (I) For the 2006-07 and 2007-08 budget years, the department shall allow school districts to apply to the department for authorization to serve no more than fifteen percent of the total number of children authorized to participate in the Colorado preschool program pursuant to paragraph (a) of this subsection (2) through a full-day kindergarten portion of the district's preschool program. The department, using established criteria, shall select school districts to participate in the full-day kindergarten portions until the total number of full-day kindergarten positions applied for has been filled or the fifteen-percent limitation has been reached, whichever event occurs first. Notwithstanding any other provision of law, the department shall not grant waivers that would allow more than a total of fifteen percent of the total number of children authorized to participate in the Colorado preschool program pursuant to paragraph (a) of this subsection (2) to be served through the full-day kindergarten portion of all district preschool programs statewide.

(II) For the 2008-09 budget year and each budget year thereafter, none of the children participating in the Colorado preschool program shall participate in the program through a full-day kindergarten portion of the program.

(c) If a school district that participates in the Colorado preschool program does not enroll the maximum number of pupils allowed to participate in that school district's preschool program as established by the department in accordance with section 22-28-107 (3), the school district shall immediately notify the department of the number of unused positions. A school district participating in the Colorado preschool program that has any unused positions in a given budget year is prohibited from transferring to another school district any or all of the unused positions, regardless of whether the unused positions are transferred in exchange for monetary or any other form of consideration.

(3) A school district that participates in the Colorado preschool program shall be entitled to count children enrolled in the district preschool program in accordance with the provisions of section 22-54-103 (9.5) for purposes of determining preschool program enrollment under the "Public School Finance Act of 1994", article 54 of this title.

(4) (a) Subject to the limitations in paragraph (b) of this subsection (4), the per pupil operating reimbursement provided to any school district that participates in the Colorado preschool program shall be increased to allow a single child to enroll in the program using two positions so that the child may attend a full day of preschool.

(b) For the 2006-07 budget year and budget years thereafter, the department shall allow school districts to apply for authorization to serve no more than five percent of the total number of children authorized to participate in the Colorado preschool program pursuant to paragraph (a) of subsection (2) of this section through a full-day preschool portion of the district's preschool program. The department, using established criteria, may select qualified school districts to participate in and serve children through a full-day preschool portion of the district's preschool program. Notwithstanding any other provision of law, the department shall not grant waivers that would allow more than a total of five percent of the total number of children authorized to participate in the Colorado preschool program pursuant to paragraph (a) of subsection (2) of this

section to be served through the full-day preschool portion of all district preschool and kindergarten programs statewide.

(5) Nothing in this article shall be construed to:

(a) Require school districts to participate in the Colorado preschool program; or

(b) Prohibit school districts from establishing and maintaining other preschool programs using any funds available for that purpose, but children enrolled in such other preschool programs shall not be counted for purposes of determining preschool program enrollment or pupil enrollment under the "Public School Finance Act of 1994", article 54 of this title.

**Source: L. 88:** Entire article added, p. 825, § 40, effective May 24. **L. 88, 1st Ex. Sess.:** (3) and (4) amended, p. 56, § 6, effective August 11. **L. 90:** (2) amended, p. 1077, § 29, effective May 31. **L. 92:** IP(1), (1)(a), (1)(b), and (2) to (4) amended, p. 488, § 4, effective May 26. **L. 94:** (2) and (3) amended, pp. 804, 812, §§ 4, 23, effective April 27; (1)(a) amended, p. 2690, § 217, effective July 1. **L. 95:** (2)(b) amended, p. 607, § 2, effective May 22; (4) amended, p. 1110, § 63, effective May 31. **L. 96:** (2)(b)(II) amended, p. 1798, § 15, effective June 4. **L. 98:** (2)(b)(II) and (2)(c) amended and (2)(d) added, p. 972, § 15, effective May 27. **L. 99:** (2)(d)(I) amended, p. 178, § 8, effective March 30. **L. 2000:** (3.5) added, p. 820, § 4, effective July 1. **L. 2001:** (2)(d)(I) amended and (2)(d)(III) and (2)(d)(IV) added, p. 340, § 3, effective April 16. **L. 2002:** (1)(a.5), (2)(d)(III.1), (2)(d)(III.2), and (2)(d)(III.3) added and (2)(d)(I) amended, pp. 1739, 1738, §§ 11, 10, effective June 7. **L. 2003:** (2)(d)(II) amended, p. 515, § 3, effective March 5; (2)(d) and (3) amended, p. 2125, § 18, effective May 22. **L. 2005:** (2)(d)(I)(A) and (2)(d)(I)(E) amended and (2)(d)(I)(F) added, p. 438, § 15, effective April 29. **L. 2006:** Entire section R&RE, p. 684, § 28, effective April 28. **L. 2007:** (2)(a) amended, p. 739, § 11, effective May 9. **L. 2008:** IP(1), (2)(a)(I), (2)(a)(II), (2)(a)(III), (2)(b), (3), (4)(a), and (5)(b) amended, pp. 1224, 1209, §§ 37, 20, effective May 22. **L. 2009:** (1), (2)(a)(III), (2)(b), (2)(c), (3), (4), and (5)(a) amended, (SB 09-292), ch. 369, p. 1953, § 47, effective August 5.

**Editor's note:** Subsection (2)(d)(II) was originally numbered as subsection (2)(d)(III.2), and the amendments to it in Senate Bill 03-183 were harmonized with Senate Bill 03-248 and renumbered as subsection (2)(d)(II).

**Cross references:** For the legislative declaration contained in the 1994 act amending subsection (1)(a), see section 1 of chapter 345, Session Laws of Colorado 1994. For the legislative declaration contained in the 2008 act amending the introductory portion to subsection (1) and subsections (2)(a)(I), (2)(a)(II), (2)(a)(III), (2)(b), (3), (4)(a), and (5)(b), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-28-104.3. Early childhood at-risk enhancement (ECARE).** (1) (a) Notwithstanding the number of children who may annually participate in the Colorado preschool program pursuant to section 22-28-104 (2)(a):

(I) For the 2013-14 budget year, an additional three thousand two hundred children may participate in the Colorado preschool program, for a total of twenty-three thousand three hundred sixty children who may participate in the Colorado preschool program for the 2013-14 budget year.

(II) For the 2014-15 budget year, and each budget year thereafter, an additional five thousand children may annually participate in the Colorado preschool program, for a total of twenty-eight thousand three hundred sixty children who may annually participate in the Colorado preschool program.

(III) For the 2018-19 budget year, and each budget year thereafter, an additional one thousand children may annually participate in the Colorado preschool program, for a total of twenty-nine thousand three hundred sixty children who may annually participate in the Colorado preschool program.

(b) The department shall allocate the authority to enroll the additional children in the same manner provided in section 22-28-104; except that the provisions of section 22-28-104 (2)(b) do not apply.

(2) (a) Except as otherwise provided in subsection (2)(b) of this section, in allocating the authority to enroll children in the Colorado preschool program pursuant to this section, the department shall allow a school district to enroll a child in the program using two positions so that the child may attend a full-day preschool portion of the district's preschool program or to use a preschool program position to enroll a child in a full day of the district's existing full-day kindergarten educational program. In using two positions to allow a child to attend a full-day preschool portion of the school district's preschool program, a district may use two preschool positions allocated pursuant to this section or may use a preschool position allocated pursuant to this section and a preschool position allocated pursuant to section 22-28-104. If a school district combines a preschool position allocated pursuant to this section with a preschool position allocated pursuant to section 22-28-104 to allow a child to attend full-day preschool, the department shall not include the preschool position allocated pursuant to section 22-28-104 in calculating the limitation on using positions for full-day preschool specified in section 22-28-104 (4)(b).

(b) For the 2019-20 budget year and each budget year thereafter, the department shall not allocate to a district, and a district shall not use, a preschool program position to enroll a child in a full day of the district's full-day kindergarten educational program. A district that used a preschool program position to enroll a child in a full day of the district's full-day kindergarten educational program in the 2018-19 budget year may retain the position in the 2019-20 budget year and budget years thereafter to enroll a child in the district's preschool program to attend a half day or full day of preschool; except that, if the district does not enroll a sufficient number of children to use all of the retained preschool program positions in a budget year, the department shall redistribute the unused positions.

(3) The Colorado preschool program positions that the department allocates to a school district pursuant to subsection (1) of this section and that are used to allow a child to attend a half day or full day of preschool through a district's preschool program are subject to all of the requirements of this article; except that the provisions of section 22-28-104 (4)(b) do not apply to positions allocated pursuant to subsection (1) of this section.

(4) and (5) Repealed.

**Source: L. 2013:** Entire section added, (SB 13-260), ch. 236, p. 1143, § 10, effective May 17. **L. 2014:** (1) amended, (HB 14-1298), ch. 244, p. 922, § 6, effective May 21. **L. 2018:** (1)(a)(III) added, (HB 18-1379), ch. 250, p. 1540, § 4, effective May 24; (5) added, (HB 18-

1134), ch. 108, p. 798, § 1, effective August 8. **L. 2019:** (2) amended and (4) and (5) repealed, (HB 19-1262), ch. 245, p. 2393, § 2, effective May 21.

**22-28-104.5. Public charter school preschools.** (1) Notwithstanding any provision of this article to the contrary, a charter school that is permitted by its charter authorizer to operate a kindergarten program may plan, develop, and operate a public preschool program that is consistent with the provisions of this article.

(2) A charter school that operates a public preschool program with funding received pursuant to this article or, consistent with section 22-28-104 (5)(b), without such funding, shall ensure that the public preschool program:

(a) Enrolls students consistent with section 22-30.5-104 (3) to ensure a diverse student body;

(b) Operates in a facility approved and licensed for preschool purposes that is the same facility or that is in reasonable proximity to the facility at which the charter school operates the kindergarten program or at a location that is approved by the charter authorizer; and

(c) Guarantees a student's continued enrollment from preschool to kindergarten to the extent allowed by law.

**Source: L. 2012:** Entire section added, (HB 12-1240), ch. 258, p. 1332, § 51, effective June 4.

**22-28-105. District preschool program advisory council - duties.** (1) (a) Any school district wishing to participate in the Colorado preschool program shall establish a district preschool program advisory council consisting of the superintendent of the school district or his or her designee and such other members as the superintendent of the school district may appoint pursuant to paragraph (b) of this subsection (1).

(b) The appointed members of the district advisory council must include, but are not limited to, the following:

(I) Two parents of children in the district preschool program;

(II) Two members of the business community; and

(III) Representatives from the following:

(A) The county or district department of health;

(B) The county department of human or social services;

(C) The county agency involved in job services and training;

(D) Publicly funded early childhood education agencies located in the school district;

(E) Privately funded child care centers located in the school district; and

(F) A representative from a charter school located in the district that has a preschool program.

(c) The members appointed by the superintendent of the school district shall serve for two-year terms, and any vacancy among the appointed members shall be filled by appointment by the superintendent for the unexpired term. Members of the council shall elect a chairperson for a one-year term, but the chairperson may be elected to a second term.

(d) The board of education shall have final responsibility for submittal of the application to participate in the Colorado preschool program and for operation and maintenance of the

district preschool program. No action taken by the district advisory council shall be final until approved by the board of education.

(2) The district advisory council shall:

(a) Develop and recommend to the board of education the school district plan for identifying those children in the school district that would be eligible for participation in the district preschool program based upon the criteria established in section 22-28-106 (1)(a);

(a.3) Study and assess the need for establishing a district preschool program in the school district and, upon completion of such assessment, if there is an identified need, submit a request for proposals to any privately funded child care center and publicly funded early childhood education agency. The request for proposals shall state the criteria and guidelines established by the department for determining the eligibility of children to participate in a district preschool program, for district preschool programs, and for parental involvement in a district preschool program. At least once every two years, the district advisory council shall assess whether alternative community providers are available and shall ensure the highest quality service delivery at the lowest cost.

(a.5) Review and evaluate proposals received pursuant to paragraph (a.3) of this subsection (2) and annually submit a list to the board of education of the head start agencies or public and private child care agencies that are licensed by the department of human services and are in good standing whose proposals meet or exceed the criteria and guidelines specified in said paragraph (a.3) and are designated as eligible for participation in the district preschool program, including the number of district preschool children each agency will be eligible to serve under the program;

(b) Recommend to the board of education a plan for operating the district preschool program, including whether the program should be provided by the school district itself or provided, in whole or in part, by a head start agency or by child care agencies under contract with the school district;

(c) Recommend to the board of education a proposal for the district preschool program to be submitted to the department pursuant to the provisions of section 22-28-107 (1);

(d) Assist the school district in the implementation of the district preschool program;

(e) Develop and recommend to the board of education, if appropriate, a plan for coordinating the district preschool program with extended day services for children participating in the program and their families in order to achieve an increased efficiency in the services provided;

(f) Following consultation and planning with social services and health agencies, develop and recommend to the board of education a plan for coordinating the district preschool program with family support services for children participating in the program and their families. For purposes of this paragraph (f), "family support services" includes, but is not limited to, information and referral and educational materials relating to:

(I) Nutrition;

(II) Immunization;

(III) Health care and dental care generally;

(IV) Parenting education and support; and

(V) Social services programs generally.

(g) Develop and recommend to the board of education a plan for coordinating the district preschool program with a program to train parents to provide teaching activities in the home prior to the entrance of their children into the district preschool program;

(h) Meet a minimum of six times per year. In addition, the district advisory council shall make at least two on-site visits per year to all head start agencies and public and private child care facilities with which the school district has contracted to monitor overall program compliance and make recommendations for any needed improvements.

(i) Define any student eligibility criteria specific to the population of the individual community that are in addition to the criteria listed in section 22-28-106 (1)(a);

(j) Develop a district preschool program evaluation component specific to the district preschool program involved;

(k) Develop a training program for district preschool program staff using all available community resources;

(l) Recommend to the board of education a plan for the annual evaluation of the district preschool program; and

(m) Provide any other appropriate assistance to the school district in the implementation of the district preschool program.

**Source: L. 88:** Entire article added, p. 826, § 40, effective May 24. **L. 92:** (1) and IP(2) amended and (2)(a.3), (2)(a.5), (2)(e.3), (2)(e.7), (2)(e.8), (2)(e.9), (2)(e.10), and (2)(e.11) added, pp. 492, 488, §§ 12, 5, effective May 26. **L. 96:** (2)(a.5) amended, p. 1798, § 18, effective July 1. **L. 2001:** (2)(a.3) amended, p. 161, § 1, effective March 28; (2)(e.9) amended, p. 210, § 2, effective August 8. **L. 2006:** Entire section amended, p. 686, § 29, effective April 28. **L. 2007:** (2)(a.3) amended, p. 739, § 12, effective May 9. **L. 2008:** (1)(d) amended, p. 1225, § 38, effective May 22; (2) amended, p. 1897, § 73, effective August 5. **L. 2009:** (1)(a), (1)(b)(I), (1)(d), (2)(a), (2)(a.3), (2)(a.5), (2)(b), (2)(c), (2)(d), (2)(e), IP(2)(f), (2)(g), (2)(j), (2)(k), (2)(l), and (2)(m) amended, (SB 09-292), ch. 369, p. 1954, § 48, effective August 5. **L. 2012:** (1)(b)(III)(D) and (1)(b)(III)(E) amended and (1)(b)(III)(F) added, (HB 12-1240), ch. 258, p. 1333, § 52, effective June 4. **L. 2018:** IP(1)(b) and (1)(b)(III)(B) amended, (SB 18-092), ch. 38, p. 438, § 90, effective August 8.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsection (1)(d), see section 1 of chapter 286, Session Laws of Colorado 2008. For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of Colorado 2018.

**22-28-106. Eligibility of children for participation in district preschool program.** (1) (a) The state board shall establish, by rule, criteria for each school district to use in determining which children in the school district shall be eligible for participation in the district preschool program, subject to the following requirements:

(I) A child who is three, four, or five years old and meets the criteria specified in subparagraphs (II) to (IV) of this paragraph (a) and any other criteria established by rule may participate in the district preschool program.

(II) No child shall participate in the district preschool program unless the child lacks overall learning readiness due to significant family risk factors, is in need of language

development, including but not limited to the ability to speak English, or is receiving services from the department of human services pursuant to article 5 of title 26, C.R.S., as a neglected or dependent child; except that no child who is three years of age shall participate in the district preschool program unless the child lacks overall learning readiness that is attributable to at least three of the significant family risk factors.

(III) No child shall participate in the district preschool program unless one or both of his or her parents agree to assume all the parental responsibilities established by the school district pursuant to section 22-28-110 with respect to the program.

(IV) Any child qualifying for similar district services under other programs would continue to be eligible only for such services and would be funded under such programs.

(a.5) For purposes of this article, "significant family risk factors" means any of the following:

(I) The child is eligible to receive free or reduced-cost lunch pursuant to the provisions of the federal "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq.;

(II) Homelessness of the child's family;

(III) An abusive adult residing in the home of the child;

(IV) Drug or alcohol abuse in the child's family;

(V) Either parent of the child was less than eighteen years of age and unmarried at the time of the birth of the child;

(VI) The child's parent or guardian has not successfully completed a high school education or its equivalent;

(VII) Frequent relocation by the child's family to new residences; or

(VIII) Poor social skills of the child.

(b) The department may establish criteria so that any or all of the following may be considered:

(I) The educational background of the child's parents or other family members, including but not limited to the number of years of education, attendance record, and academic performance; and

(II) The self-confidence of the child and the ability of the child to take part in social activities.

(2) Repealed.

**Source: L. 88:** Entire article added, p. 827, § 40, effective May 24. **L. 88, 1st Ex. Sess.:** (2) amended, p. 56, § 7, effective August 11. **L. 92:** (1)(a)(II) amended and (2) repealed, pp. 490, 493, §§ 6, 13, effective May 26. **L. 94:** (1)(a)(II) amended, p. 2690, § 218, effective July 1. **L. 2001:** (1)(a.5) added, p. 210, § 3, effective August 8. **L. 2002:** IP(1)(a), (1)(a)(I), and (1)(a)(II) amended, p. 1739, § 12, effective June 7. **L. 2006:** (1)(a) amended, p. 689, § 30, effective April 28; (1)(a)(I) amended, p. 605, § 16, effective August 7. **L. 2009:** IP(1)(a), (1)(a)(I), (1)(a)(II), and (1)(a)(III) amended, (SB 09-292), ch. 369, p. 1956, § 49, effective August 5.

**Editor's note:** Amendments to subsection (1)(a) by House Bill 06-1375 and Senate Bill 06-137 were harmonized.

**Cross references:** For the legislative declaration contained in the 1994 act amending subsection (1)(a)(II), see section 1 of chapter 345, Session Laws of Colorado 1994. For the

legislative declaration contained in the 2001 act enacting subsection (1)(a.5), see section 1 of chapter 85, Session Laws of Colorado 2001.

**22-28-107. Eligibility of school districts for participation in Colorado preschool program.** (1) By a date to be determined by rule of the state board for the 2006-07 budget year and each budget year thereafter, any school district may apply to the department for participation in the Colorado preschool program using forms provided by the department. Along with the application, the school district shall submit a proposal for the implementation of its district preschool program, which shall include, but need not be limited to, the following information requested by the department:

(a) The number of eligible children to be served in the district preschool program;

(b) Whether the district preschool program will be a four-and-one-half-month, nine-month, or twelve-month program;

(c) Whether the district preschool program will be provided by the school district itself or provided, in whole or in part, by a head start agency or one or more child care agencies under contract with the school district;

(d) If the district preschool program is to be provided by the school district:

(I) The number of schools in the school district that would be involved in the district preschool program;

(II) The number of additional personnel needed to staff the district preschool program;

(III) The training program for preschool teachers;

(e) If the district preschool program is to be provided, in whole or in part, by a head start agency or child care agencies under contract with the school district:

(I) The head start agency or child care agencies with which the school district will contract;

(II) The terms of the contracts;

(III) The procedure to be used to monitor the district preschool program being provided to the school district by the head start agency or child care agencies;

(f) The extended day services, if any, to be provided in connection with the district preschool program;

(f.3) The plan for coordinating the district preschool program with family support services for children participating in the program and their families;

(f.4) The plan for involving the parent or parents of each child enrolled in the district preschool program in participation in the program;

(f.7) The plan for coordinating the district preschool program with a parenting program;

(g) The plan for involving parents and the community in the district preschool program; and

(h) The procedure to be followed to evaluate the current and continuing effectiveness of the district preschool program.

(1.4) For the 2008-09 budget year and each budget year thereafter, a school district that applies to the department to participate in the Colorado preschool program by offering a nine-month program may apply for permission from the department to receive funding for a nine-month program but to use up to half of the moneys allocated for the program to prepare, during the first half of the school year, to offer a preschool program and to use the remainder of the

moneys to offer, during the second half of the school year, a four-and-one-half-month preschool program.

(1.5) Repealed. / (Deleted by amendment, L. 2006, p. 689, § 31, effective April 28, 2006.)

(2) The state board shall establish, by rule, criteria for determining which school districts shall be eligible for participation in the Colorado preschool program. The state board may consider any or all of the following:

(a) The number of eligible children to be served by the district preschool program;

(b) The number of schools in the school district or the number of head start agencies or child care agencies that would be involved in the district preschool program;

(c) The dropout rate of the school district;

(d) The test scores of children in kindergarten and the primary grades within the school district;

(e) The community involvement in the school district; and

(f) The demographic and geographic distribution of school districts making application for or participating in the Colorado preschool program throughout the state.

(3) The department shall evaluate each school district's application, using the criteria established pursuant to subsection (2) of this section as well as the proposal of the school district for the implementation of the district preschool program based upon the criteria established pursuant to section 22-28-108. The department shall give priority to school districts with proposals that include exemplary plans for the coordination of the district preschool program with family support services, to school districts with proposals that indicate efforts to collaborate with public and private child care agencies located in the school district, and to school districts with proposals that demonstrate the greatest degree of community involvement. By a date to be determined by rule of the state board for the 2006-07 budget year and for each budget year thereafter, the department shall determine the school districts that have been accepted for participation in the Colorado preschool program. To comply with the limitations on the number of children that may participate in the Colorado preschool program, the department shall set the maximum number of pupils in the district preschool program for each participating school district.

(4) (a) Upon the request of a school district, the department shall provide, subject to available resources, such technical assistance as may be necessary for the school district to submit a proposal for the implementation of its district preschool program and for ongoing training of personnel for the successful implementation of the program.

(b) The department shall annually select a reasonable number of school districts that have implemented preschool programs pursuant to this article and shall conduct on-site visits to determine whether:

(I) Each school district's screening process and the eligibility criteria for children participating in the district preschool program comply with all applicable state law;

(II) The district advisory council established pursuant to section 22-28-105 complies with all applicable state law; and

(III) The school district's quality assurance activities, evaluation efforts, and financial activities regarding the district preschool program comply with all applicable state law.

**Source: L. 88:** Entire article added, p. 827, § 40, effective May 24. **L. 92:** IP(1), IP(2), and (3) amended and (1)(f.3), (1)(f.4), (1)(f.7), and (1.5) added, pp. 490, 491, §§ 7, 8, effective May 26. **L. 2001:** (4) added, p. 85, § 1, effective March 20. **L. 2006:** Entire section amended, p. 689, § 31, effective April 28; (1.5) repealed, p. 605, § 17, effective August 7. **L. 2008:** IP(1), (1)(b), IP(1)(d), (1)(d)(III), and IP(4)(b) amended and (1.4) added, pp. 1210, 1225, §§ 21, 39, effective May 22. **L. 2009:** (1)(a), (1)(c), (1)(d)(I), (1)(d)(II), IP(1)(e), (1)(e)(III), (1)(f), (1)(f.3), (1)(f.4), (1)(f.7), (1)(g), (1)(h), (1.4), IP(2), (2)(a), (2)(b), (2)(f), (3), (4)(a), (4)(b)(I), and (4)(b)(III) amended, (SB 09-292), ch. 369, p. 1957, § 50, effective August 5.

**Editor's note:** (1) Amendments to subsection (1.5) by House Bill 06-1375 and Senate Bill 06-137 were harmonized.

(2) Amendments to the introductory portion to subsection (1) by sections 21 and 39 of House Bill 08-1388 were harmonized.

**Cross references:** For the legislative declaration contained in the 2008 act amending the introductory portion to subsection (1), subsection (1)(b), the introductory portion to subsection (1)(d), subsection (1)(d)(III), and the introductory portion to subsection (4)(b) and enacting subsection (1.4), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-28-108. Criteria for district preschool programs.** (1) (a) The department shall establish basic program standards for district preschool programs using nationally accepted standards for preschool programs and requiring compliance with the Colorado rules for child care centers promulgated by the department of human services pursuant to section 26-6-106, C.R.S.

(b) The state board shall establish, by rule, criteria for school districts to use in establishing district preschool programs, subject to the following requirements:

(I) The maximum number of pupils in a district preschool program shall not exceed the number set by the department pursuant to section 22-28-107 (3).

(II) The maximum number of pupils in a preschool class shall not exceed sixteen.

(III) Preschool classes shall be held for the equivalent of four half days per week with the remaining time being used for home visits by preschool teachers, teacher training as needed, workshops with other preschool teachers, and planning sessions with kindergarten teachers and other school staff.

(IV) Preschool classes shall be supplemented by teaching activities in the home between each pupil and the pupil's parent. An individual teaching plan shall be created for the pupil by his preschool teacher, and the school district shall provide the parent with the books and other materials necessary to carry out such teaching plan.

(1.6) The criteria established by the state board shall require that each head start agency and public and private child care agency that is providing services under the district preschool program afford all children that are eligible under section 22-28-106 an equal opportunity to receive services regardless of their race, ethnicity, or place of residence within the school district.

(2) In addition to the criteria established pursuant to subsection (1) of this section, the state board shall establish, by rule, additional criteria for school districts to use in establishing

district preschool programs that will be provided, in whole or in part, by a head start agency or child care agencies in accordance with the provisions of section 22-28-109.

(3) In establishing criteria for district preschool programs relating to qualifications for preschool teachers, the state board shall not require preschool teachers to be licensed pursuant to article 60.5 of this title but shall allow the school district, a head start agency, or a child care agency to employ a nonlicensed preschool teacher as long as the teacher meets other qualifications established by the state board.

(4) The criteria established by the state board shall be made available to each school district no later than August 1 of each year and shall be used by the district advisory council and the school district in drawing up the district preschool program proposal to be submitted with the school district's application for participation in the Colorado preschool program.

(5) Any school district whose district preschool program proposal does not meet the requirements of the state board shall be allowed to modify its proposal so that it meets said requirements. Notice to the department of said modifications shall be a prerequisite to final acceptance in the Colorado preschool program.

(5.5) Funding provided pursuant to this article shall only be used to pay a district's costs of providing preschool services directly to children enrolled in the district's preschool program. The costs shall include teacher and paraprofessional salaries and benefits, supplies and materials, home visits, the entire cost of any preschool program contracted services, the costs of services provided by a district to children enrolled in the district's preschool program or their parents, any associated professional development activities, costs that a district would not otherwise have incurred but for the services provided in conjunction with the preschool program, and a reasonable allocation of district overhead costs not to exceed five percent of the program costs. Any moneys remaining in the district's preschool program budget at the end of any budget year shall remain in the program budget for use in the preschool program in subsequent budget years.

(6) At any time during the year, the department may request from a school district any information about its district preschool program that the department deems necessary to ensure that the district is complying with the requirements of this section.

**Source: L. 88:** Entire article added, p. 829, § 40, effective May 24. **L. 92:** (1), (4), and (5) amended, p. 493, § 14, effective May 26. **L. 94:** (1)(a) amended, p. 2690, § 219, effective July 1. **L. 96:** (1.6) added, p. 1799, § 19, effective July 1. **L. 2000:** (3) amended, p. 1855, § 54, effective August 2. **L. 2002:** (1)(a) amended, p. 1785, § 49, effective June 7. **L. 2006:** (1)(a), IP(1)(b), (1)(b)(I), (1.6), (2), (3), (4), (5), and (6) amended, p. 692, § 32, effective April 28. **L. 2007:** (1)(b)(II) amended, p. 739, § 13, effective May 9. **L. 2008:** (1)(a), IP(1)(b), and (1)(b)(II) amended and (5.5) added, pp. 1226, 1210, §§ 40, 22, effective May 22. **L. 2009:** (1)(b)(I), (1.6), (2), (3), (4), (5), and (6) amended, (SB 09-292), ch. 369, p. 1959, § 51, effective August 5.

**Cross references:** For the legislative declaration contained in the 1994 act amending subsection (1)(a), see section 1 of chapter 345, Session Laws of Colorado 1994. For the legislative declaration contained in the 2008 act amending subsection (1)(a), the introductory portion to subsection (1)(b), and subsection (1)(b)(II) and enacting subsection (5.5), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-28-109. District preschool programs provided by a head start agency or child care agencies.** (1) The state recognizes that there is significant value in using existing and established infrastructure through a head start agency or child care agencies, where available, for the provision of a district preschool program. Before the board of education of any school district whose pupil enrollment was less than or equal to seven hundred fifty pupils for the preceding budget year expends money for capital projects to provide additional facilities for a district preschool program, the board shall consider whether the district preschool program may be contracted out, in whole or in part, to a head start agency or one or more child care agencies located in the school district. The board of any school district, regardless of pupil enrollment, may contract out the district preschool program only if the provisions of this section are satisfied. In making its determination on whether to contract out the district preschool program, the board shall consider the recommendation of the district advisory council along with the following:

(a) Whether there is an established preschool program being provided by the school district or by a head start agency or one or more child care agencies that could be expanded or modified to include the district preschool program;

(b) Whether the district preschool program could be provided more efficiently by a head start agency or one or more child care agencies while still maintaining a quality program;

(c) Whether the head start agency or the child care agencies could provide a district preschool program that would meet the criteria established by the state board pursuant to the provisions of section 22-28-108 (1) and (2);

(d) Whether the school district or the head start agency or child care agencies providing the district preschool program could also provide extended day services for children enrolled in the program in need of such services.

(2) No board of education shall contract out the district preschool program unless the board is assured that the head start agency or child care agency will provide a quality program meeting the requirements of section 22-28-108 (1) and (2). At any time during the year, the board may request from the agency any information about the program that the board deems necessary to ensure that the agency is complying with said requirements. In addition, the board of education shall ensure that the services provided by the head start agency or child care agency with respect to the district preschool program shall be in addition to services then currently provided by said agency and that the moneys transmitted to said agency for the services provided in the district preschool program shall not supplant moneys available to fund other services provided by said agency.

(3) If the district preschool program is contracted out pursuant to the provisions of subsection (1) of this section, the board of education and the head start agency or child care agencies shall develop a plan for the transition of children from the preschool portion of the program to kindergarten.

**Source: L. 88:** Entire article added, p. 830, § 40, effective May 24. **L. 96:** IP(1) amended, p. 1799, § 20, effective July 1. **L. 2006:** Entire section amended, p. 693, § 33, effective April 28. **L. 2007:** IP(1) amended, p. 740, § 14, effective May 9. **L. 2008:** IP(1), (1)(a), and (3) amended, p. 1226, § 41, effective May 22. **L. 2009:** (1)(b), (1)(c), (1)(d), and (2) amended, (SB 09-292), ch. 369, p. 1960, § 52, effective August 5.

**Cross references:** For the legislative declaration contained in the 2008 act amending the introductory portion to subsection (1) and subsections (1)(a) and (3), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-28-110. Parental involvement in district preschool programs.** In establishing criteria for district preschool programs pursuant to the provisions of section 22-28-108, the state board shall include guidelines for a school district to follow in establishing the responsibilities of parents in the district preschool program. The responsibilities shall be set forth in writing and provided to the parents of eligible children. Approved written or verbal communication between the parent and program personnel may be considered as fulfillment of responsibilities for program visitation. No child shall be accepted in the district preschool program unless one or both of the parents agree to assume the responsibilities, and failure of the parent or parents to fulfill the responsibilities shall result in the child being dismissed from the district preschool program.

**Source: L. 88:** Entire article added, p. 831, § 40, effective May 24. **L. 2006:** Entire section amended, p. 694, § 34, effective April 28. **L. 2009:** Entire section amended, (SB 09-292), ch. 369, p. 1961, § 53, effective August 5.

**22-28-111. Coordination of district preschool program with extended day services.** (1) (a) Any school district that establishes a district preschool program may coordinate the program with extended day services if the district advisory council and the school district find that there exists a need for the services. The services may be coordinated by the school district through one or more privately funded child care centers or publicly funded early childhood education agencies or through the school district itself.

(b) Any extended day services provided pursuant to paragraph (a) of this subsection (1), regardless of whether provided by a school district, head start agency, or public or private child care agencies, shall meet the appropriate standards for licensing established by the department of human services pursuant to section 26-6-106, C.R.S.

(2) The extended day services program shall be funded from fees charged to parents or from public or private funds, or from both. If the school district or the head start agency or child care agency providing the extended day services program meets eligibility requirements, it may seek and expend, on its own behalf or on behalf of the child's parents, public and private funds available for extended day services, including, but not limited to, social services funds, job training funds, and funds from private companies and charitable organizations.

**Source: L. 88:** Entire article added, p. 831, § 40, effective May 24. **L. 92:** (1) amended, p. 491, § 9, effective May 26. **L. 94:** (1)(b) amended, p. 2691, § 220, effective July 1. **L. 96:** (1)(a) amended, p. 1799, § 21, effective July 1; (1)(b) amended, p. 266, § 19, effective July 1. **L. 2006:** (1)(a) amended, p. 694, § 35, effective April 28. **L. 2009:** (1)(a) amended, (SB 09-292), ch. 369, p. 1961, § 54, effective August 5.

**Cross references:** For the legislative declaration contained in the 1994 act amending subsection (1)(b), see section 1 of chapter 345, Session Laws of Colorado 1994.

**22-28-111.5. Coordination of district preschool program with family support services - establishment of parenting program.** In coordinating a district preschool program with family support services and in establishing a parenting program as required by section 22-28-107 as a part of the proposal for the district preschool program, the school district is encouraged to apply for federal child care and development block grant funds and to seek support, advice, and technical and financial assistance from members of the community, from businesses, and from community and state agencies. In addition to other moneys available to the school district to fund the requirements of this section, the school district is authorized to seek and accept gifts, donations, or grants of any kind from any private source or from any governmental agency. All such gifts, donations, and grants shall be transmitted to the treasurer of the school district, who shall credit the same to a special account in the school district general fund to be used solely to fund the requirements of this section.

**Source: L. 92:** Entire section added, p. 492, § 10, effective May 26. **L. 2006:** Entire section amended, p. 695, § 36, effective April 28. **L. 2009:** Entire section amended, (SB 09-292), ch. 369, p. 1961, § 55, effective August 5.

**22-28-112. Reports to legislative committees.** Notwithstanding section 24-1-136 (11)(a)(I), by January 15, 2007, and by January 15 of each year thereafter, the department shall report to the education committees of the senate and house of representatives, or any successor committees, on the effectiveness of the Colorado preschool program. The department is authorized to request from any participating school district such information and data as may be necessary to make such reports.

**Source: L. 88:** Entire article added, p. 831, § 40, effective May 24. **L. 92:** Entire section amended, p. 494, § 15, effective May 26. **L. 96:** Entire section amended, p. 1241, § 98, effective August 7. **L. 2006:** Entire section amended, p. 695, § 37, effective April 28. **L. 2009:** Entire section amended, (SB 09-292), ch. 369, p. 1962, § 56, effective August 5. **L. 2017:** Entire section amended, (HB 17-1267), ch. 242, p. 995, § 9, effective August 9.

**Cross references:** For the legislative declaration contained in the 1996 act amending this section, see section 1 of chapter 237, Session Laws of Colorado 1996.

**22-28-113. Repeal of article. (Repealed)**

**Source: L. 88:** Entire article added, p. 831, § 40, effective May 24. **L. 92:** Entire section repealed, p. 487, § 1, effective May 26.

**22-28-114. Change of program name - direction to revisor - authorization.** (1) The revisor of statutes is authorized to change all references to the Colorado preschool and kindergarten program and to the state preschool and kindergarten program that appear in the Colorado Revised Statutes to the Colorado preschool program.

(2) The revisor of statutes is authorized to change all references to the district or district's preschool and kindergarten program that appear in the Colorado Revised Statutes to the district or district's preschool program.

**Source: L. 2008:** Entire section added, p. 1227, § 42, effective May 22.

**Cross references:** For the legislative declaration contained in the 2008 act enacting this section, see section 1 of chapter 286, Session Laws of Colorado 2008.

## ARTICLE 29

Character Education

**22-29-101. Legislative declaration.** The general assembly finds and declares that, while parents are the primary and most important moral educators of their children, such efforts should be reinforced in the school and community environments. The general assembly further finds that research indicating that core character qualities such as family support, community involvement, positive peer influence, motivation to achieve, respect for person and property, common courtesy, conflict resolution, integrity, honesty, fairness, a sense of civil and personal responsibility, purpose, and self-respect help give youth the basic interpersonal skills and attributes that are critical building blocks for successful relationships. The general assembly recognizes each school district's authority to exercise control over the specific instruction of students, yet also recognizes and hereby asserts a significant statewide interest in providing direction to school districts with regard to the character education of Colorado's youth. Therefore, the general assembly hereby encourages school districts to develop and strengthen character education instruction to students. By enacting this article, the general assembly acknowledges the importance of character development and encourages school districts, parents, and communities to work together to prepare youth for positive relationships in today's society.

**Source: L. 2001:** Entire article added, p. 1006, § 1, effective June 5.

**22-29-102. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Board of cooperative services" shall have the same meaning as provided in section 22-5-103 (2).

(2) "Department" means the state department of education created pursuant to section 24-1-115, C.R.S.

(3) "School district" means any school district organized and existing pursuant to law, but does not include a local college district.

(4) "State board" means the state board of education created pursuant to section 1 of article IX of the state constitution.

**Source: L. 2001:** Entire article added, p. 1007, § 1, effective June 5.

**22-29-103. Character education - development - resource.** (1) Each school district, either individually or through a board of cooperative services, is strongly encouraged to establish a character education program designed to help students cultivate honesty, respect, responsibility, courtesy, respect for and compliance with the law, integrity, respect for parents, home, and community, and the dignity and necessity of a strong work ethic, conflict resolution, and other skills, habits, and qualities of character that will promote an upright, moral, and

desirable citizenry and better prepare students to become positive contributors to society. The program may include information concerning this country's founding documents and concerning religion in American history. Such character education program should be designed to stress the importance that each teacher model and promote the guidelines of behavior established in the character education program for youth to follow at all times, in every class.

(2) The general assembly encourages each school district to work with parents and legal guardians of students enrolled in the school district and the community in which the school district operates in the development of any character education program established pursuant to subsection (1) of this section.

(3) Repealed.

**Source: L. 2001:** Entire article added, p. 1007, § 1, effective June 5. **L. 2016:** (3) repealed, (HB 16-1130), ch. 34, p. 86, § 2, effective August 10.

**22-29-104. Reports - school districts - department. (Repealed)**

**Source: L. 2001:** Entire article added, p. 1007, § 1, effective June 5. **L. 2006:** (2) amended, p. 605, § 18, effective August 7. **L. 2016:** Entire section repealed, (HB 16-1130), ch. 34, p. 86, § 3, effective August 10.

**22-29-105. Electronic transmission and storage of data. (Repealed)**

**Source: L. 2001:** Entire article added, p. 1008, § 1, effective June 5. **L. 2016:** Entire section repealed, (HB 16-1130), ch. 34, p. 87, § 5, effective August 10.

**22-29-106. Character education fund - creation - contributions. (Repealed)**

**Source: L. 2001:** Entire article added, p. 1008, § 1, effective June 5. **L. 2016:** Entire section repealed, (HB 16-1130), ch. 34, p. 87, § 6, effective August 10.

## SCHOOL DISTRICTS

## ARTICLE 30

School District Organization
Act of 1992

**Editor's note:** This article was numbered as article 25 of chapter 123, C.R.S. 1963. The substantive provisions of this article were repealed and reenacted in 1992, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1992, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

**Cross references:** For jurisdiction of school districts in federally owned or controlled land or Indian reservations, see § 3-2-101.

PART 1

NEW OR ANNEXING SCHOOL DISTRICT ORGANIZATION

**22-30-101. Short title.** This article shall be known and may be cited as the "School District Organization Act of 1992".

**Source: L. 92:** Entire article R&RE, p. 496, § 1, effective June 1.

**Editor's note:** This section is similar to former § 22-30-101 as it existed prior to 1992.

**22-30-102. Legislative declaration.** (1) The general assembly hereby declares that this article is enacted for the general improvement of the public schools in the state of Colorado; for the equalization of the benefits of education throughout the state; for the organization of public school districts in the state and the alteration of the boundaries of established school districts, in order to provide for the maintenance of a thorough and uniform system of free public schools throughout the state; and for a more responsible expenditure of public funds for the support of the public school system of the state. In order to accomplish these ends, this article shall be liberally construed.

(2) The general assembly further finds and declares that the provisions of this article shall apply in all of the following situations:

(a) The creation of one or more additional school districts within the existing boundaries of a school district;

(b) The consolidation of two or more school districts or parts of school districts into a new single school district;

(c) The dissolution and annexation of a school district when such school district fails to operate a school within the school district or when the state board declares the school district is no longer accredited;

(d) The detachment and annexation to revise, alter, or modify the boundaries of school districts for the purpose of more effective or economical operation or in order to provide better educational opportunities for the school age children resident in certain territory.

(2.5) The general assembly further finds and declares that the provisions of this article shall not apply to any detachment and annexation wherein county boundaries are modified.

(3) The general assembly further finds and declares that, except as provided in section 22-30-128, no reorganization of a school district shall occur without the appointment of a school organization planning committee to study the school organization and develop a plan for reorganization of the school district.

**Source: L. 92:** Entire article R&RE, p. 496, § 1, effective June 1. **L. 94:** (2.5) added, p. 808, § 13, effective April 27. **L. 95:** (3) amended, p. 605, § 2, effective May 22.

**Editor's note:** This section is similar to former § 22-30-102 as it existed prior to 1992.

**22-30-103. Definitions.** As used in this article 30, unless the context otherwise requires:

(1) "Commissioner" means the commissioner of education.

(2) "Committee" means the school organization planning committee authorized to study school district organization and develop a plan for reorganization.

(3) "Consolidation" means reorganization of two or more school districts into fewer school districts.

(4) "Detachment and annexation" means the alteration of boundaries of two or more school districts.

(5) "Director districts" means subdivisions of a school district which are contiguous, compact, and as nearly equal in population as possible.

(6) "Dissolution and annexation" means the discontinuance of a school district and annexation of its territory to an existing school district or school districts.

(7) "Eligible elector" means a person who has complied with the registration provisions of articles 1 to 13 of title 1, C.R.S., and who resides within the boundaries of the proposed or existing school district.

(8) "New school district" means a school district which has become a new body corporate pursuant to the provisions of this article.

(9) "Parameters of the study" means the type of organization and the boundaries of the territory to be included in the study and the timeliness with which the committee shall complete the study.

(10) "Petition committee" means not less than three nor more than five persons who are not members of the same family who shall represent the signors of a petition for the study of school organization in a school district.

(11) "Plan of organization" means the plan of school organization developed pursuant to this article.

(12) "Reorganization" means any change in school district organization pursuant to the provisions of this article.

(13) "School district" means a school district organized and existing pursuant to law; except that "school district" does not include a local college district.

(13.5) "School district board of education" or "local school board" means the elected board of education of a school district.

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

**Source: L. 92:** Entire article R&RE, p. 497, § 1, effective June 1. **L. 2019:** IP and (6) amended and (13.5) added, (SB 19-183), ch. 111, p. 473, § 1, effective August 2.

**Editor's note:** This section is similar to former § 22-30-103 as it existed prior to 1992.

**22-30-104. Conduct of elections.** (1) All elections authorized in this article shall be conducted pursuant to articles 1 to 13 of title 1, C.R.S. For each election, the governing body authorized to call the election shall name a designated election official who shall be responsible for calling and conducting the authorized election.

(2) A governing body may contract with a county clerk and recorder to be the designated election official or for the administration of any of the duties of the designated election official relating to the conduct of a school district election under this article.

(3) Election offenses in any election held pursuant to this article shall be the same as those prescribed in article 13 of title 1, C.R.S.

(4) The procedures for placing an issue or question on the ballot by a petition of school district electors that is pursuant to statute or the state constitution or that a school district board of education may refer to a vote of the electors pursuant to statute or the state constitution shall, to the extent no such procedures are prescribed by statute or the state constitution, follow as nearly as practicable the procedures for municipal initiatives and referred measures under part 1 of article 11 of title 31, C.R.S. The designated election official shall resolve any questions about the applicability of the procedures in part 1 of article 11 of title 31, C.R.S., after consultation with the county clerk of the county in which the school district administrative office is located.

**Source: L. 92:** Entire article R&RE, p. 498, § 1, effective June 1. **L. 96:** (4) added, p. 1766, § 56, effective July 1.

**22-30-105. Activation of the school district organization planning process.** (1) The appointment of a school organization planning committee charged to study school district organization shall occur when the commissioner is notified that any of the following conditions exist:

(a) One or more school district boards of education request the appointment of a school organization planning committee. Each school district which would be affected by the actions of such planning committee must submit a separate resolution.

(b) A petition committee, as defined in section 22-30-103 (10), presents a petition to the commissioner and to the county clerk and recorder of each county in which the headquarters of a school district that will be affected by the actions of a planning committee are located requesting the appointment of a school organization planning committee. Such petition shall contain a statement indicating the school districts to be involved. If only one school district is involved, the petition shall be signed by fifteen percent of that school district's eligible electors. If multiple school districts are involved, the petition shall be signed by fifteen percent of the eligible electors in each involved school district; except that, if the petition requests only consideration of detachment and annexation, the petition shall be signed by twenty-five percent of the eligible electors residing in the area to be detached and annexed. If multiple school districts are involved, the petition does not request consideration of a detachment and annexation, and the pupil enrollment of a school district for purposes of the "Public School Finance Act of 1994" is greater than thirty thousand pupils, the petition shall be signed by five percent of the eligible electors in that school district. Such petitions shall be deemed sufficient by the county clerk and recorder in the county of each involved school district. Only one such petition may be presented to the commissioner and the county clerk and recorder in the county of each involved school district in any three consecutive calendar years.

(c) The state board pursuant to the provisions of section 22-11-209 declares a school district is no longer accredited or directs a school district to reorganize. Such declaration or direction must indicate the school districts to be involved in the organization study.

**Source: L. 92:** Entire article R&RE, p. 498, § 1, effective June 1. **L. 96:** (1)(b) amended, p. 51, § 1, effective July 1. **L. 98:** (1)(c) amended, p. 989, § 7, effective July 1. **L. 2009:** (1)(c)

amended, (SB 09-163), ch. 293, p. 1533, § 22, effective May 21. **L. 2018:** (1)(c) amended, (HB 18-1355), ch. 324, p. 1958, § 25, effective May 30.

**Editor's note:** This section is similar to former § 22-30-104 as it existed prior to 1992.

**Cross references:** For the "Public School Finance Act of 1994", see article 54 of this title.

**22-30-106. School organization planning committee.** (1) Upon determination that one or more of the conditions described in section 22-30-105 exist, the commissioner shall notify the boards of education and committees responsible for appointing members of a school organization planning committee as stated in this section and call for the appointment of such a committee. Such a committee shall be appointed and hold its first meeting within thirty days of notification by the commissioner.

(2) The committee shall consist of the following appointed members:

(a) (I) If multiple school districts are involved in the study, two members appointed by the board of education in each school district affected by the study and one member appointed by the school district accountability committee of each school district affected by the study. Such member shall be a parent of a child attending a public school in the affected area; except that, if there are no public schools in the affected area, the member shall reside in the affected area and be a parent of a child attending a public school in one of the affected school districts. If no such parent resides in the affected area, the member shall be a person owning land located in the affected area.

(II) If a single school district is involved in the study, four members appointed by the school district board of education and three members appointed by the school district accountability committee. The members appointed by the school district accountability committee shall be parents of children attending public school in the affected area and members of school accountability committees; except that, if there are no public schools in the affected area, three of the members shall reside in the affected area and shall be parents of children attending public schools in the affected school district. If fewer than three such parents reside in the affected area, the remaining members shall be persons owning land located in the affected area.

(b) If the school organization planning process was activated by a petition, two additional members appointed by the petition committee.

(3) Notwithstanding the provisions of subsections (1) and (2) of this section, where the reorganization of a school district arises from the detachment and annexation of a portion of a school district, which portion has five or fewer eligible electors, the school district boards of education of the affected school districts shall serve as the committee.

**Source: L. 92:** Entire article R&RE, p. 499, § 1, effective June 1. **L. 96:** (2)(a) amended, p. 52, § 2, effective July 1. **L. 2002:** (2)(a) amended, p. 1019, § 28, effective June 1. **L. 2009:** (2)(a)(II) amended, (SB 09-163), ch. 293, p. 1533, § 23, effective May 21.

**Editor's note:** This section is similar to former § 22-30-104 as it existed prior to 1992.

**22-30-107. Duties of the committee.** (1) The committee shall have the following duties:

(a) To appoint a chair, vice-chair, and secretary;

(b) To establish parameters of the study;

(c) To make a careful study of the public school systems within the parameters of the study established by the committee;

(d) To develop a plan of organization which meets the requirements of section 22-30-114;

(e) To cooperate with the school district boards of education of the affected school districts, the state board, and the commissioner in arriving at a plan of organization;

(f) (I) When the proposed plan of organization results in the creation of a new school district, to file with the commissioner and the county clerk and recorder in each county affected by the proposed plan of organization a map and legal description of the new school district, the name of the county in which the new school district shall be headquartered, and the name and number by which the new school district shall be designated;

(II) When the proposed plan of organization results in the detachment and annexation of territory between existing school districts, to file with the commissioner and the county clerk and recorder in each county affected by the proposed plan of organization a map and legal description of the school districts following the detachment and annexation;

(g) (I) To call for and make arrangements for elections to vote upon the final approved plan of organization as provided in section 22-30-117;

(II) If the majority votes in favor of the final approved plan of organization and the final approved plan of organization results in the creation of a new school district, to call for an election to elect a board of education for the new school district as provided in section 22-30-122 and, if necessary, an election to address any financial matters, as provided in section 22-30-121.5; except that the final approved plan of organization and financial matters may be addressed in the same election;

(h) To assist in the dissemination of information as to the purpose and benefits of the proposed plan of organization and the final approved plan of organization; and

(i) To make all certifications and perform all other acts specifically required of the committee by this article.

**Source: L. 92:** Entire article R&RE, p. 500, § 1, effective June 1. **L. 96:** (1)(f) and (1)(g) amended, p. 52, § 3, effective July 1.

**Editor's note:** This section is similar to former § 22-30-104 as it existed prior to 1992.

**22-30-107.5. Duties of affected school districts.** The school district board of education of each school district affected by appointment of a committee shall cooperate with the committee by providing any information requested by the committee to assist in formulating the plan of organization.

**Source: L. 98:** Entire section added, p. 432, § 1, effective August 5.

**22-30-108. Vacancies.** After a committee is formed, in case of a vacancy on the committee by death, resignation, failure to accept membership thereon, or discontinuation of the enrollment of a parent member's child in a school in the affected school district, the vacancy shall be filled in the same manner as the original appointment. If any member fails to attend two consecutive meetings, after due notice and without being excused by the committee chair, the office of such member shall be declared vacant.

**Source: L. 92:** Entire article R&RE, p. 501, § 1, effective June 1.

**Editor's note:** This section is similar to former § 22-30-106 as it existed prior to 1992.

**22-30-109. Meetings - notice.** All meetings of the committee shall be open to the public pursuant to the provisions of section 24-6-402, C.R.S., and shall be held only after full and timely public notice. The chair may call special meetings upon notice mailed by the secretary to each member at least five days before such meeting. A meeting of the committee shall be called by the chair on written request of three members of the committee upon notice mailed by the secretary to each member at least five days before such meeting.

**Source: L. 92:** Entire article R&RE, p. 501, § 1, effective June 1.

**Editor's note:** This section is similar to former § 22-30-107 as it existed prior to 1992.

**22-30-110. Names certified to commissioner.** When any committee has been appointed, as provided in section 22-30-106 (2), the secretary thereof shall certify to the commissioner the names and post office addresses of each member of such committee, indicating the persons elected as chair and vice-chair. Any change in the personnel or officers of such committee shall be likewise certified to the commissioner.

**Source: L. 92:** Entire article R&RE, p. 501, § 1, effective June 1.

**Editor's note:** This section is similar to former § 22-30-108 as it existed prior to 1992.

**22-30-111. Compensation - expenses.** Members of the committee shall not receive compensation for service on such committee from state moneys. The affected school districts shall compensate committee members for actual expenses incurred in the performance of their duties under this article. For purposes of this section, "actual expenses" means travel expenses and expenses incurred in purchasing necessary supplies.

**Source: L. 92:** Entire article R&RE, p. 501, § 1, effective June 1. **L. 98:** Entire section amended, p. 432, § 2, effective August 5.

**Editor's note:** This section is similar to former § 22-30-132 as it existed prior to 1992.

**Cross references:** For reimbursement of transportation costs, see article 51 of this title.

**22-30-112. Department consultants.** The state board is authorized to employ such consultants, assistants, and other personnel, within the limits of appropriations to the department of education for salaries and travel expenses of personnel, as may be necessary to render all reasonable assistance to the various committees in the development and submission of plans of organization. All personnel employed shall work under the direction of the commissioner or a designated assistant commissioner.

**Source: L. 92:** Entire article R&RE, p. 501, § 1, effective June 1.

**Editor's note:** This section is similar to former § 22-30-109 as it existed prior to 1992.

**22-30-113. Duties of the attorney general.** The attorney general shall be the legal counsel and advisor of the state board, the commissioner, and, when requested by the commissioner, any of the committees organized pursuant to the provisions of this article for purposes related to the proper administration of this article.

**Source: L. 92:** Entire article R&RE, p. 501, § 1, effective June 1.

**Editor's note:** This section is similar to former § 22-30-134 as it existed prior to 1992.

**22-30-114. Requirements for plan of organization.** (1) The plan of organization must include, but need not be limited to, consideration of the following:

(a) The educational needs of pupils in the affected school districts, including the convenience and welfare of pupils;

(b) The provision of diverse educational opportunities for students;

(c) Equalization of the educational opportunities provided to students in the affected school districts;

(d) Implementation of the actions required by the state board pursuant to section 22-11-209 (3);

(d.5) The reasons for which the school district was unable to improve its performance sufficiently to avoid removal of accreditation pursuant to section 22-11-209;

(e) Facility utilization;

(f) Establishment of boundaries for all existing or new school districts in the plan of organization by legal description;

(g) Equitable adjustment and distribution of all or any part of the properties and cash assets of the school districts whose boundaries may be affected by the creation or dissolution of a school district or by the detachment and annexation of territory. The plan of organization may also provide for equitable adjustment of the liabilities of the school districts, other than bonded indebtedness, at the option of the committee. In considering an equitable adjustment of the assets of such school districts, the committee shall consider the outstanding general liabilities and obligations of the school districts that may be so affected, the number of children attending public school in each such school district, the valuation for assessment of taxable property in each such school district, the amount of outstanding bonded indebtedness of each such school district, the purpose for which such bonded indebtedness was incurred, and the value, location, and disposition of all real properties located in the school districts that may be affected by the

creation or dissolution of a school district or the detachment and annexation of territory. In considering an equitable adjustment of the assets of such school districts, the plan of organization may provide for authorization of new bonded indebtedness or assumption of outstanding bonded indebtedness by any school district in such proportions and for such purposes as the committee deems appropriate to equitably adjust and distribute such assets.

(h) Provision of a specific plan of representation for the members of the board of education of any proposed new school district. Each proposed new school district may be subdivided into five or seven director school districts or may have all directors elected at large or may have a combination thereof. The term of office of school directors in each proposed new school district shall be for four years.

(i) Dates for one or more special school district elections to address the following:

(I) Adoption of the final approved plan of organization;

(II) Election of a board of directors if the plan of organization results in the creation of a new school district; except that such plan shall not interfere with the regular biennial election schedule; and

(III) Financial issues, if necessary, including but not limited to an increase in the mill levy, which election shall be held in accordance with the requirements of section 20 of article X of the state constitution;

(j) If the plan of organization results in the creation of a new school district, the estimated maximum increase in the mill levy to be imposed on property included within the new district considering the factors enumerated in section 22-54-106 (2)(c) or (2.1)(e), whichever is applicable. If the plan of organization results in the detachment and annexation of territory between existing school districts, the plan of organization must include the mill levy of the annexing district that will be imposed on the affected territory.

(k) If the plan of organization results in the creation of a new school district, a source of operating funds to be used by the new school district prior to receiving the state share of the total district program, pursuant to the "Public School Finance Act of 1994", article 54 of this title, on July 1 of the new school district's first budget year.

(1.5) The plan of organization shall provide that all school districts affected by the plan of organization shall provide a full twelve-grade education within the boundaries of each affected school district.

(2) If the plan of organization results in the dissolution of a school district which has outstanding bonded indebtedness obligations or liabilities, the plan of organization shall designate a new school district, which includes at least a portion of the dissolved school district, as a successor for the purpose of administering payment of the bonded indebtedness obligations of the dissolved school district, and the board of education of the new school district so designated shall have all the powers, rights, duties, and responsibilities of the board of education of the dissolved school district for administering payment of the outstanding bonded indebtedness obligations and liabilities of the dissolved school district. All revenues which accrue from the tax levies to satisfy said obligations and liabilities, and all interest which may accrue thereto as a result of investments authorized by law, shall be held in trust by the board of education of the new school district so designated for the purpose only of satisfying said bonded indebtedness obligations and liabilities of the dissolved school district.

(3) If the reorganization results in the creation of one or more additional school districts within the boundaries of an existing school district, the plan of organization may include:

(a) Authorization for the existing school district and the new school district or districts to enter into a revenue sharing agreement. The plan of organization shall specify the period of time during which revenue sharing may occur.

(b) Provisions for creation of a joint taxation district as provided in part 2 of this article.

(4) If the plan of organization results in creation of one or more new school districts or alterations of the boundaries of existing school districts, the plan shall ensure that the school district boundaries are not set in such a way as to create any portion of a school district that is not contiguous to the remainder of the school district.

**Source: L. 92:** Entire article R&RE, p. 502, § 1, effective June 1. **L. 94:** (1)(g) amended, p. 1277, § 1, effective May 22. **L. 96:** (1) amended and (3) added, p. 53, § 4, effective July 1. **L. 97:** (1.5) added, p. 77, § 1, effective March 24. **L. 98:** (1)(d) amended and (1)(d.5) added, p. 989, § 8, effective July 1; (4) added, p. 432, § 3, effective August 5. **L. 2009:** (1)(d) and (1)(d.5) amended, (SB 09-163), ch. 293, p. 1534, § 24, effective May 21. **L. 2020:** IP(1) and (1)(j) amended, (HB 20-1418), ch. 197, p. 953, § 34, effective June 30.

**Editor's note:** This section is similar to former § 22-30-113 as it existed prior to 1992.

**Cross references:** For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

**22-30-115. Hearing on a plan of organization.** (1) When a plan of organization has been tentatively agreed upon by the committee, the proposed plan of organization with the attached map and legal description of the proposed boundaries of each school district affected by the proposed plan of organization shall be filed with the commissioner and each affected board of education.

(2) (a) Within fifteen days after the filing of the proposed plan of organization, the committee shall give notice of the filing of such plan of organization, map, and legal description by publication of said fact in a newspaper of general circulation in each area affected by the proposed plan of organization and by causing to be posted a copy of said notice upon each public school building in which school was held during any part of the preceding twelve months and that is located within the boundaries of any area affected by the plan of organization. If there is no newspaper of general circulation in the communities affected by the proposed plan of organization, posting of public notice as provided in this subsection (2) shall be sufficient. Such public notice shall give the time and place of any meeting to be held within thirty days by the committee for hearings on such proposed plan of organization. The committee shall hold a sufficient number of hearings to enable the residents of the affected area to receive adequate information and details of the plan of organization being considered. Any interested person may appear at such hearings and make comments on the proposed plan of organization.

(b) Notwithstanding the provisions concerning the posting of notice in public schools in paragraph (a) of this subsection (2), if there are no public schools within the boundaries of an area proposed to be detached and either annexed or organized into a new school district, public notice of the meeting shall be posted in at least three public buildings located in such area. If there are fewer than three public buildings located in such area, notice shall be mailed to each household in such area in which one or more eligible electors reside.

**Source: L. 92:** Entire article R&RE, p. 503, § 1, effective June 1. **L. 96:** Entire section amended, p. 55, § 5, effective July 1.

**Editor's note:** This section is similar to former § 22-30-115 as it existed prior to 1992.

**22-30-116. Approval of the plan and submission to the commissioner.** After the public hearings required under section 22-30-115, the committee may make such changes in the proposed plan of organization as it deems appropriate. The committee shall formally approve the proposed plan of organization within sixty days after the last such public hearing. Within ten days after such approval, the committee shall forward to the commissioner a copy of the approved proposed plan of organization, with a map showing the proposed boundaries of each school district affected by the proposed plan of organization. The commissioner shall either approve the proposed plan of organization as submitted by the committee or return the proposed plan of organization to the committee with suggested modifications or amendments. The commissioner and the committee shall work together to develop a plan of organization that is mutually acceptable to both parties.

**Source: L. 92:** Entire article R&RE, p. 504, § 1, effective June 1. **L. 96:** Entire section amended, p. 55, § 6, effective July 1.

**Editor's note:** This section is similar to former § 22-30-116 as it existed prior to 1992.

**22-30-117. Special school district organization election scheduled.** (1) The plan of organization shall be approved by the commissioner and the committee within one hundred twenty days following the last public hearing held pursuant to section 22-30-115 and shall be designated as the final approved plan of organization. At that time, the committee shall call for and establish the date of a special school district organization election wherein the eligible electors in each school district affected by the final approved plan of organization shall vote upon the adoption or rejection of the final approved plan of organization. The committee shall name a designated election official who shall be responsible for conducting the election. Such election shall be held on the date specified in the final approved plan of organization. The expense of the election shall be apportioned among the affected school districts based on population according to the most recent federal decennial census.

(2) If the estimated maximum increase in the mill levy for a new district or the mill levy to be imposed on annexed territory, as set forth in the plan of organization, represents an increase in the levy imposed on any property affected by the plan of organization, the question of the increase in the mill levy to be imposed upon the affected territory shall be submitted to the eligible electors residing in the affected territory prior to or at the special school district organization election as the final approved plan of organization. Approval of the increased levy by a majority of the eligible electors voting on the question who reside in the affected territory shall be a prerequisite to the implementation of the plan of organization.

**Source: L. 92:** Entire article R&RE, p. 504, § 1, effective June 1. **L. 96:** Entire section amended, p. 56, § 7, effective July 1. **L. 98:** (1) amended, p. 433, § 4, effective August 5.

**22-30-118. Meeting to explain final approved plan.** Prior to the special school district organization election, the committee shall meet with the eligible electors of each area affected by the final approved plan of organization in a convenient place within each area to explain the final approved plan of organization. The committee shall arrange for such meeting and shall give public notice thereof as required in section 22-30-115 (2) and in such other manner as may be deemed appropriate by the committee.

**Source: L. 92:** Entire article R&RE, p. 504, § 1, effective June 1. **L. 96:** Entire section amended, p. 66, § 25, effective July 1.

**Editor's note:** This section is similar to former § 22-30-119 as it existed prior to 1992.

**22-30-119. Certificate of return - map.** (1) After the county clerk and recorder in each county in which the special school district organization election is held has surveyed the returns of such election, a certificate of return shall be retained on file in each office of the county clerk and recorder.

(2) If the majority vote in each affected school district is in favor of the final approved plan of organization and any increase in the mill levy to be imposed on territory affected by the plan of organization is approved by the eligible electors residing within the affected territory, the plan of organization shall be deemed adopted. If the plan of organization is adopted and it results in creation of a new school district, the county clerk and recorder in each county in which the special school district organization election was held shall furnish to the commissioner a map and legal description of the new school district with the name and number by which the same shall be designated. If the plan of organization is adopted and it results in the detachment and annexation of territory between existing school districts, the county clerk and recorder in each county in which the special school district organization election was held shall furnish to the commissioner a map and legal description of the affected school districts following detachment and annexation of the territory.

**Source: L. 92:** Entire article R&RE, p. 504, § 1, effective June 1. **L. 96:** Entire section amended, p. 56, § 8, effective July 1.

**Editor's note:** This section is similar to former § 22-30-123 as it existed prior to 1992.

**22-30-120. New school district - powers.** (1) Where the final approved plan of organization results in the creation of a new school district, if a majority of the votes cast in each affected school district in the special school district organization election are in favor of the final approved plan of organization and a majority of the eligible electors residing in the new school district voting on the question approve the estimated maximum increase in the mill levy, if any, to be imposed within the new district, then on the date specified in the final approved plan of organization, but in no event prior to the certification of the special school district organization election, the new school district shall become a body corporate and as such shall organize under the name and number stated in the final approved plan of organization and in such name may take, hold, and convey property, both real and personal, and be a party to suits and contracts.

(2) If the final approved plan of organization results in the detachment and annexation of territory between existing school districts and a majority of the votes cast in each affected school district in the special school district organization election are in favor of the final approved plan of organization and the eligible electors residing within the affected territory approve the imposition of the mill levy imposed in the annexing school district, if greater than that imposed in the detaching school district, the detachment and annexation shall be effective for all purposes on the date specified in the plan of organization but in no event prior to the certification of the special school district organization election. The detaching school district and the annexing school district shall continue as bodies corporate in the same manner as prior to the detachment and annexation.

**Source: L. 92:** Entire article R&RE, p. 505, § 1, effective June 1. **L. 96:** Entire section amended, p. 57, § 9, effective July 1.

**Editor's note:** This section is similar to former § 22-30-124 as it existed prior to 1992.

**22-30-120.5. Effective date for purposes of school finance.** Notwithstanding the provisions of section 22-30-120, for purposes of determining funding under the "Public School Finance Act of 1994", article 54 of this title, any plan of organization approved at a special school district organization election shall take effect on the next July 1 following certification of the election results.

**Source: L. 96:** Entire section added, p. 57, § 10, effective July 1.

**22-30-121. Rejection of final approved plan.** (1) The plan of organization shall be deemed rejected if:

(a) The majority vote in any affected school district at the special school district organization election is not in favor of the final approved plan of organization; or

(b) A majority of the eligible electors who reside in territory that would be subject to an increase in the mill levy, if required by the final approved plan of organization, does not approve the mill levy increase.

(2) (a) If the final approved plan of organization involves fewer than three existing school districts and the final approved plan of organization is rejected, the committee shall be dissolved.

(b) If the final approved plan of organization involves three or more existing school districts and the final approved plan of organization is approved in at least two of the affected school districts, the members of the planning committee who were appointed from the approving school districts may continue as a planning committee and prepare and submit a new plan of organization involving only those school districts in which the plan of organization was approved.

**Source: L. 92:** Entire article R&RE, p. 505, § 1, effective June 1. **L. 96:** Entire section amended, p. 58, § 11, effective July 1.

**Editor's note:** This section is similar to former § 22-30-125 as it existed prior to 1992.

**22-30-121.5. New school district - election concerning financial matters.** When there is a reorganization under the provisions of this article and the final approved plan of organization requires an election concerning financial matters, the chair of the committee shall call for a special election concerning financial matters in the new or annexing school district. The special election shall be held on the date specified in the final approved plan of organization and may be held in conjunction with the election on the approved plan of organization. If a mill levy increase is required under the final approved plan of organization for any territory affected by the final approved plan of organization, approval of such a mill levy increase by the eligible electors residing in such territory is a prerequisite to adoption of the final approved plan of organization.

**Source: L. 96:** Entire section added, p. 58, § 12, effective July 1.

**22-30-122. Election of school directors in new school districts.** (1) When a new school district is formed under the provisions of this part 1, the chair of the committee shall call for a special election in such new school district for the selection of a board of education for the school district, to be held on the day specified in the final approved plan of organization. At such election, five or seven school directors, the number having been established in the final approved plan of organization pursuant to the provisions of section 22-30-114 (1)(h), shall be elected for four-year terms as follows:

(a) When five school directors are to be elected at such election, two school directors shall be elected to serve until the next regular biennial school election and three school directors shall be elected to serve until the second regular biennial school election. As the term of office of each school director expires, a successor shall be elected for a four-year term of office.

(b) When seven directors are to be elected at such election, three school directors shall be elected to serve until the next regular biennial school election and four school directors shall be elected to serve until the second regular biennial school election. As the term of office of each school director expires, a successor shall be elected for a four-year term of office.

(c) The election of new school directors pursuant to this section shall be held in accordance with the "Colorado Election Code of 1980", referred to after January 1, 1993, as the "Uniform Election Code of 1992", articles 1 to 13 of title 1, C.R.S., except as otherwise provided in this article.

(2) Within ten days after the first election of members of the board of education, the members so elected for such new school district shall meet and shall elect officers as provided by law and thereupon enter upon and perform all the duties and exercise all the powers of a board of education. Such officers shall be selected to serve until the next regular biennial school election.

(3) When the members of the board of education of the new school district assume their duties as provided in this article, the board of education of any school district situated wholly within said new school district shall cease to function, and the terms of office of the members thereof shall thereupon automatically expire.

(4) Any person desiring to be a candidate for the office of director of a new school district formed under the provisions of this article shall be an eligible elector of the school district and, if directors in such new school district are elected under a director district plan of representation, a resident of the director district which the candidate seeks to represent. Each such candidate shall be nominated in the manner otherwise provided by law for school directors.

**Source: L. 92:** Entire article R&RE, p. 505, § 1, effective June 1. **L. 96:** IP(1) amended, p. 59, § 13, effective July 1.

**Editor's note:** This section is similar to former § 22-30-126 as it existed prior to 1992.

**22-30-123. Status of old school district - assets.** (1) When a portion of the territory of a school district is included within a new school district organized under the provisions of this article, such portion of the territory of the old school district shall be detached by operation of law when the new school district becomes a body corporate, and it shall become territory of the new school district. When all of the territory of an old school district is included within a new school district or school districts, if the eligible electors of more than one proposed new school district simultaneously adopt the plans of organization, the corporate status of the old school district or school districts shall be dissolved by operation of law when said new school district becomes a body corporate.

(2) Unless otherwise provided in the plan of organization, when a new school district formed under this article embraces all of the territory of an old school district, all of the assets of the old school district, including all personal and real property, except moneys then on hand or to be received from previously made tax levies for the satisfaction of bonded indebtedness, shall become the property of the new school district. The board of education of the successor new school district as designated in the plan of organization shall have all rights, powers, and duties for administering payment of said outstanding bonded indebtedness obligations in accordance with section 22-30-114 (2).

(3) Unless otherwise provided in the plan of organization, when only a portion of the territory of a school district is included within a new school district organized under the provisions of this article, or when all of the territory of an old school district is included in more than one new school district organized simultaneously, all of the assets of the old school district shall be apportioned between the old school district and the new school district, or between the two or more new school districts, if applicable, in the manner prescribed in subsection (4) of this section. If the corporate status of the old school district is not dissolved as a result of the organization of the new school district, the board of education of the old school district shall continue to perform duties and exercise powers delegated concerning the administering of the payment of its previously incurred bonded indebtedness, even though such territory is detached, except insofar as a new school district has voted to assume a proportionate share of said bonded indebtedness in the manner authorized by law. If the corporate status of the old school district is dissolved as a result of it having been wholly included within a new school district or school districts as specified in subsection (1) of this section, the board of education of the new school district shall perform the duties and exercise the powers delegated for administering payment of such bonded indebtedness with due regard to any proportionate share thereof which may have been assumed by a new school district in the manner authorized by law.

(4) Unless otherwise provided in the plan of organization, when the conditions prescribed in subsection (3) of this section occur, all of the assets of the old school district, including all personal and real properties except moneys then on hand or to be received from previously made tax levies for the satisfaction of bonded indebtedness, shall be apportioned between the old school district and the new school district or school districts or between the two or more new school districts, if applicable, as follows:

(a) All real property shall remain or become the property of the old school district or new school district in which located.

(b) All personal property, except cash assets, but including moneys then on hand or to be received from previously made tax levies for the satisfaction of bonded indebtedness, shall remain or become the property of the old school district or new school district in which located.

(c) All cash assets, except moneys then on hand or to be received from previously made tax levies for the satisfaction of bonded indebtedness, shall be apportioned between the old school district and the new school district or between the two or more new school districts, if applicable, on the basis of the most recent annual report of school enrollment of each such old school district. The apportionment of moneys under this paragraph (c) shall be made by the county treasurer, under the direction of the commissioner and in accordance with the provisions of the plan of organization, monthly as the moneys become available. If there are any unpaid school district taxes on the date upon which the new school district becomes a body corporate other than taxes levied for the satisfaction of bonded indebtedness, the county treasurer, under the direction of the commissioner and in accordance with the provisions of the plan of organization, shall apportion the revenues from such unpaid taxes monthly, when such revenues accrue after the new school district has become a body corporate, between the old school district and the new school district or school districts, or between the two or more new school districts, if applicable, in accordance with the location of the property from which such tax revenues shall accrue.

(5) (a) In the event only one new school district embraces all of the territory of an old school district, the new school district shall assume all of the outstanding obligations and liabilities of the dissolved school district, except those for previously incurred bonded indebtedness; but bonded indebtedness incurred by the former school district may be assumed by the new school district as provided in section 22-30-125.

(b) When the old school district remains in existence, even though a portion of the territory has been incorporated within a new school district, previously incurred bonded indebtedness of such old school district shall be paid as provided in sections 22-30-124 and 22-42-122; and, except when the plan of organization provides otherwise, the school district from which the territory was removed shall remain liable for all other previously incurred liabilities and obligations.

(c) Unless otherwise provided in the plan of organization, when two or more new school districts organized simultaneously shall include all of the territory of an old school district, each new school district shall be jointly and severally liable for all of the outstanding liabilities and obligations of the dissolved school district, except those outstanding obligations and liabilities previously incurred for bonded indebtedness; but a proportionate share of the previously incurred bonded indebtedness may be assumed as provided in section 22-30-125.

(6) If, upon the effective date of the organization of a new school district, as specified in section 22-30-120, a school district included in a plan of organization has a warrant indebtedness or outstanding liability, other than bonded indebtedness, in excess of the equivalent of one-half mill on its valuation for assessment, then the board of education of any successor school district is authorized to levy a special tax, not to exceed one mill, against the taxable property of the old school district, the revenue from which shall be applied to the retirement of the warrant indebtedness or outstanding liabilities of such school district. When they are retired, the levy

shall be discontinued. The procedures to be followed under the provisions of this subsection (6) shall be the same as provided in this title for the retirement of bonded indebtedness.

**Source: L. 92:** Entire article R&RE, p. 506, § 1, effective June 1.

**Editor's note:** This section is similar to former § 22-30-127 as it existed prior to 1992.

**22-30-124. Existing bonded indebtedness.** (1) The bonded indebtedness of any school district outstanding at the time of inclusion of all or any part of such school district's territory in a new school district organized under this part 1, or in an existing school district as part of a detachment and annexation under this part 1, shall be paid in the following manner:

(a) All of said bonded indebtedness of such old school district shall be paid by the old school district that issued and owes the same by a special tax levied from time to time as may be necessary by the board of education of the new school district or the annexing school district, which special tax shall be levied upon the same taxable property that would have been levied upon to pay said indebtedness of said old school district if no reorganization had occurred, except as is provided in this article to the contrary.

(b) If the assumption of all of said bonded indebtedness by one new school district or an annexing school district has been approved as provided in section 22-30-125, such bonded indebtedness shall be paid in the manner provided by law for the paying of any bonded indebtedness that the new school district contracts pursuant to section 22-30-127 or that the annexing school district contracts pursuant to article 42 of this title.

(c) If the assumption of only a portion of said bonded indebtedness, as provided in the plan of organization, has been approved by any new or annexing school district, as provided in section 22-30-125, such portion of the bonded indebtedness shall be paid by a tax levied from time to time on all the taxable property located within the new or annexing school district.

(2) Whenever two or more old school districts, or portions of such school districts, have been reorganized and included within a new school district and whenever an old school district has been dissolved and annexed into a school district or school districts, under the provisions of this article 30, and, at the time of such reorganization or dissolution and annexation, one or more of the old school districts has outstanding bonded indebtedness, which indebtedness has not been assumed by the new school district or annexing school district pursuant to section 22-30-125, the following duties and responsibilities shall be performed by the following officers:

(a) The board of education of the new school district or annexing school district shall certify to the board of county commissioners under separate headings:

(I) The numbers of all old school districts that had any bonded indebtedness outstanding at the time the old school districts were reorganized and united into the new school district or dissolved and annexed into the existing school district;

(II) The legal description of the property of the old school districts, which property is liable for payment of all or a portion of the outstanding bonded indebtedness of the old school districts;

(III) The amount of the outstanding indebtedness; and

(IV) The amount required for the ensuing calendar year to meet the interest and principal falling due therein.

(b) The board of county commissioners shall levy, segregated under separate headings for the old school districts and for the whole of the new school district or the annexing school district, the several amounts properly applicable thereto for taxes at the same time that other taxes are levied and at such rates, as to each old school district and as to the whole of the new school district or annexing school district, for the payment of the money required for the amounts of either principal or interest, or both, and for the other funds needed by the new school district or annexing school district, certified by the board of education as will produce the several amounts so certified.

(c) The amounts of the taxes that are levied on the several portions of the new school district and on the entire new school district, or on the several portions of the annexing school district and on the entire annexing school district, shall be placed in separate columns in the tax book, which columns shall be headed "special school tax" and shall be subdivided into separate columns designated by the numbers of the old school districts by which the bonded indebtedness was issued, showing what portion of the special tax is for the purposes of the entire new school district or entire annexing school district and what portion is for interest or principal of bonded indebtedness of old school districts, to which indebtedness the old school districts were subject at the time of reorganization or dissolution, and inclusion of the old school districts in the new school district or annexation of the old school district by the existing school district.

(d) The county assessor and the county treasurer shall arrange their tax schedules and books to conform to the provisions of this section and with column headings respectively for the entire new school district or entire annexing school district subdivided into columns designated by parentheses, with the number of the old school district by which the bonded indebtedness was created and which indebtedness is undischarged, and showing, as to each property listed, the amount of tax properly levied on the property on account of the bonded indebtedness existing against the property as a portion of the old school district reorganized or dissolved, and included within the new school district or annexed to the existing school district at the time of the levy.

**Source: L. 92:** Entire article R&RE, p. 509, § 1, effective June 1. **L. 94:** (1)(c) amended, p. 1278, § 2, effective May 22. **L. 96:** (1) amended, p. 59, § 14, effective July 1. **L. 2019:** (2) amended, (SB 19-183), ch. 111, p. 476, § 3, effective August 2.

**Editor's note:** This section is similar to former § 22-30-128 as it existed prior to 1992.

**22-30-125. Election on assuming the existing bonded indebtedness.** (1) The committee may submit the issue of assuming the bonded indebtedness of any school district, or of any portion thereof, existing at the time of inclusion in the proposed new school district or proposed to be included in a detachment and annexation to the eligible electors of such new or annexing school district. If the committee so decides, the question shall be submitted at the special school district organization election.

(2) (a) The election shall be held pursuant to the provisions of section 22-30-104. The outstanding bonded indebtedness incurred by more than one school district, or the proportionate shares thereof, may be assumed simultaneously by a new school district under the provisions of this section through the submission of a single ballot, but voting on separate amounts or alternative voting on one ballot shall be prohibited.

(b) If one or more whole school districts have been included in a new school district, the ballot shall contain a statement of the amount or amounts of outstanding bonded indebtedness proposed to be assumed by the new school district.

(c) If only a portion of the territory of an old school district has been included in a new school district, the ballot shall contain a statement of the proportionate share of the outstanding bonded indebtedness incurred by said old school district to be assumed by the new school district as set forth in the plan of organization.

(d) If printed ballots are used, the ballot shall be printed or typewritten and shall contain the words "official ballot", below which shall be set forth the amount of outstanding bonded indebtedness to be assumed, or that a proportional share of such amount is proposed to be assumed, as the case may be, by the new or annexing school district, the name and number of each old school district that incurred said bonded indebtedness, and, if the ballot contains more than one amount to be assumed, the total of such amounts.

(3) If a majority of the eligible electors voting on the proposed question vote for the assumption of the bonded indebtedness, the public officials shall perform the duties set forth in sections 22-42-117 to 22-42-121 that are necessary to assure that the assumed bonded indebtedness is paid in the manner provided by law for the paying of any bonded indebtedness that the new or annexing school district contracts.

**Source: L. 92:** Entire article R&RE, p. 511, § 1, effective June 1. **L. 94:** (2)(c) amended, p. 1278, § 3, effective May 22. **L. 96:** (1), (2)(d), and (3) amended, p. 59, § 15, effective July 1.

**Editor's note:** This section is similar to former § 22-30-137 as it existed prior to 1992.

**22-30-125.5. Authorization of new bonded indebtedness or assumption of existing bonded indebtedness.** No new bonded indebtedness shall be authorized and no existing bonded indebtedness shall be assumed unless approved by a majority of votes cast by the eligible electors of the school district that will issue or assume such bonded indebtedness at the same election at which the plan of organization is approved or at a subsequent election.

**Source: L. 94:** Entire section added, p. 1278, § 4, effective May 22.

**22-30-126. Limit of bonded indebtedness - new school district.** (1) Any new school district organized under this article shall have a limit of bonded indebtedness of the greater of the following:

(a) Twenty percent of the latest valuation for assessment of the taxable property in such school district, as certified by the county assessor to the board of county commissioners; or

(b) Six percent of the most recent determination of the actual value of the taxable property in the school district, as certified by the county assessor to the board of county commissioners.

(2) The indebtedness of the old school districts or parts of school districts constituting the new school districts shall not be considered in fixing the limit of bonded indebtedness; but, if any new school district shall assume the bonded indebtedness of any school district or school districts, or a proportionate share thereof, existing at the time of inclusion in the new school

district, pursuant to the provisions of section 22-30-125, such bonded indebtedness shall be included in the limitation.

**Source: L. 92:** Entire article R&RE, p. 513, § 1, effective June 1. **L. 96:** Entire section amended, p. 60, § 16, effective July 1.

**Editor's note:** This section is similar to former § 22-30-129 as it existed prior to 1992.

**22-30-127. New school district - bonded indebtedness.** (1) Any new school district organized under the provisions of this article has the power and authority to contract bonded indebtedness in the same manner and under the same procedure for the issuance of bonds as is provided by law for the issuance of such bonds by other school districts.

(2) Any new school district has the power to issue refunding bonds for the purpose of refunding outstanding indebtedness of said new school district in the same manner and procedure as is provided by law for the issuance of such bonds by other school districts.

(3) Any new school district has the power to issue refunding bonds for the purpose of refunding outstanding indebtedness of old school districts, which old school districts have been reorganized or dissolved, and included within said new school district and which indebtedness has been assumed by said new school district pursuant to section 22-30-125. Such refunding bonds shall be issued in the same manner as if the indebtedness being refunded were indebtedness originally contracted by the new school district under the provisions of this article.

(4) Any new school district has the power to issue refunding bonds for the purpose of refunding outstanding bonded indebtedness of old school districts, which old school districts have been reorganized or dissolved, and included within said new school district, and which indebtedness has not been assumed by the new school district, in the same manner as if the indebtedness being refunded were indebtedness originally contracted by the new school district under the provisions of this article, except for the following particulars:

(a) Said bonds shall be designated as refunding bonds of the old school district which contracted the original indebtedness in the first instance. The refunding bonds shall be payable from the same funds which are to be derived from the same source as would have been used to pay the original bonds of the old school district if no refunding thereof had ever occurred.

(b) The covenants and agreements in and relating to such refunding bonds shall be made and entered into by the new school district as successor to the old school district, and all necessary actions shall be taken by the board of education of the new school district as successor to the board of education of the old school district.

(5) Whenever any old school district has been reorganized and parts thereof included within two or more new school districts, and whenever an old school district has been dissolved and parts thereof included in two or more other school districts, under the provisions of this article, and said old school district has outstanding bonded indebtedness, the refunding of such outstanding indebtedness of said former school district shall require affirmative action by a majority of the members of the boards of education of each new school district within which any part of the lands formerly included within said old school district are now included, except as is provided in this article to the contrary.

(6) Any school district from which land has been detached and included within any other school district, by reorganization or any other lawful means, and which school district has

retained its lawful corporate existence subsequent to the detachment of such land from said school district shall be specifically exempted from the requirements and provisions of subsection (5) of this section, and the board of education of said school district from which land has been detached may refund its bonds to which such detached land is subject with or without concurrence or action by the board of education of the school district within which said detached land is then included.

**Source: L. 92:** Entire article R&RE, p. 513, § 1, effective June 1.

**Editor's note:** This section is similar to former § 22-30-130 as it existed prior to 1992.

**22-30-128. Detachment and annexation of territory - exemptions from school district organization planning process.** (1) Notwithstanding the provisions of this article, where territory in a school district has been erroneously included on the property tax rolls of an adjoining school district for at least one year and the error was unintentional, said territory may be detached and annexed to said adjoining school district as provided in this subsection (1) and subsections (2) to (6) of this section, without complying with the school district organization planning process as specified in this article.

(2) (a) The boards of education of the detaching and annexing school districts specified in subsection (1) of this section shall each adopt a resolution agreeing to the detachment and annexation of the territory erroneously included on the annexing school district's property tax rolls. The resolutions shall include a legal description of the territory to be detached and annexed and a legal description of the new boundaries of the school districts following detachment and annexation. The proposed new school district boundaries shall correspond to the legal description of the territory to be detached and annexed.

(b) Following adoption of the resolutions, the boards of education of the school districts shall submit to the commissioner a certified copy of their respective resolutions and a map of the detaching and annexing school districts after the proposed detachment and annexation of territory. The commissioner shall approve the resolutions if the commissioner or his or her designee determines that they comply with the provisions of this section.

(3) (a) After approval of the resolutions by the commissioner, except as otherwise provided in subsection (4) of this section, the board of education of the detaching school district shall call for and establish the date of a special school district organization election wherein the eligible electors who reside within the territory proposed to be detached and annexed shall vote upon the detachment and annexation. The board of education of the detaching school district shall name a designated election official who shall be responsible for conducting the election.

(b) If a special school district organization election is held pursuant to paragraph (a) of this subsection (3) and there is no suitable polling place within the territory to be detached and annexed, the board of education of the detaching school district shall designate one or more polling places beyond the limits of said territory.

(c) If a majority of the eligible electors voting at the special school district organization election held pursuant to paragraph (a) of this subsection (3) vote in favor of the detachment and annexation, or if no eligible electors vote in the election, the territory shall be detached and annexed upon the thirtieth day after the date of the election; except that, if the detaching and annexing school districts and the county assessor have located the territory in the annexing

school district for longer than one tax year since the filing of the plat for a subdivision located within the territory, the detachment and annexation shall be effective as of the date that the approved subdivision plat was accepted for recordation and filed in the county in which the territory is located.

(4) (a) Notwithstanding the provisions of subsection (3) of this section, the detaching school district need not call a special school district organization election if the board of education of the detaching school district submits the resolutions required in paragraph (a) of subsection (2) of this section and certifies to the commissioner that:

(I) Ten or fewer eligible electors reside within the territory to be detached and annexed and that each of these eligible electors has submitted to the board of education of the detaching school district a notarized statement of consent to the proposed detachment and annexation; or

(II) No eligible electors reside within the territory proposed to be detached.

(b) If no election is held as provided in paragraph (a) of this subsection (4), the proposed detachment and annexation of territory shall take effect on the thirtieth day after the commissioner's approval of the resolutions under paragraph (b) of subsection (2) of this section, except as otherwise provided in paragraph (c) of subsection (3) of this section.

(5) After the election, as provided in subsection (3) of this section, or certification, as provided in subsection (4) of this section, the commissioner shall forward to the clerk and recorder of the county in which the election is held and to the county assessor of the county in which the territory is located copies of the resolutions submitted under this section, including the legal descriptions of the school districts after detachment and annexation, and a map of the new boundaries for the school districts.

(6) The assets and liabilities of the school district from which territory was detached pursuant to this section shall be apportioned, distributed, and paid in the manner prescribed in sections 22-30-123 and 22-30-124.

(7) Repealed.

**Source: L. 95:** Entire section added, p. 603, § 1, effective May 22. **L. 96:** (1) amended and (7) added, p. 99, § 1, effective March 20; (3) and IP(4)(a) amended, p. 66, § 26, effective July 1.

**Editor's note:** Subsection (7)(f) provided for the repeal of subsection (7), effective December 31, 1998. (See L. 96, p. 99.)

**22-30-129. Dissolution and annexation - exemptions from the school district organization planning process.** (1) Notwithstanding any provision of this article 30 to the contrary, a school district board of education and one or more of the contiguous school districts' boards of education may follow the procedures and requirements specified in this section for the dissolution and annexation of the territory of the school district if at least one of the following conditions exist:

(a) The state board, pursuant to the provisions of section 22-11-209, declares the school district is no longer accredited or directs the school district to reorganize;

(b) The school district does not provide within the schools of the school district a full twelve-grade educational program; or

(c) The school district enrolls fewer than fifty students.

(2) The local school board of the school district to be dissolved and annexed shall form an organization planning committee consisting of representation from the local school board of the dissolving school district and the local school boards of each school district that is contiguous to the dissolving school district. The local school board of the dissolving school district shall notify the commissioner when an organization planning committee is created pursuant to this section. Within sixty days after convening, the organization planning committee shall adopt a proposed plan of organization that dissolves the school district and annexes the territory of the school district to one or more of the contiguous school districts.

(3) A plan of organization adopted pursuant to this section must at a minimum address the following issues:

(a) The educational needs of students in the affected school districts, including the convenience and welfare of students;

(b) The provision of diverse educational opportunities for students;

(c) Facility use;

(d) Establishment of boundaries by legal description for the school districts that annex portions of the dissolving school district pursuant to the plan of organization;

(e) Equitable distribution of the properties and cash assets of the dissolving school district to the annexing school districts. In considering an equitable distribution of the properties and cash assets of the dissolving school district, the committee shall consider:

(I) The outstanding general liabilities and obligations of the annexing school districts;

(II) The number of students attending public school in each annexing school district before and after the dissolution and annexation;

(III) The valuation for assessment of taxable property in each affected school district;

(IV) The amount of outstanding bonded indebtedness of each affected school district;

(V) The purpose for which the bonded indebtedness in each affected school district was incurred; and

(VI) The value, location, and disposition of all real properties located in the dissolving school district.

(f) The plan of representation for the members of the local school boards of the annexing school districts; and

(g) If the dissolving school district has bonded indebtedness obligations or liabilities, designation of each annexing school district as a successor for the purpose of administering payment of the bonded indebtedness obligations of the dissolved school district. The local board of each designated school district has the same powers, rights, duties, and responsibilities of the board of education of the dissolving school district for administering payment of the portions of the outstanding bonded indebtedness obligations and liabilities of the dissolving school district that pertain to the property annexed by the designated school district. The local board of each designated school district shall hold in trust all revenue that accrues from the tax levies to satisfy the obligations and liabilities, and all interest that may accrue to the revenue as a result of investments authorized by law, for the sole purpose of satisfying the bonded indebtedness obligations and liabilities of the dissolving school district.

(4) After the organization planning committee adopts the proposed plan of organization as provided in subsection (2) of this section, the committee shall comply with the requirements of section 22-30-115 concerning filing a copy of the proposed plan of organization with the commissioner and the local school boards of the affected school districts and giving notice of

and holding public hearings on the proposed plan. After the public hearings, the organization planning committee shall comply with the requirements specified in section 22-30-116, and the committee and the commissioner shall work together to develop a final plan of organization that is mutually acceptable to both parties as provided in section 22-30-116. The organization planning committee and the commissioner shall finally adopt the plan of organization within sixty days after the last public hearing held pursuant to this subsection (4) and shall designate the plan as the final plan of organization.

(5) Within sixty days after the final plan of organization is designated, the local school boards of the affected school districts must each adopt the designated final plan of organization by written resolution. If a local school board does not adopt the final plan of organization:

(a) The planning committee is dissolved, if the final plan of organization involves only two existing school districts or is not approved by the local school boards of at least two of the affected school districts; or

(b) The planning committee may continue and prepare and submit to the commissioner a new proposed plan of organization involving only those school districts that approve the final plan of organization if the final plan of organization involves three or more existing school districts and is approved by the local school boards of at least two of the affected school districts.

(6) Following approval of the final plan of organization by all of the local school boards of the affected school districts, the county clerk and recorder in each county in which an affected school district is located shall submit to the commissioner a map and legal description of the annexing school districts. The local school boards of the annexing school districts shall make the final plan of organization available for inspection by members of the public upon request.

(7) The dissolution and annexation of a school district is effective for all purposes on the date specified in the final plan of organization; except that, for purposes of determining funding pursuant to the "Public School Finance Act of 1994", article 54 of this title 22, a final plan of organization approved by the affected local school boards pursuant to this section takes effect on the next July 1 following submission of the map and legal description of the annexing school districts to the commissioner pursuant to subsection (6) of this section. The annexing school districts continue as bodies corporate in the same manner as before approval of the organization plan.

(8) If a school district that is dissolved and annexed pursuant to this section has a warrant indebtedness or outstanding liability, other than bonded indebtedness, in excess of the equivalent of one-half mill on the total valuation for assessment of the dissolving school district, then the local school board of a school district that annexes all or any portion of the dissolving school district, after the effective date of the dissolution and annexation and subject to voter approval, may levy a special tax, not to exceed one mill, against the taxable property of the dissolving school district that is annexed by the school district, the revenue from which must be applied to the retirement of the warrant indebtedness or outstanding liabilities of the dissolving school district. When the warrant indebtedness or outstanding liabilities are retired, the annexing school district shall discontinue the levy. The procedures to be followed pursuant to this subsection (8) are the same as provided in this title 22 for retirement of bonded indebtedness.

**Source: L. 2019:** Entire section added, (SB 19-183), ch. 111, p. 473, § 2, effective August 2.

PART 2

JOINT TAXATION DISTRICTS

**22-30-201. Joint taxation districts - authorized.** (1) (a) A plan of organization in which one or more new school districts are formed within the boundaries of an existing school district may provide that any two or more school districts included in the plan shall comprise a joint taxation district. The boundaries of the original school district shall be the boundaries of the joint taxation district. A joint taxation district formed pursuant to this part 2 shall be a body corporate and a political subdivision of the state.

(b) A joint taxation district may be formed to incur bonded indebtedness for the purposes listed in section 22-42-102 (2)(a) and raise and expend property taxes to retire such bonded indebtedness or to raise and expend additional local property tax revenues in excess of the participating school districts' total program, pursuant to section 22-54-108 or 22-54-108.5.

(2) (a) A plan of organization that involves a joint taxation district may provide that two or more school districts that result from the reorganization of a single school district may share the valuation for assessment of the taxable property in each school district for the purposes stated in the plan of organization, as limited under paragraph (b) of subsection (1) of this section.

(b) For the purpose of determining the limit of bonded indebtedness pursuant to section 22-42-104 for any school district that is participating in a joint taxation district, a portion of the bonded indebtedness of the joint taxation district, determined pursuant to the apportionment formula in the plan of organization, shall be added to the bonded indebtedness of the school district. The total bonded indebtedness of the joint taxation district, as apportioned among and added to the bonded indebtedness of the participating school districts, shall not cause any of the participating school districts to exceed its limit of bonded indebtedness pursuant to section 22-42-104.

(c) The plan of organization:

(I) May place a limit on the bonding capacity of the joint taxation district in addition to any other limitation on bonded indebtedness;

(II) Shall specify whether the joint taxation district shall continue indefinitely or for a specified period of time;

(III) Shall include a formula for the equitable apportionment of tax revenues from any property tax levied by the joint taxation district;

(IV) Shall include a formula for apportioning the bonded indebtedness of the joint taxation district for the purposes of section 22-42-104 among the participating school districts;

(V) Shall provide that the joint taxation district becomes a body corporate at the time the reorganization becomes effective or at some other time as specified in the plan of organization.

**Source: L. 96:** Entire part added, p. 60, § 17, effective July 1. **L. 2007:** (1)(b) amended, p. 38, § 3, effective March 7.

**22-30-202. Joint taxation board.** (1) (a) Any plan of organization that establishes a joint taxation district shall provide for the creation of a joint taxation district board and shall specify the membership of the board and the method of election or appointment and terms of office for members of the board. A joint taxation district board shall consist of not fewer than

five members, with each participating school district board of education entitled to at least one member on the joint taxation district board.

(b) The joint taxation district board created pursuant to paragraph (a) of this subsection (1) shall have the powers granted to it in the plan of organization as necessary to implement the provisions of this part 2. These powers may include, but are not limited to:

(I) Calling for and certifying elections with regard to bonded indebtedness;

(II) Calling for and certifying elections to raise and expend local property tax revenues in excess of the participating school districts' total program, pursuant to section 22-54-108 or 22-54-108.5;

(III) Any other powers that a school district may have with regard to issuing, paying, or refunding bonded indebtedness of the joint taxation district.

(2) For purposes of calling for and certifying elections with regard to bonded indebtedness, revenue, or spending limits that are under the authority of the joint taxation district board pursuant to the plan of organization, the joint taxation district board shall assume the powers and duties granted by law to a school district or a school district board of education.

**Source: L. 96:** Entire part added, p. 62, § 17, effective July 1. **L. 2007:** (1)(b)(II) amended, p. 38, § 4, effective March 7.

## ARTICLE 30.5

Charter Schools

**Law reviews:** For comment, "The Colorado Charter Schools Act and the Potential for Unconstitutional Applications under Article IX, Section 15 of the State Constitution", see 67 U. Colo. L. Rev. 171 (1996).

### PART 1

### CHARTER SCHOOLS ACT

**22-30.5-101. Short title.** This part 1 shall be known and may be cited as the "Charter Schools Act".

**Source: L. 93:** Entire article added, p. 1051, § 1, effective June 3. **L. 96:** Entire section amended, p. 667, § 3, effective May 2.

**22-30.5-102. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) It is the obligation of all Coloradans to provide all children with schools that reflect high expectations and create conditions in all schools where these expectations can be met;

(b) Education reform is in the best interests of the state in order to strengthen the performance of elementary and secondary public school pupils, that the best education decisions are made by those who know the students best and who are responsible for implementing the

decisions, and, therefore, that educators and parents have a right and a responsibility to participate in the education institutions which serve them;

(c) Different pupils learn differently and public school programs should be designed to fit the needs of individual pupils and that there are educators, citizens, and parents in Colorado who are willing and able to offer innovative programs, educational techniques, and environments but who lack a channel through which they can direct their innovative efforts.

(2) The general assembly further finds and declares that this part 1 is enacted for the following purposes:

(a) To improve pupil learning by creating schools with high, rigorous standards for pupil performance;

(b) To increase learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils who are identified as academically low-achieving;

(c) To encourage diverse approaches to learning and education and the use of different, innovative, research-based, or proven teaching methods;

(d) To promote the development of longitudinal analysis of student progress, in addition to participation in the Colorado student assessment program, to measure pupil learning and achievement;

(e) To create new employment options and professional opportunities for teachers and principals, including the opportunity to be responsible for the achievement results of students at the school site;

(f) To provide parents and pupils with expanded choices in the types of education opportunities that are available within the public school system;

(g) To encourage parental and community involvement with public schools;

(g.5) To address the formation of research-based charter schools that use programs that are proven to be effective;

(h) To hold charter schools accountable for performance through the "Education Accountability Act of 2009", including but not limited to meeting state, school district, and school targets for the measures used to determine the levels of attainment of the performance indicators;

(i) To provide an avenue for citizens to participate in the educational process and environment;

(j) To provide citizens with multiple avenues by which they can obtain authorization for a charter school.

(3) In authorizing charter schools, it is the intent of the general assembly to create a legitimate avenue for parents, teachers, and community members to implement new and innovative methods of educating children that are proven to be effective and to take responsible risks and create new and innovative, research-based ways of educating all children within the public education system. The general assembly seeks to create an atmosphere in Colorado's public education system where research and development in developing different learning opportunities is actively pursued. As such, the provisions of this part 1 should be interpreted liberally to support the findings and goals of this section and to advance a renewed commitment by the state of Colorado to the mission, goals, and diversity of public education.

**Source: L. 93:** Entire article added, p. 1051, § 1, effective June 3. **L. 94:** (2)(g.5) added, p. 1378, § 1, effective May 25. **L. 96:** IP(2) and (3) amended, p. 668, § 4, effective May 2; (2)(c)

amended, p. 752, § 1, effective May 22. **L. 2004:** (2)(c), (2)(d), (2)(e), (2)(g.5), (2)(h), and (3) amended and (2)(i) and (2)(j) added, p. 1569, § 1, effective June 3. **L. 2009:** (2)(h) amended, (SB 09-163), ch. 293, p. 1534, § 25, effective May 21.

**Cross references:** For the "Education Accountability Act of 2009", see article 11 of this title.

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

(1) "At-risk pupil" means a pupil who, because of physical, emotional, socioeconomic, or cultural factors, is less likely to succeed in a conventional educational environment.

(1.5) "Automatic waiver" means the waiver of a state statute or state board rule:

(a) That is included on the list of automatic waivers adopted by rule of the state board;

(b) That is available to each charter school, including an institute charter school, and is valid for the initial, or subsequent renewal, term of the charter contract; and

(c) For which a charter school, including an institute charter school, is not required to submit a statement that specifies the manner in which the charter school intends to comply with the intent of the automatically waived state statute or state board rule.

(2) "Charter school" means a public school that enters into a charter contract pursuant to the provisions of this part 1.

(3) "Department" means the department of education created pursuant to section 24-1-115, C.R.S.

(3.5) "Education management provider" means a nonprofit, not-for-profit, or for-profit entity that contracts with a charter school to provide, manage, or oversee all or substantially all of the educational services provided by the charter school. Education management provider does not include a charter school collaborative established pursuant to part 6 of article 30.5 of this title.

(4) "Local board of education" means the school district board of education.

(5) "Moratorium" means a school district's official policy of refusing to authorize charter schools and an ongoing pattern or practice of refusing to accept or review charter school applications.

(6) "Online pupil" means:

(a) For the 2007-08 budget year, a child who receives educational services predominantly through an online program or online school created pursuant to article 30.7 of this title.

(b) For the 2008-09 budget year, and for each budget year thereafter, a child who receives educational services predominantly through a multi-district online school, as defined in section 22-30.7-102 (9.5), created pursuant to article 30.7 of this title.

(6.5) "Private school" means a primary or secondary educational institution for students in kindergarten through twelfth grade or any portion thereof that may or may not have attained nonprofit status, that does not receive state funding through the "Public School Finance Act of 1994", article 54 of this title, and that is supported in whole or in part by tuition payments or private donations.

(6.6) "Pupil enrollment count day" has the same meaning as set forth in section 22-54-103 (10.5).

(6.7) "School food authority" means:

(a) A school district or the state charter school institute;

(a.3) A charter school collaborative formed pursuant to section 22-30.5-603;

(a.5) A board of cooperative services created pursuant to article 5 of this title that elects to operate as a school food authority pursuant to section 22-5-120; or

(b) A district charter school or an institute charter school that:

(I) The commissioner of education or his or her designee provisionally authorizes as a school food authority pursuant to section 22-32-120 (6); or

(II) The department of education authorizes as a school food authority pursuant to section 22-32-120 (5).

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

**Source: L. 93:** Entire article added, p. 1052, § 1, effective June 3. **L. 96:** IP(1) amended, p. 668, § 5, effective May 2. **L. 2002:** (1)(b.5) added, p. 1749, § 21, effective June 7. **L. 2004:** Entire section amended, p. 1570, § 2, effective June 3. **L. 2006:** (6.5) added, p. 669, § 9, effective April 28. **L. 2007:** (6) amended, p. 1085, § 6, effective July 1. **L. 2009:** (6.7) added, (SB 09-230), ch. 227, p. 1033, § 2, effective May 4. **L. 2010:** (6.7)(a) amended and (6.7)(a.5) added, (HB 10-1335), ch. 326, p. 1512, § 3, effective August 11; (6.7)(b)(I) amended, (HB 10-1422), ch. 419, p. 2076, § 40, effective August 11. **L. 2011:** (6.7)(a.3) added, (HB 11-1277), ch. 306, p. 1504, § 31, effective August 10. **L. 2012:** (6.6) added, (HB 12-1090), ch. 44, p. 150, § 6, effective March 22; (3.5) added, (SB 12-061), ch. 109, p. 375, § 2, effective April 13; (3.5) and (6) amended, (HB 12-1240), ch. 258, pp. 1333, 1316, §§ 53, 25, effective June 4; (3.5) added, (SB 12-067), ch. 131, p. 450, § 1, effective August 8. **L. 2014:** (1.5) added, (HB 14-1292), ch. 243, p. 902, § 3, effective May 21.

**Cross references:** For the short title ("Student Success Act") in HB 14-1292, see section 1 of chapter 243, Session Laws of Colorado 2014.

**22-30.5-104. Charter school - requirements - authority - rules - definitions** (1) A charter school shall be a public, nonsectarian, nonreligious, non-home-based school which operates within a public school district.

(2) (a) A charter school applicant cannot apply to, or enter into a charter contract with, a school district unless a majority of the charter school's pupils, other than online pupils, will reside in the chartering school district or in school districts contiguous thereto.

(b) A charter school shall be a public school of the school district that approves its charter application and enters into a charter contract with the charter school. In accordance with the requirement of section 15 of article IX of the state constitution, the charter school shall be subject to accreditation by the school district's local board of education pursuant to the school district's policy for accrediting the public schools of the school district adopted pursuant to section 22-11-307 and section 22-32-109 (1)(mm). The charter school shall also be subject to annual review by the department pursuant to section 22-11-210.

(3) (a) A charter school is subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, sex, sexual orientation, national origin, religion, ancestry, or need for special education services. A charter school is subject to any court-ordered desegregation plan in effect for the chartering school district. Enrollment in a charter school must be open to any child who resides within the school

district; except that a charter school is not required to make alterations in the structure of the facility used by the charter school or to make alterations to the arrangement or function of rooms within the facility, except as may be required by state or federal law. Enrollment decisions shall be made in a nondiscriminatory manner specified by the charter school applicant in the charter school application.

(b) As used in this subsection (3):

(I) "Protective hairstyle" includes such hairstyles as braids, locs, twists, tight coils or curls, cornrows, Bantu knots, Afros, and headwraps.

(II) "Race" includes hair texture, hair type, or a protective hairstyle that is commonly or historically associated with race.

(4) (a) A charter school shall be administered and governed by a governing body in a manner agreed to by the charter school applicant and the chartering local board of education. Effective July 1, 2013, each charter school that was initially chartered on or after August 6, 1997, shall organize as a nonprofit corporation pursuant to the "Colorado Nonprofit Corporation Act", articles 121 to 137 of title 7, C.R.S., which shall not affect its status as a public school for any purposes under Colorado law. Notwithstanding organization as a nonprofit corporation, a charter school shall annually complete a governmental audit that complies with the requirements of the department of education.

(b) An entity that holds a charter authorized pursuant to this part 1 may choose to contract with an education management provider, which education management provider may be a for-profit, a nonprofit, or a not-for-profit entity, so long as the charter school maintains a governing board that is independent of the education management provider.

(4.5) (a) In order to clarify the status of charter schools for purposes of tax-exempt financing, a charter school, as a public school, is a governmental entity. Direct leases and financial obligations of a charter school shall not constitute debt or financial obligations of the school district unless the school district specifically assumes such obligations.

(b) (Deleted by amendment, L. 2004, p. 1571, § 3, effective June 3, 2004.)

(5) Except as otherwise provided in sections 22-20-109, 22-32-115, and 22-54-109, a charter school shall not charge tuition.

(6) (a) Pursuant to contract, a charter school may operate free from specified school district policies and free from state rules, as provided in paragraph (b) of this subsection (6). Pursuant to contract, a local board of education may waive locally imposed school district requirements, without seeking approval of the state board; except that a charter school shall not, by contract or otherwise, operate free of the requirements contained in the "Public School Finance Act of 1994", article 54 of this title, the requirements specified in part 4 of article 11 of this title concerning school accountability committees, or the requirements contained in the "Children's Internet Protection Act", article 87 of this title.

(b) The state board shall promulgate rules that list the automatic waivers for all charter schools. In promulgating the list of automatic waivers, the state board shall consider the overall impact and complexity of the requirements specified in the statute and the potential consequences that waiving the statute may have on the practices of a charter school. In accordance with its rule-making authority, the state board may review the list of automatic waivers at its discretion. Notwithstanding any provision of this subsection (6)(b) to the contrary, the state board shall not include the following statutes on the list of automatic waivers:

(I) Section 22-9-106, concerning the performance evaluation system for licensed personnel;

(I.5) Section 22-32-109 (1)(b), concerning procedures for competitive bidding in the purchase of goods and services, except professional services;

(II) Section 22-32-109 (1)(n), concerning the annual school calendar and teacher-pupil contact hours;

(II.5) Section 22-32-110 (1)(y), concerning the power to accept and expend gifts, donations, or grants; and

(III) Part 2 of article 63 of this title 22, concerning the employment of licensed personnel.

(c) A school district, on behalf of a charter school, may apply to the state board for a waiver of a state statute or state rule that is not an automatic waiver. Notwithstanding any provision of this subsection (6) to the contrary, the state board may not waive any statute or rule relating to:

(I) School accountability committees as described in section 22-11-401;

(II) The assessments required to be administered pursuant to section 22-7-1006.3;

(III) School performance reports pursuant to part 5 of article 11 of this title;

(IV) The "Public School Finance Act of 1994", article 54 of this title 22;

(V) The "Children's Internet Protection Act", article 87 of this title 22;

(VI) The requirement to post on the internet the statutes for which waivers are granted as provided in section 22-44-305;

(VII) Any provisions of section 22-1-130 relating to notification to parents of alleged criminal conduct by charter school employees;

(VIII) Section 22-33-106.1 concerning suspension and expulsion of students in preschool through second grade; or

(IX) Subsection (3) of this section and sections 22-32-110 (1)(k) and 22-63-206 (1) relating to discrimination based on hair texture, hair type, or a protective hairstyle that is commonly or historically associated with race.

(d) Upon request of a charter applicant, the state board and the local board of education of the school district to which the charter applicant applies shall provide summaries of the state and district rules and policies to use in preparing a charter school application. The department shall prepare the summary of state rules within existing appropriations. A waiver of state rules or local school district regulations made pursuant to this subsection (6) must be for the term of the charter for which the waiver is made; except that a waiver of state statutes or state board rules by the state board is subject to periodic review as provided by state board rule and may be revoked if the waiver is deemed no longer necessary by the state board. A school district that applies to the state board for a waiver on behalf of a charter school is only required to provide a complete copy of the signed charter contract.

(7) (a) A charter school shall be responsible for its own operation including, but not limited to, preparation of a budget, contracting for services, facilities, and personnel matters.

(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).

(c) In no event shall a charter school be required to pay rent for space which is deemed available, as negotiated by contract, in school district facilities. All other costs for the operation and maintenance of the facilities used by the charter school shall be subject to negotiation between the charter school and the school district.

(d) A charter school or an institute charter school authorized pursuant to part 5 of this article that is operating in a school district building may purchase the building and the grounds upon which the building is located from the school district, at the school district's discretion, according to terms established by mutual agreement of the parties. If a charter school that has purchased a school building and grounds pursuant to this paragraph (d) vacates the school building and grounds or elects to sell the school building and grounds, the school district that sold the school building and grounds to the charter school pursuant to this paragraph (d) shall have first right of refusal to reacquire and purchase the property at fair market value or in accordance with other terms of repurchase established by mutual agreement of the parties.

(e) Notwithstanding the provisions of paragraphs (b) and (c) of this subsection (7) or the provisions of subsection (7.5) of this section, a school district that has space in district facilities that is unoccupied may sell the facilities or use the facilities for a different purpose and is not required to maintain ownership of the facilities for potential use by a charter school.

(7.5) (a) No later than November 1, 2016, and no later than November 1 each year thereafter, each school district that authorizes a charter school and that has or is expecting to have one or more vacant or underused buildings or vacant or underused land available during the next school year shall prepare a list of the vacant or underused buildings and land and provide the list, upon request, to charter schools authorized by the school district, charter school applicants, and other interested persons. The school district shall also post on its website a notice that the list of underused and vacant buildings and land is available to interested persons upon request. The school district must provide the list within two school days after receiving a request. No later than forty-five days after the school district posts the availability of the list or after receiving the list, whichever is later, a charter school of the school district or charter applicant may apply to the school district to use the building or the school district land as the location for the charter school. The local board of education shall review each application for use and, in a public meeting held no later than ninety days after the school district posts the availability of the list, approve or disapprove each application for use of the building or school district land. If the local board of education disapproves an application for use, it must explain at the public meeting and provide in writing to the applicant the reasons for disapproval.

(b) For purposes of this subsection (7.5), a building is considered underused if it has unused capacity to accommodate two hundred fifty students or more.

(8) A charter school shall be authorized to offer any educational program, including but not limited to an online program or online school created pursuant to article 30.7 of this title, that may be offered by a school district and that is research-based and has been proven to be effective, unless expressly prohibited by state law.

(9) All decisions regarding the planning, siting, and inspection of charter school facilities shall be made in accordance with section 22-32-124 and as specified by contract with the charter school's chartering school district.

(10) A charter school may apply for authorization as a school food authority pursuant to section 22-32-120.

(11) (a) If a charter school chooses to apply, alone or with a consortium of charter schools, for a grant through a nonformulaic, competitive grant program created by a federal or state statute or program, the charter school or consortium of charter schools is the local education agency only for the purposes of applying and determining eligibility for the grant and may request, pursuant to section 22-30.5-503 (3.5), that the state charter school institute act as a fiscal manager for the charter school or consortium of charter schools for purposes of grant management. The charter school or consortium of charter schools shall pay the fee, if any, imposed by the state charter school institute board as provided in section 22-30.5-503 (3.5).

(b) A charter school that applies for a grant pursuant to this subsection (11) shall provide to its authorizing district:

(I) A copy of the grant application at the time the application is submitted to the grant maker;

(II) Notice that the charter school did or did not receive the grant moneys; and

(III) If the charter school receives the grant moneys, a summary of the grant requirements, a summary of how the charter school is using the grant moneys, and periodic reports on the charter school's progress in meeting the goals of the grant as stated in its application.

(c) If a charter school intends to apply for a grant that the school's authorizing school district is also intending to apply for, the charter school shall seek to collaborate with the school district in the application and to submit the application jointly. If the charter school and the school district are unable to agree to collaborate in applying for the grant, the charter school may apply for the grant pursuant to this subsection (11) independently or in collaboration with other charter schools.

(12) Pursuant to the provisions of section 22-32-110 (1)(jj), a charter school shall not withhold records required for enrollment in another school or institution of higher education or the diploma, transcript, or grades of any student for failure to pay a fine or fee or to return or replace school property.

(13) Each charter school shall annually distribute to each employee informational materials relating to federal student loan repayment programs and student loan forgiveness programs, including updated materials, received from its chartering school board pursuant to section 22-32-109 (1)(pp). In addition to annual distribution, a charter school shall distribute the informational materials to newly hired employees as part of its employee orientation process. The charter school may distribute the informational materials to its employees through an e-mail to employees or as part of a mailing or regular communication to employees.

**Source: L. 93:** Entire article added, p. 1053, § 1, effective June 3. **L. 94:** (5) amended, p. 812, § 24, effective April 27; (3), (5), and (6) amended, p. 1378, § 2, effective May 25. **L. 96:** (6) amended, p. 752, § 2, effective May 22. **L. 97:** (2) amended, p. 585, § 14, effective April 30; (4) amended, p. 400, § 1, effective August 6. **L. 99:** (7)(b) amended, p. 1256, § 5, effective June 2; (4.5) and (8) added, p. 1209, § 1, effective August 4. **L. 2000:** (6) amended, p. 349, § 4, effective

April 10; (4) amended, p. 1855, § 55, effective August 2; (9) added, p. 519, § 1, effective August 2. **L. 2001:** (6) amended, p.1498, § 22, effective June 8. **L. 2002:** (2) and (8) amended, p. 1749, § 22, effective June 7. **L. 2003:** (6) amended, p. 2477, § 33, effective August 15. **L. 2004:** Entire section amended, p. 1571, § 3, effective June 3. **L. 2007:** (7)(e) added, p. 740, § 15, effective May 9; (7)(d) added, p. 1592, § 1, effective May 31; (8) amended, p. 1088, § 12, effective July 1. **L. 2008:** (3) amended, p. 1600, § 21, effective May 29. **L. 2009:** (7)(b) amended and (10) added, (SB 09-230), ch. 227, p. 1033, § 3, effective May 4; (2)(b) and (6)(b) amended, (SB 09-163), ch. 293, p. 1534, § 26, effective May 21; (6)(a) and (6)(b) amended, (SB 09-090), ch. 291, p. 1445, § 22, effective August 5. **L. 2010:** (7)(b) amended and (11) added, (SB 10-161), ch. 250, pp. 1115, 1117, §§ 1, 6, effective August 11. **L. 2011:** (11) amended, (HB 11-1089), ch. 55, p. 147, § 2, effective March 25; (7)(b) amended, (HB 11-1277), ch. 306, p. 1504, § 32, effective August 10. **L. 2012:** (11)(a) amended, (SB 12-121), ch. 177, p. 637, § 4, effective May 11; (8) amended, (HB 12-1240), ch. 258, p. 1316, § 26, effective June 4; (4) amended, (SB 12-067), ch. 131, p. 450, § 2, effective August 8. **L. 2013:** (11)(a) amended, (HB 13-1219), ch. 104, p. 362, § 8, effective August 7. **L. 2014:** (6) amended, (HB 14-1292), ch. 243, p. 902, § 4, effective May 21. **L. 2015:** (6)(c)(II) amended, (HB 15-1323), ch. 204, p. 723, § 28, effective May 20. **L. 2016:** (6)(b)(II) and (7)(e) amended and (7.5) added, (HB 16-1422), ch. 351, pp. 1436, 1434, §§ 16, 12, effective June 10. **L. 2017:** (6)(b), (6)(c)(IV), and (6)(c)(V) amended and (6)(c)(VI) added, (HB 17-1375), ch. 287, p. 1596, § 7, effective June 2; (12) added, (HB 17-1301), ch. 201, p. 746, § 2, effective August 9. **L. 2018:** (6)(c)(V) and (6)(c)(VI) amended and (6)(c)(VII) added, (HB 18-1269), ch. 268, p. 1653, § 3, effective August 15. **L. 2019:** (13) added, (SB 19-057), ch. 35, p. 114, § 6, effective August 2; (6)(c)(VI) and (6)(c)(VII) amended and (6)(c)(VIII) added, (HB 19-1194), ch. 160, p. 1887, § 4, effective July 1, 2020. **L. 2020:** (3), (6)(c)(VII), and (6)(c)(VIII) amended and (6)(c)(IX) added, (HB 20-1048), ch. 8, p. 16, § 4, effective September 14.

**Editor's note:** (1) Amendments to subsection (5) by House Bill 94-1001 and Senate Bill 94-215 were harmonized.

(2) Amendments to subsection (6)(b) by Senate Bill 09-090 and Senate Bill 09-163 were harmonized.

(3) Section 13(2) of chapter 8 (HB 20-1048), Session Laws of Colorado 2020, provides that the act changing this section applies to conduct occurring on or after September 14, 2020.

**Cross references:** (1) For the legislative declaration contained in the 1999 act amending subsection (7)(b), see section 1 of chapter 302, Session Laws of Colorado 1999. For the legislative declaration contained in the 2008 act amending subsection (3), see section 1 of chapter 341, Session Laws of Colorado 2008. For the legislative declaration in HB 19-1194, see section 1 of chapter 160, Session Laws of Colorado 2019.

(2) For the short title ("Student Success Act") in HB 14-1292, see section 1 of chapter 243, Session Laws of Colorado 2014.

(3) For the short title ("Creating a Respectful and Open World for Natural Hair Act of 2020" or the "CROWN Act of 2020") and the legislative declaration in HB 20-1048, see sections 1 and 2 of chapter 8, Session Laws of Colorado 2020.

**22-30.5-104.5. Charter school and charter authorizer standards review committee - creation - duties - repeal. (Repealed)**

**Source: L. 2010:** Entire section added, (HB 10-1412), ch. 248, p. 1106, § 1, effective May 21.

**Editor's note:** Subsection (4) provided for the repeal of this section, effective August 30, 2011. (See L. 2010, p. 1106.)

**22-30.5-104.7. Charter school networks - authority - definitions.** (1) As used in this section, unless the context otherwise requires, "charter school network" means a charter school pursuant to this part 1, an institute charter school pursuant to part 5 of this article, or a charter school authorized by the Colorado school for the deaf and the blind, any of which subsequently organizes an additional school or schools pursuant to the same statutory authority. A charter school network is responsible for governance, oversight, and monitoring of compliance and performance for each school, as required by the charter contract or contracts and by applicable state or federal laws.

(2) Notwithstanding any provision of this article to the contrary, a charter school network:

(a) May hold one or more charter contracts through one or more authorizers for purposes of operating more than one school;

(b) May be governed by a single governing body;

(c) May use one or more charter contracts if the charter school network operates more than one school through the same authorizer; except that, if more than one school holding a distinct school code assigned by the department operates under the same contract, the authorizer is:

(I) Obligated to separately accredit each school; and

(II) Legally empowered to not renew, revoke, or otherwise take action with respect to each school without being obligated to take action toward another school operated by the charter school network;

(d) Is authorized to make necessary and appropriate expenditures from any lawful source for central office purposes and to allocate funds among the schools that it operates, as permitted by law and consistent with the terms of the charter contract. A charter school network:

(I) Shall not spend additional local revenues authorized pursuant to sections 22-54-107.5, 22-54-108, and 22-54-108.5 or proceeds from bonded indebtedness incurred pursuant to article 42 of this title that are allocated for a school authorized by one authorizer to support a school authorized by a different authorizer;

(II) Shall account for all additional local revenues authorized pursuant to sections 22-54-107.5, 22-54-108, and 22-54-108.5 or proceeds from bonded indebtedness incurred pursuant to article 42 of this title and their expenditure and shall report the expenditures separately, as needed, to demonstrate that the funds have been expended appropriately;

(III) Commencing July 1, 2015, comply with section 22-44-304 (1)(d) in reporting expenditures at the local education provider and school-site level.

(3) Nothing in this section affects the process for granting or denying a request for a separate or new school code to any one school within a charter school network.

(4) Nothing in this section allows a charter school network to open a school without authorizer consent as part of the application process pursuant to section 22-30.5-107, 22-30.5-510, or 22-80-102 (4)(b).

(5) The authorizer of a school that is part of a charter school network shall collect, analyze, and report data from state assessments in accordance with statute, state board rules, and school district or state charter school institute performance frameworks for each school operated by the charter school network. The charter school network shall report the performance of each school as a separate school, and each school must be held independently accountable for its performance.

(6) Each charter school network shall comply with the audit requirements imposed on charter schools as follows:

(a) The charter school network shall be audited as an organization, treating the charter school network as a single legal entity; except that the authorizing school district for a charter school that is included in the network may request and the network shall provide an audit of the school district's charter school;

(b) The charter school network shall report as supplementary information in its audited financial statements a balance sheet and statement of revenues, expenditures, and changes in fund balances using the modified accrual basis of accounting for each charter school campus that has a separate school code within the charter school network; and

(c) The audit must address compliance with paragraph (d) of subsection (2) of this section.

**Source: L. 2015:** Entire section added, (HB 15-1184), ch. 80, p. 230, § 1, effective August 5. **L. 2016:** (6) added, (HB 16-1422), ch. 351, p. 1433, § 10, effective June 10.

**22-30.5-105. Charter schools - contract contents - regulations.** (1) (a) An approved charter application shall serve as the basis for a contract between a charter school and the chartering local board of education.

(b) A local board of education may approve a charter school application submitted by a nonprofit entity and enter into a charter contract directly with the nonprofit entity to operate a charter school. A local board of education shall not approve a charter school application that is submitted by a for-profit entity or that identifies a for-profit entity as one of the charter applicants, and the local board of education shall not enter into a charter contract directly with a for-profit entity to operate a charter school.

(2) (a) The contract between a charter school and the chartering local board of education shall reflect all agreements regarding the release of the charter school from school district policies. Each charter school's contract shall include a statement specifying the manner in which the charter school shall comply with the intent of the state statutes, state board rules, and district rules that are waived for the charter school by application.

(b) Repealed.

(c) A contract between a charter school and the chartering local board of education approved on or after July 1, 2002, shall specify:

(I) If the contract is not a renewal of an expiring contract, the manner in which the school district governed by the local board of education will support any start-up facility needs of the charter school;

(II) The manner in which the school district governed by the local board of education will support any long-term facility needs of the charter school;

(III) The actions that the charter school must take in order to:

(A) Have its capital construction needs included as part of the next ballot question for approval of bonded indebtedness to be submitted by the local board of education of its chartering school district to the voters of the district; or

(B) Have the local board of education submit a ballot question for approval of a special mill levy to finance the capital construction needs of the charter school to the voters of the district pursuant to section 22-30.5-405;

(IV) The financial information, including but not limited to an annual governmental audit, the charter school must report to the chartering school district, the deadline for reporting such information to the chartering school district in order to enable the chartering school district to comply with the requirements specified in this title and in rules promulgated by the state board pertaining to reporting financial information to the department of education, and the circumstances under which the chartering school district may withhold a portion of the charter school's monthly payment as provided in section 22-30.5-112 (8) for failure to comply with financial reporting requirements specified in the contract; and

(V) Whether, and the circumstances under which, the local board of education delegates to the charter school the authority to impose a transportation fee on students who are enrolled in the charter school and, if so, the procedures for imposition of the fee.

(3) A contract between a charter school and the chartering local board of education shall reflect all requests for release of the charter school from state statutes and state board rules that are not automatic waivers and a list of the automatic waivers that the charter school is invoking. Within ten days after the contract is approved by the chartering local board of education, the chartering local board of education shall deliver to the state board any request for waiver of state statutes and state board rules that are not automatic waivers. The chartering local board of education shall request the release by submitting a complete copy of the signed charter contract. Within forty-five days after a request for release is received by the state board, the state board shall either grant or deny the request. If the state board grants the request, it may orally notify the chartering local board of education and the charter school of its decision. If the state board denies the request, it shall notify the chartering local board of education and the charter school in writing that the request is denied and specify the reasons for denial. If the chartering local board of education and the charter school do not receive notice of the state board's decision within forty-five days after submittal of the request for release, the request shall be deemed granted. If the state board denies a request for release that includes multiple state statutes or state board rules, the denial shall specify the state statutes and state board rules for which the release is denied, and the denial shall apply only to those state statutes and state board rules so specified.

(4) A material revision of the terms of a charter contract may be made only with the approval of the chartering local board of education and the governing body of the charter school.

(5) A term included in a charter contract that would require a charter school to waive or otherwise forgo receipt of any amount of additional mill levy revenue due to the charter school as provided in section 22-32-108.5 or any amount of operational or capital construction money provided to the charter school pursuant to the provisions of this article 30.5 or pursuant to any other provision of law is hereby declared null and void as against public policy and is unenforceable. In no event shall this subsection (5) be construed to prohibit a charter school from contracting with its chartering local board of education for the purchase of services, including but not limited to the purchase of educational services.

(6) A charter school that provides a half-day kindergarten educational program before the 2019-20 school year and chooses to expand the kindergarten educational program to a full day shall notify the chartering local board of education of the expansion of the kindergarten educational program and of the school year in which the anticipated program expansion takes effect. The charter school and the authorizing local board of education shall amend the charter contract as necessary to allow for the program expansion. If the local board objects to the program expansion, the local board shall provide to the charter school a written explanation of the grounds for its objection. If the charter school and the authorizing local board of education cannot agree on an amendment to the charter contract for the program expansion, the charter school may file a notice with the state board as provided in section 22-30.5-108 to appeal the decision of the local board concerning a unilateral imposition of conditions on the charter school. The state board shall decide the appeal in accordance with the provisions of section 22-30.5-108. Negotiations to amend the charter contract to allow the expansion of the kindergarten educational program shall not include negotiations regarding terms of the charter contract that are not directly impacted by the program expansion and shall not include reauthorization of the charter school.

**Source: L. 93:** Entire article added, p. 1054, § 1, effective June 3. **L. 97:** (1) amended, p. 400, § 2, effective August 6. **L. 98:** (3) amended, p. 1209, § 1, effective August 5. **L. 2001:** (2) amended, p. 337, § 3, effective April 16. **L. 2002:** (2)(c) and (5) added, pp. 1766, 1753, §§ 33, 30, effective June 7. **L. 2004:** Entire section amended, p. 1573, § 4, effective June 3. **L. 2005:** (2)(c)(III)(B) and (2)(c)(IV) amended and (2)(c)(V) added, p. 1507, § 2, effective June 9. **L. 2007:** (2)(b) repealed, p. 745, § 28, effective May 9. **L. 2009:** (5) amended, (SB 09-256), ch. 294, p. 1555, § 12, effective May 21. **L. 2012:** (1) amended, (SB 12-067), ch. 131, p. 451, § 3, effective August 8. **L. 2014:** (2)(a) and (3) amended, (HB 14-1292), ch. 243, p. 904, § 5, effective May 21. **L. 2017:** (5) amended, (HB 17-1375), ch. 287, p. 1591, § 2, effective June 2. **L. 2019:** (6) added, (HB 19-1262), ch. 245, p. 2399, § 8, effective May 21.

**Cross references:** For the short title ("Student Success Act") in HB 14-1292, see section 1 of chapter 243, Session Laws of Colorado 2014.

**22-30.5-106. Charter application - contents.** (1) The charter school application is a proposed agreement upon which the charter applicant and the chartering local board of education negotiate a charter contract. At a minimum, each charter school application includes:

(a) An executive summary that outlines the elements of the application and provides an overview of the proposed charter school;

(b) The vision and mission statements of the proposed charter school;

(c) The goals, objectives, and student performance standards the proposed charter school expects to achieve, including but not limited to the performance indicators specified in section 22-11-204 and applicable standards and goals specified in federal law;

(d) Evidence that an adequate number of parents and pupils support the formation of a charter school;

(e) Descriptions of the proposed charter school's educational program, student performance standards, and curriculum;

(f) A plan for evaluating student performance across the curriculum, which plan aligns with the proposed charter school's mission and educational objectives and provides a description of the proposed charter school's measurable annual targets for the measures used to determine the levels of attainment of the performance indicators specified in section 22-11-204, and procedures for taking corrective action if student performance at the school falls below the described targets;

(g) Evidence that the plan for the proposed charter school is economically sound, including a proposed budget for a term of at least five years. The charter application shall also describe the method for obtaining an independent annual audit of the proposed charter school's financial statements consistent with generally accepted auditing standards and circular A-133 of the United States office of management and budget, as originally published in the federal register of June 30, 1997, and as subsequently amended.

(h) A description of the governance and operation of the proposed charter school, including the nature and extent of parental, professional educator, and community involvement in the governance and operation of the proposed charter school, that is consistent with the standards adopted by rule of the state board pursuant to section 22-2-106 (1)(h);

(i) An explanation of the relationship that will exist between the proposed charter school and its employees and the proposed charter school's employment policies or a plan for the timely development of employment policies;

(j) A proposal regarding the parties' respective legal liabilities and applicable insurance coverage, which insurance coverage shall include, at a minimum, workers' compensation, liability insurance, and insurance for the proposed charter school's facility and its contents;

(k) The proposed charter school's expectations and plans for ongoing parent and community involvement;

(l) A description of the proposed charter school's enrollment policy, consistent with the requirements of section 22-30.5-104 (3) and rules adopted by the state board pursuant to section 22-2-106 (1)(h), and the criteria for enrollment decisions;

(m) A statement of whether the proposed charter school plans to address the transportation or food service needs of its students while they are attending the school. The proposed charter school may choose not to provide transportation or food services, may choose to develop or form a charter school collaborative as described in section 22-30.5-603 to provide transportation or food services, or may choose to negotiate with a school district, board of cooperative services, or private provider to provide transportation or food services for its students. If the proposed charter school chooses to provide transportation or food services, the application shall include a plan for each provided service, which plan, at a minimum, shall specifically address serving the needs of low-income students, complying with insurance and liability issues, and complying with any applicable state or federal rules or regulations.

(n) A facilities plan that details viable facilities options that are consistent with section 22-32-124 and the reasonable costs of the facility, which are reflected in the proposed budget;

(o) A list of the waivers of statute, state rule, and school district policies that the proposed charter school is requesting. For each requested waiver of a statute or state rule that is not an automatic waiver, the charter school application must state the rationale for the requested waiver and the manner in which the proposed charter school plans to meet the intent of the waived statute, rule, or policy.

(p) Policies regarding student discipline, expulsion, and suspension that are consistent with the intent and purpose of sections 22-33-106 and 22-33-106.1, provide adequately for the safety of students and staff, and provide a level of due process for students that, at a minimum, complies with the requirements of the federal "Individuals with Disabilities Education Act", 20 U.S.C. sec. 1400 et seq.;

(q) A plan for serving students with special needs, including budget and staff requirements, which plan shall include identifying and meeting the learning needs of at-risk students, students with disabilities, gifted and talented students, and English language learners;

(r) A dispute resolution process, as provided in section 22-30.5-107.5; and

(s) If the proposed charter school intends to contract with an education management provider:

(I) A summary of the performance data for all of the schools the education management provider is managing at the time of the application or has managed previously, including documentation of academic achievement and school management success;

(II) An explanation of and evidence demonstrating the education management provider's capacity for successful expansion while maintaining quality in the schools it is managing;

(III) An explanation of any existing or potential conflicts of interest between the governing board of the proposed charter school and the education management provider; and

(IV) A copy of the actual or proposed performance contract between the governing board for the proposed charter school and the education management provider that specifies, at a minimum, the following material terms:

(A) Performance evaluation measures;

(B) The methods of contract oversight and enforcement that the governing board will apply;

(C) The compensation structure and all fees that the proposed charter school will pay to the education management provider; and

(D) The conditions for contract renewal and termination.

(2) No person, group, or organization may submit an application to convert a private school or a nonpublic home-based educational program into a charter school or to create a charter school which is a nonpublic home-based educational program as defined in section 22-33-104.5.

(3) A charter applicant is not required to provide personal identifying information concerning any parent, teacher, or prospective pupil prior to the time that the charter contract is approved by both parties and either the charter school actually employs the teacher or the pupil actually enrolls in the charter school, whichever is applicable. A charter school applicant shall provide, upon request of the chartering school district, aggregate information concerning the grade levels and schools in which prospective pupils are enrolled.

**Source: L. 93:** Entire article added, p. 1054, § 1, effective June 3. **L. 94:** (1)(l) added, p. 1379, § 3, effective May 25. **L. 96:** (1)(d) repealed and (1)(i.5) added, p. 753, §§ 3, 4, effective May 22. **L. 97:** (1)(e) amended, p. 586, § 15, effective April 30. **L. 99:** (1)(m) and (3) added, pp. 1255, 1256, §§ 2, 4, effective June 2. **L. 2004:** Entire section amended, p. 1575, § 5, effective June 3. **L. 2005:** (1)(k) amended, p. 1508, § 3, effective June 9. **L. 2009:** (1)(b), (1)(e), and (1)(f) amended, (SB 09-163), ch. 293, p. 1535, § 27, effective May 21. **L. 2012:** (1) R&RE, (SB 12-061), ch. 109, p. 372, § 1, effective April 13. **L. 2014:** (1)(o) amended, (HB 14-1292), ch. 243, p.

904, § 6, effective May 21. **L. 2019:** (1)(p) amended, (HB 19-1194), ch. 160, p. 1888, § 5, effective July 1, 2020.

**Cross references:** (1) For the legislative declaration contained in the 1999 act enacting subsections (1)(m) and (3), see section 1 of chapter 302, Session Laws of Colorado 1999. For the legislative declaration in HB 19-1194, see section 1 of chapter 160, Session Laws of Colorado 2019.

(2) For the short title ("Student Success Act") in HB 14-1292, see section 1 of chapter 243, Session Laws of Colorado 2014.

**22-30.5-107. Charter application - process.** (1) (a) A charter applicant cannot apply to, or enter into a charter contract with, a school district unless a majority of the proposed charter school's pupils, other than online pupils, will reside in the chartering school district or in school districts contiguous thereto.

(b) The local board of education shall receive and review all applications for charter schools. If the local board of education does not review a charter application, it shall be deemed to have denied the charter application. A charter applicant must file its application with the local board of education by a date determined by the local board of education to be eligible for consideration for the following school year. An application is considered filed when the school district administration receives the charter application from the charter applicant either in hard copy or electronically. The date determined by the local board of education for filing of applications shall not be any earlier than August 1 or any later than October 1. Prior to any change in the application deadline, the local board of education shall notify the department and each charter school applicant in the district of the proposed change by certified letter. The local board of education shall not charge any application fees.

(c) Within fifteen days after receiving a charter school application, the school district shall determine whether the application contains the minimum components specified in section 22-30.5-106 (1) and is therefore complete. If the application is not complete, the school district shall notify the charter applicant within the fifteen-day period and provide a list of the information required to complete the charter application. The charter applicant has fifteen days after the date it receives the notice to provide the required information to the local board of education for review. The local board of education is not required to take action on the charter application if the charter applicant does not provide the required information within the fifteen-day period. The school district may request additional information during the review period and provide reasonable time for the charter applicant to respond. The school district may, but is not required to, accept any additional information the charter applicant provides that the school district does not request. The district accountability committee shall review the complete charter school application at least fifteen days, if possible, before the local board of education takes action on the application.

(1.5) For purposes of reviewing a charter school application, a district accountability committee shall include at least:

(a) One person with a demonstrated knowledge of charter schools, regardless of whether that person resides within the school district; and

(b) One parent or legal guardian of a child enrolled in a charter school in the school district; except that, if there are no charter schools in the school district, the local board of education shall appoint a parent or legal guardian of a child enrolled in the school district.

(2) After giving reasonable public notice, the local board of education shall hold community meetings in the affected areas or the entire school district to obtain information to assist the local board of education in its decision to approve a charter school application. The local board of education shall rule by resolution on the application for a charter school in a public hearing, upon reasonable public notice, within ninety days after receiving the application filed pursuant to subsection (1) of this section. All negotiations between the charter school and the local board of education on the contract shall be concluded by, and all terms of the contract agreed upon, no later than ninety days after the local board of education rules by resolution on the application for a charter school.

(2.5) The charter applicant and the local board of education may jointly waive the deadlines set forth in this section.

(3) If a local board of education denies a charter school application, does not review a charter school application, or unilaterally imposes conditions that are unacceptable to the charter applicant, the charter applicant may appeal the decision to the state board pursuant to section 22-30.5-108.

(3.5) Nothing in this part 1 shall prohibit a school district from adopting one or more policies that encourage charter applicants to address specified school district needs.

(4) If a local board of education denies or does not review a charter school application, it shall state its reasons for the denial or refusal to review. Within fifteen days after denying or refusing to review a charter school application, the local board of education shall notify the department of the denial or refusal and the reasons therefor. If a local board of education approves a charter application, it shall send a copy of the approved charter application to the department within fifteen days after approving the charter application.

(5) A school district may unilaterally impose conditions on a charter applicant or on a charter school only through adoption of a resolution of the local board of education of the school district. If a local board adopts a resolution unilaterally imposing conditions on a charter applicant or on a charter school, the resolution shall, at a minimum, state the school district's reasons for imposing the conditions unilaterally, despite the objections of the charter applicant or the charter school. The charter applicant or charter school may appeal the decision of the local board of education to unilaterally impose the conditions by filing the notice of appeal with the state board within thirty days after adoption of the resolution, as provided in section 22-30.5-108 (2)(a).

**Source: L. 93:** Entire article added, p. 1055, § 1, effective June 3. **L. 96:** Entire section amended, p. 753, § 5, effective May 22. **L. 97:** (1) amended, p. 586, § 16, effective April 30. **L. 99:** (1.5) added and (2) amended, p. 1209, § 2, effective August 4. **L. 2002:** (1) amended, p. 1749, § 23, effective June 7; entire section amended, p. 187, § 1, effective July 1, 2003. **L. 2004:** Entire section amended, p. 1576, § 6, effective June 3. **L. 2012:** (1) and (2) amended, (SB 12-061), ch. 109, p. 375, § 3, effective April 13.

**Editor's note:** Amendments to subsection (1) by Senate Bill 02-051 and House Bill 02-1349 were harmonized.

**22-30.5-107.5. Dispute resolution - governing policy provisions - appeal.** (1) Except as otherwise provided in section 22-30.5-108, any disputes that may arise between a charter school and its chartering school district concerning governing policy provisions of the school's charter contract shall be resolved pursuant to this section.

(2) (a) A charter school or its chartering school district may initiate a resolution to any dispute concerning a governing policy provision of the school's charter contract by providing reasonable written notice to the other party of an intent to invoke this section. Such notice shall include, at a minimum, a brief description of the matter in dispute and the scope of the disagreement between the parties.

(b) Within thirty days after receipt of the written notice described in paragraph (a) of this subsection (2), the charter school and the school district shall agree to use any form of alternative dispute resolution to resolve the dispute, including but not limited to any of the forms described in the "Dispute Resolution Act", part 3 of article 22 of title 13, C.R.S.; except that any form chosen by the parties shall result in final written findings by a neutral third party within one hundred twenty days after receipt of such written notice.

(c) The neutral third party shall apportion all costs reasonably related to the mutually agreed upon dispute resolution process.

(3) (a) A charter school and its chartering school district may agree to be bound by the written findings of the neutral third party resulting from any alternative dispute resolution entered into pursuant to subsection (1) of this section. In such case, such findings shall be final and not subject to appeal.

(b) If the parties do not agree to be bound by such written findings of the neutral third party, the parties may appeal such findings to the state board. A party who wishes to appeal such findings shall provide the state board and the other party with a notice of appeal within thirty days after the release of such findings, and the notice of appeal shall contain a brief description of the grounds for appeal. The state board may consider said written findings or other relevant materials in reaching its decision and may, on its own motion, conduct, after sufficient notice, a de novo review of and hearing on the underlying matter.

(4) The state board shall:

(a) Issue its decision on the written findings of the neutral third party resulting from any alternative dispute resolution entered into pursuant to subsection (1) of this section within sixty days after receipt of the notice of appeal; or

(b) Make its own findings within sixty days after making its own motion for a de novo review and hearing described in paragraph (b) of subsection (3) of this section.

(5) If the state board, after motion by one of the parties and sufficient notice and hearing, finds that either of the parties to an alternative dispute resolution process held pursuant to this section has failed to participate in good faith in such process or has refused to comply with the decision reached after agreeing to be bound by the result of such process, the state board shall resolve the dispute in favor of the aggrieved party.

(6) Any decision by the state board pursuant to this section shall be final and not subject to appeal.

**Source: L. 99:** Entire section added, p. 1255, § 3, effective June 2. **L. 2002:** Entire section R&RE, p. 1001, § 1, effective June 1.

**Cross references:** For the legislative declaration contained in the 1999 act enacting this section, see section 1 of chapter 302, Session Laws of Colorado 1999.

**22-30.5-108. Appeal - standard of review - procedures.** (1) Acting pursuant to its supervisory power as provided in section 1 of article IX of the state constitution, the state board, upon receipt of a notice of appeal or upon its own motion, may review decisions of any local board of education concerning the denial of a charter school application, the nonrenewal or revocation of a charter school's charter, or the unilateral imposition of conditions on a charter applicant or a charter school, in accordance with the provisions of this section. Any disputes arising with regard to governing policy provisions of a charter school's charter contract shall be resolved as provided in section 22-30.5-107.5. A local board of education's refusal to review a charter application constitutes a denial of the charter application and is appealable as a denial pursuant to the provisions of this section.

(2) A charter applicant or any other person who wishes to appeal a decision of a local board of education concerning the denial of a charter application or the nonrenewal or revocation of a charter or the unilateral imposition of conditions on a charter applicant or a charter school, shall provide the state board and the local board of education with a notice of appeal or of facilitation within thirty days after the local board's decision. The person bringing the appeal shall limit the grounds of the appeal to the grounds for the denial of a charter application or the nonrenewal or revocation of a charter, or the unilateral imposition of conditions on a charter applicant or charter school, whichever is being appealed, specified by the local board of education. The notice shall include a brief statement of the reasons the appealing person contends the local board of education's denial of a charter application or nonrenewal or revocation of a charter, or imposition of conditions on a charter applicant or charter school was in error.

(2.5) If a district court dismisses a case for lack of jurisdiction and the case involves a charter application, or the nonrenewal or revocation of a charter, or the unilateral imposition of conditions on a charter applicant or charter school, the thirty-day period for filing a notice of appeal or of facilitation described in subsection (2) of this section shall be tolled until the date of dismissal by the court.

(3) If the notice of appeal, or the motion to review by the state board, relates to a local board's decision to deny a charter application or to refuse to renew or to revoke a charter or to a local board's unilateral imposition of conditions that are unacceptable to the charter applicant or the charter school, the appeal and review process shall be as follows:

(a) Within sixty days after receipt of the notice of appeal or the making of a motion to review by the state board and after reasonable public notice, the state board shall review the decision of the local board of education and make its findings. If the state board finds that the local board's decision was contrary to the best interests of the pupils, school district, or community, the state board shall remand such decision to the local board of education with written instructions for reconsideration thereof. Said instructions shall include specific recommendations concerning the matters requiring reconsideration.

(b) Within thirty days following the remand of a decision to the local board of education and after reasonable public notice, the local board of education, at a public hearing, shall reconsider its decision and make a final decision. If the local board of education decides to approve the charter application or decides not to unilaterally impose the condition, the local

board of education and the charter applicant shall complete the charter contract within ninety days following the remand of the state board's decision to the local board of education.

(c) Following the remand, if the local board of education's final decision is still to deny a charter application or to unilaterally impose the condition on a charter applicant or if the local board of education's final decision is still to refuse to renew or to revoke a charter or to unilaterally impose conditions unacceptable to the charter school, a second notice of appeal may be filed with the state board within thirty days following such final decision.

(d) Within thirty days following receipt of the second notice of appeal or the making of a motion for a second review by the state board and after reasonable public notice, the state board, at a public hearing, shall determine whether the final decision of the local board of education was contrary to the best interests of the pupils, school district, or community. If such a finding is made, the state board shall remand such final decision to the local board with instructions to approve the charter application, or to renew or reinstate the charter or to approve or disapprove the conditions imposed on the charter applicant or the charter school. The decision of the state board shall be final and not subject to appeal.

(3.5) In lieu of a first appeal to the state board pursuant to paragraph (a) of subsection (3) of this section, the parties may agree to facilitation. Within thirty days after denial of a charter application or nonrenewal or revocation of a charter or unilateral imposition of conditions on a charter applicant or a charter school by the local board of education, the parties may file a notice of facilitation with the state board. The parties may continue in facilitation as long as both parties agree to its continued use. If one party subsequently rejects facilitation, and such rejection is not reconsidered within seven days, the local board of education shall reconsider its denial of a charter application or nonrenewal or revocation of a charter and make a final decision as provided in paragraph (b) of subsection (3) of this section. The charter applicant may file a notice of appeal with the state board as provided in paragraph (c) of subsection (3) of this section within thirty days after a local board of education's final decision to deny a charter application, to refuse to renew or to revoke a charter, or to unilaterally impose conditions on a charter applicant or a charter school.

(4) (Deleted by amendment, L. 2004, p. 1578, § 7, effective June 3, 2004.)

(5) Nothing in this section shall be construed to alter the requirement that a charter school be a part of the school district that approves its charter application and charter contract and be accountable to the local board of education pursuant to section 22-30.5-104 (2).

**Source: L. 93:** Entire article added, p. 1056, § 1, effective June 3. **L. 94:** (3)(a) and IP(4)(a)(I) amended, p. 1341, § 1, effective May 25. **L. 96:** (2), IP(3), and (3)(c) amended and (3.5) added, p. 754, § 6, effective May 22. **L. 97:** (3)(a), IP(4)(a)(I), and (5) amended, p. 586, § 17, effective April 30. **L. 2002:** (1), (2), IP(3), (3)(c), and (3)(d) amended and (2.5) added, p. 1002, § 2, effective June 1. **L. 2004:** Entire section amended, p. 1578, § 7, effective June 3.

**22-30.5-109. Charter schools - reporting - publicizing - limits on enrollment - moratorium prohibited.** (1) Each local board of education that approves a charter application and enters into a charter contract with a charter school shall annually report to the department information that the department requests to evaluate the effectiveness of charter schools. The local boards of education shall provide the information on forms provided by the department.

The state board shall adopt rules establishing the time lines and procedures for reporting the information required in this subsection (1).

(2) (Deleted by amendment, L. 2004, p. 1580, § 8, effective June 3, 2004.)

(3) It is the intent of the general assembly that greater consideration be given to charter school applications designed to increase the educational opportunities of at-risk pupils, as defined in section 22-30.5-103.

(4) If otherwise qualified, nothing in this part 1 shall be construed to prohibit any institution certified on or before April 1, 1993, as an educational clinic pursuant to former article 27 of this title as it existed prior to August 7, 2006, from applying to become a charter school pursuant to this part 1.

(5) Nothing in this part 1 shall be construed to prevent a school in a school district which is comprised of only one school from applying to become a charter school pursuant to this part 1.

(6) A school district shall not discriminate against a charter school in publicizing the educational options available to students residing within the district through advertising, direct mail, availability of mailing lists, or other informational activities, provided that the charter school pays for its share of such publicity at cost.

(7) A chartering authority may not restrict the number of pupils a charter school may enroll; except that a charter school and its chartering authority may negotiate and agree to limitations on the number of students the charter school may enroll as necessary to:

(a) Facilitate the academic success of students enrolled in the charter school;

(b) Facilitate the charter school's ability to achieve the other objectives specified in the charter contract; or

(c) Ensure that the charter school's student enrollment does not exceed the capacity of the charter school facility or site.

(8) The local board of education of a school district shall not impose a moratorium on the approval of charter applications for charter schools within the school district.

**Source: L. 93:** Entire article added, p. 1057, § 1, effective June 3. **L. 96:** (4) and (5) amended, p. 668, § 6, effective May 2; (2)(a) amended, p. 754, § 7, effective May 22. **L. 98:** (1) amended, p. 823, § 31, effective August 5. **L. 99:** (6) added, p. 1256, § 6, effective June 2. **L. 2002:** (7) added, p. 1750, § 24, effective June 7. **L. 2003:** (6) amended, p. 2139, § 42, effective May 22. **L. 2004:** Entire section amended, p. 1580, § 8, effective June 3. **L. 2006:** (4) and (6) amended, p. 605, § 19, effective August 7.

**Cross references:** For the legislative declaration contained in the 1999 act enacting subsection (6), see section 1 of chapter 302, Session Laws of Colorado 1999.

**22-30.5-110. Charter schools - term - renewal of charter - grounds for nonrenewal or revocation.** (1) (a) When a local board of education approves a new charter application, the charter is authorized for a period of at least four years. The local board of education and the charter school may renew the charter for successive periods as provided in this section.

(b) During the term of a charter, the school district shall annually review the charter school's performance. At a minimum, the review includes the charter school's progress in meeting the objectives identified in the plan the charter school is required to implement pursuant to section 22-11-210 and the results of the charter school's most recent annual financial audit.

The school district shall provide to the charter school written feedback from the review and shall include the results of the charter school's annual review in the body of evidence that the local board of education takes into account in deciding whether to renew or revoke the charter and that supports the renegotiation of the charter contract.

(1.3) Each school district shall adopt and revise as necessary procedures and timelines for the charter-renewal process, which procedures and timelines are in conformance with the requirements of this part 1. Each school district shall ensure that each of the charter schools authorized by the district receives a copy of the district's charter renewal procedures and timelines and any revisions to the procedures and timelines.

(1.5) No later than December 1 of the year prior to the year in which the charter expires, the governing body of a charter school shall submit a renewal application to the chartering local board of education. The chartering local board of education shall rule by resolution on the renewal application no later than February 1 of the year in which the charter expires, or by a mutually agreed upon date.

(2) A charter school renewal application submitted to the chartering local board of education shall contain:

(a) A report on the progress of the charter school in achieving the goals, objectives, pupil performance standards, content standards, targets for the measures used to determine the levels of attainment of the performance indicators, and other terms of the charter contract and the results achieved by the charter school's students on the assessments administered through the Colorado student assessment program;

(b) A financial statement that discloses the costs of administration, instruction, and other spending categories for the charter school that is understandable to the general public and that will allow comparison of such costs to other schools or other comparable organizations, in a format required by the state board of education; and

(c) Repealed.

(d) Any information or material resulting from the charter school's annual reviews as described in subsection (1) of this section.

(3) A charter may be revoked or not renewed by the chartering local board of education if it determines that the charter school did any of the following:

(a) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter contract;

(b) Failed to meet or make adequate progress toward achievement of the goals, objectives, content standards, pupil performance standards, targets for the measures used to determine the levels of attainment of the performance indicators, applicable federal requirements, or other terms identified in the charter contract;

(c) Failed to meet generally accepted standards of fiscal management; or

(d) Violated any provision of law from which the charter school was not specifically exempted.

(3.5) If a charter school is required to implement a turnaround plan pursuant to section 22-11-210 (2) for a second consecutive school year, the charter school shall present to its authorizing local board of education, in addition to the turnaround plan, a summary of the changes made by the charter school to improve its performance, the progress made in implementing the changes, and evidence, as requested by the local board of education, that the charter school is making sufficient improvement to attain a higher accreditation category within

two school years or sooner. If the local board of education finds that the charter school's evidence of improvement is not sufficient or if the charter school is required to implement a turnaround plan for a third consecutive school year, the local board of education may revoke the school's charter.

(4) (Deleted by amendment, L. 2004, p. 1582, 9, effective June 3, 2004.)

(4.5) (a) At least fifteen days prior to the date on which a local board of education will consider whether to revoke or renew a charter, the school district shall provide to the local board of education and the charter school a written recommendation, including the reasons supporting the recommendation, concerning whether to revoke or renew the charter.

(b) If a local board of education revokes or does not renew a charter, the board shall state its reasons for the revocation or nonrenewal.

(5) If a local board of education revokes or does not renew a charter, the charter school may appeal the decision pursuant to section 22-30.5-108.

(6) Each school district shall adopt procedures for closing a charter school following revocation or nonrenewal of the charter school's charter. At a minimum, the procedures shall ensure that:

(a) When practicable and in the best interest of the students of the charter school, the charter school continues to operate through the end of the school year. If the school district determines it is necessary to close the charter school prior to the end of the school year, the school district shall work with the charter school to determine an earlier closure date.

(b) The school district works with the parents of the students who are enrolled in the charter school when the charter is revoked or not renewed to ensure that the students are enrolled in schools that meet their educational needs; and

(c) The charter school meets its financial, legal, and reporting obligations during the period that the charter school is concluding operations.

(7) Notwithstanding any provision of this section to the contrary, on and after September 1, 2012, a local board of education shall not renew a charter that is held by a for-profit entity either solely or in cooperation with other entities.

**Source: L. 93:** Entire article added, p. 1058, § 1, effective June 3. **L. 96:** (4.5) added and (5) amended, p. 755, § 8, effective May 22. **L. 97:** (1) amended and (1.5) added, p. 400, § 3, effective August 6. **L. 2001:** (2) amended, p. 338, § 4, effective April 16. **L. 2004:** Entire section amended, p. 1582, § 9, effective June 3. **L. 2007:** (2)(c) repealed, p. 745, § 28, effective May 9. **L. 2009:** (2)(a) and (3)(b) amended, (SB 09-163), ch. 293, p. 1535, § 28, effective May 21. **L. 2012:** Entire section amended, (SB 12-061), ch. 109, p. 376, § 4, effective April 13; (7) added, (SB 12-067), ch. 131, p. 451, § 4, effective August 8.

**22-30.5-110.3. Nonrenewal or revocation - qualified charter school - exceptions.** (1) Notwithstanding the provisions of sections 22-30.5-108 and 22-30.5-110, the provisions of this section shall apply if:

(a) A chartering local board of education determines that the charter of a qualified charter school, as defined in section 22-30.5-408 (1)(c), will be revoked or will not be renewed; and

(b) The qualified charter school has financed capital construction with revenues from bonds issued on behalf of the qualified charter school by the Colorado educational and cultural facilities authority created in section 23-15-104 (1)(a), C.R.S., pursuant to section 22-30.5-407.

(2) (a) If a chartering local board of education makes a determination to revoke or not renew the charter of a qualified charter school and subsection (1) of this section applies, the chartering local board of education shall notify the state treasurer and the commissioner of education immediately upon such determination. Upon receipt of such notice, the commissioner shall suspend the revocation or nonrenewal of the charter until such time as the state treasurer, the commissioner, and the Colorado educational and cultural facilities authority determine, with the chartering local board of education and the qualified charter school, whether an alternative exists to such revocation or nonrenewal of the charter.

(b) A chartering local board of education shall not be required to suspend a revocation or nonrenewal of a charter pursuant to paragraph (a) of this subsection (2) for more than one hundred twenty days after the date that the commissioner of education and the state treasurer received notice of the determination to revoke or not renew the charter pursuant to paragraph (a) of this subsection (2) or sixty days after the action of the state board pursuant to section 22-30.5-108 (3)(a), whichever is later.

(3) The state treasurer, commissioner of education, chartering local board of education, charter school, and Colorado educational and cultural facilities authority may pursue the following:

(a) The conversion of the qualified charter school from a school of the chartering district to an institute charter school;

(b) The reorganization of the qualified charter school and application to the initial chartering local board of education or the state charter school institute for approval as a charter school with the condition that the newly approved charter school will assume the bond obligations of the former qualified charter school pursuant to section 22-30.5-407; or

(c) Any other alternative deemed feasible by the state treasurer, the commissioner of education, the Colorado educational and cultural facilities authority, the chartering local board of education, and the qualified charter school.

(4) Nothing in this section shall be construed to prevent the chartering local board of education from revoking or not renewing the charter of a qualified charter school pursuant to section 22-30.5-110.

**Source: L. 2011:** Entire section added, (SB 11-188), ch. 186, p. 714, § 6, effective July 1.

**22-30.5-110.5. Background investigation - charter school employees - information provided to department.** (1) A charter school shall conduct a background investigation of an applicant to whom an offer of employment is extended to determine whether the applicant is suitable to work in an environment with children.

(2) The background investigation of an applicant, at a minimum, must include:

(a) An inquiry by the charter school to the department to determine whether the applicant:

(I) Has had his or her educator license or certification denied, suspended, revoked, or annulled in this state or another state for any reason, including but not limited to a conviction, a

plea of not guilty, a plea of nolo contendere, or a deferred sentence for a crime involving unlawful sexual behavior or unlawful behavior involving children;

(II) Has been dismissed by, or has resigned from, a school district as a result of any allegation, including but not limited to unlawful sexual behavior, that was supported by a preponderance of the evidence according to information provided to the department pursuant to section 22-32-109.7 (3) or subsection (7) of this section and confirmed by the department pursuant to section 22-2-119 (1)(b);

(b) (I) A fingerprint-based criminal history record check and, if necessary, a name-based criminal history record check, as described in section 22-30.5-110.7.

(II) The criminal history record check shall be designed to determine, at a minimum, whether the applicant has been convicted of, pled nolo contendere or guilty to, or received a deferred sentence or deferred prosecution for:

(A) A felony; or

(B) A misdemeanor crime involving unlawful sexual behavior or unlawful behavior involving children.

(c) Inquiries to the applicant's previous employers to obtain information or recommendations that may be relevant to the applicant's fitness for employment.

(3) Upon request, the department shall provide the charter school with any information the department may have concerning a person who applies for employment with a charter school or a charter school employee.

(4) The charter school shall pay to the department the background investigation fee established pursuant to section 22-2-119 (5) for each applicant who does not hold an educator license issued pursuant to article 60.5 of this title and for whom the charter school requests a background investigation. The charter school may assess the amount of the fee to the applicant.

(5) (a) An applicant's previous employer that provides information to a charter school or makes a recommendation concerning the applicant, whether at the request of the charter school or the applicant, shall be immune from civil liability unless:

(I) The information is false and the previous employer knows the information is false or acts with reckless disregard concerning the veracity of the information; and

(II) The charter school acts upon the information to the detriment of:

(A) The applicant because the charter school refuses to employ the applicant based, in whole or in part, on negative information concerning the applicant later determined to be false; or

(B) The charter school because the charter school employs the applicant based, in whole or in part, on positive information concerning the applicant later determined to be false.

(b) A charter school that relies on information provided by or a recommendation made by a previous employer in making an employment decision shall be immune from civil liability unless the information is false and the charter school knows the information is false or acts with reckless disregard concerning the veracity of the information.

(6) (a) Each charter school shall submit to the department the name, date of birth, and social security number of each person employed by the charter school. The department shall add the information submitted pursuant to this subsection (6) for charter school employees who do not hold an educator license to the database for nonlicensed school employees maintained by the department pursuant to section 22-32-109.8 (11). The department shall add the information

submitted pursuant to this subsection (6) for licensed employees to the database maintained by the department for licensed educators.

(b) At the beginning of each semester, each charter school shall notify the department if a nonlicensed employee is no longer employed by the charter school. The department shall purge the employee's information from the database within twelve months after receiving the notice.

(7) (a) If an employee of a charter school is dismissed or resigns as a result of an allegation of unlawful behavior involving a child, including unlawful sexual behavior, that is supported by a preponderance of the evidence, the governing board of the charter school shall notify the department and provide any information requested by the department concerning the circumstances of the dismissal or resignation. The charter school shall also notify the employee that information concerning the employee's dismissal or resignation is being forwarded to the department unless the notice would conflict with the confidentiality requirements of the "Child Protection Act of 1987", part 3 of article 3 of title 19, C.R.S.

(b) If a charter school learns from a source other than the department that a current or past employee of the charter school has been convicted of, pled guilty to, pled nolo contendere to, or has received a deferred sentence or deferred prosecution for a felony or a misdemeanor crime involving unlawful sexual behavior or unlawful behavior involving children, the charter school shall notify the department.

(8) On or before August 30 each year, the department shall submit a list of all persons employed by each charter school in the state for the preceding school year to the Colorado bureau of investigation. The list shall include each employee's name and date of birth.

(9) Any information received by a charter school pursuant to this section or section 22-30.5-110.7 shall be confidential information and not subject to the provisions of part 2 of article 72 of title 24, C.R.S. A person who releases information obtained pursuant to the provisions of this section or section 22-30.5-110.7 or who makes an unauthorized request for information from the charter school shall be subject to the penalties set forth in section 24-72-206, C.R.S.; except that a person who releases information received from the charter school concerning information contained in the records and reports of child abuse or neglect maintained by the department of human services shall be deemed to have violated section 19-1-307 (4), C.R.S.

**Source: L. 2008:** Entire section added, p. 1660, § 3, effective May 29. **L. 2019:** IP(2) and (2)(b)(I) amended, (HB 19-1166), ch. 125, p. 545, § 22, effective April 18.

**22-30.5-110.7. Fingerprint-based criminal history record checks - charter school employees - procedures - exceptions - definitions.** (1) A person applying for employment with a charter school to whom an offer of employment is extended shall submit to the charter school a complete set of his or her fingerprints taken by a qualified law enforcement agency, an authorized employee of the charter school and notarized, or any third party approved by the Colorado bureau of investigation. At the request of a charter school, a law enforcement agency that has fingerprinting equipment that meets the federal bureau of investigation image quality standards shall take the fingerprints of an applicant pursuant to this section if an approved third-party vendor is not operating within twenty miles of the charter school within the law enforcement agency's jurisdiction. A school employee may use any fingerprinting equipment that meets the federal bureau of investigation image quality standards. If an approved third party takes the person's fingerprints, the fingerprints may be electronically captured using Colorado

bureau of investigation-approved livescan equipment. Third-party vendors shall not keep the applicant information for more than thirty days unless requested to do so by the applicant.

(2) On a form provided by the charter school, an applicant to whom an offer of employment is extended shall certify, under penalty of perjury, either:

(a) That he or she has never been convicted of committing any felony or misdemeanor, but not including any misdemeanor traffic offense or traffic infraction; or

(b) That he or she has been convicted of committing a felony or misdemeanor, but not including any misdemeanor traffic offense or traffic infraction. The certification shall specify the felony or misdemeanor for which the applicant was convicted, the date of the conviction, and the court entering the judgment of conviction.

(3) In addition to any other requirements established by law, the submittal of fingerprints pursuant to subsection (1) of this section and of the form pursuant to subsection (2) of this section shall be a prerequisite to the employment of any person in a charter school. A charter school shall not employ a person who has not complied with the provisions of subsections (1) and (2) of this section.

(4) (a) A charter school to which fingerprints are submitted pursuant to subsection (1) of this section shall forward the fingerprints to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing the records of the Colorado bureau of investigation and the federal bureau of investigation.

(b) When the results of a fingerprint-based criminal history record check of an employee performed pursuant to this subsection (4) reveal a record of arrest without a disposition, the charter school shall require that employee to submit to a name-based criminal history record check, as defined in section 22-2-119.3 (6)(d).

(5) (a) A charter school may employ a person in the charter school prior to receiving the results of the person's fingerprint-based criminal history record check or name-based criminal history record check; except that:

(I) The charter school may terminate the employment of the person if the results are inconsistent with the information provided by the person in the form submitted pursuant to subsection (2) of this section; and

(II) The charter school shall terminate the person's employment if the results disclose a conviction for an offense described in section 22-32-109.8 (6.5).

(b) The charter school shall notify the proper district attorney of inconsistent results as described in subparagraph (I) of paragraph (a) of this subsection (5) for purposes of action or possible prosecution.

(6) (a) When a charter school finds good cause to believe that a person employed by the charter school has been convicted of a felony or misdemeanor, other than a misdemeanor traffic offense or traffic infraction, subsequent to such employment, the charter school shall require the person to submit to the charter school a complete set of his or her fingerprints taken by a qualified law enforcement agency, an authorized employee of the charter school, or any third party approved by the Colorado bureau of investigation. At the request of the charter school, a law enforcement agency that has fingerprinting equipment that meets the federal bureau of investigation image quality standards shall take the fingerprints of a person pursuant to this section if an approved third-party vendor is not operating within twenty miles of the charter school within the law enforcement agency's jurisdiction. A school employee may use any fingerprinting equipment that meets the federal bureau of investigation image quality standards.

If an approved third party takes the person's fingerprints, the fingerprints may be electronically captured using Colorado bureau of investigation-approved livescan equipment. Third-party vendors shall not keep the applicant information for more than thirty days unless requested to do so by the applicant. The employee shall submit his or her fingerprints within twenty days after receipt of written notification from the charter school. The charter school shall forward the employee's fingerprints to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing the records of the Colorado bureau of investigation and the federal bureau of investigation.

(b) When the results of a fingerprint-based criminal history record check of an employee performed pursuant to subsection (6)(a) of this section reveal a record of arrest without a disposition, the charter school shall require that employee to submit to a name-based criminal history record check, as defined in section 22-2-119.3 (6)(d).

(6.5) An employee or an applicant for employment with a charter school is disqualified from employment if the results of a fingerprint-based criminal history record check or name-based criminal history record check completed on or after August 10, 2011, disclose a conviction for an offense described in section 22-32-109.8 (6.5). Nothing in this section or in section 22-32-109.8 creates for a person a property right in or entitlement to employment or continued employment with a charter school or impairs a charter school's right to terminate employment for a nondiscriminatory reason.

(7) For purposes of this section, a person is deemed to have been convicted of committing a felony or misdemeanor if the person has been convicted under the laws of any other state, the United States, or any territory subject to the jurisdiction of the United States of an unlawful act that, if committed within this state, would be a felony or misdemeanor.

(8) For purposes of this section:

(a) "Convicted" means a conviction by a jury or by a court and shall also include the forfeiture of any bail, bond, or other security deposited to secure appearance by a person charged with a felony or misdemeanor, the payment of a fine, a plea of guilty, a plea of nolo contendere, and the imposition of a deferred or suspended sentence by the court.

(b) "Position of employment" means any job or position in which a person may be engaged in the service of a charter school for salary or hourly wages, whether full time or part time and whether temporary or permanent.

(9) (a) The employing charter school shall be responsible for costs arising from a fingerprint-based criminal history record check performed by the Colorado bureau of investigation and the federal bureau of investigation pursuant to the provisions of this section. The charter school may collect the costs from the employee or the prospective employee.

(b) The employing charter school shall be responsible for costs arising from a name-based criminal history record check performed pursuant to this section. The charter school may collect the costs from the employee or the prospective employee.

(10) Subsections (1) to (4) of this section do not apply to a person who has submitted to a fingerprint-based criminal history record check pursuant to section 22-2-119.3.

**Source: L. 2008:** Entire section added, p. 1663, § 3, effective May 29. **L. 2011:** (5) amended and (6.5) added, (HB 11-1121), ch. 242, p. 1054, § 2, effective August 10. **L. 2017:** (1) and (6) amended, (SB 17-189), ch. 149, p. 501, § 9, effective August 9. **L. 2018:** (10) added, (SB 18-229), ch. 232, p. 1451, § 2, effective August 8. **L. 2019:** (1) and (6) amended, (HB 19-1186),

ch. 94, p. 344, § 3, effective April 10; (4), IP(5)(a), (6), (6.5), and (9) amended, (HB 19-1166), ch. 125, p. 545, § 23, effective April 18.

**Editor's note:** Amendments to subsection (6) by HB 19-1166 and HB 19-1186 were harmonized.

**Cross references:** (1) In 2011, subsection (5) was amended and subsection (6.5) was added by the "Safer Schools Act of 2011". For the short title, see section 1 of chapter 242, Session Laws of Colorado 2011.

(2) For the legislative declaration in HB 19-1186, see section 1 of chapter 94, Session Laws of Colorado 2019.

**22-30.5-111. Charter schools - employee options.** (1) During the first year that a teacher employed by a school district is employed by a charter school, such teacher shall be considered to be on a one-year leave of absence from the school district. Such leave of absence shall commence on the first day of services for the charter school. Upon the request of the teacher, the one-year leave of absence shall be renewed for up to two additional one-year periods upon the mutual agreement of the teacher and the school district. At the end of three years, the relationship between the teacher and the school district shall be determined by the school district and such district shall provide notice to the teacher of the relationship.

(2) The local board of education shall determine by policy or by negotiated agreement, if one exists, the employment status of school district employees employed by the charter school who seek to return to employment with public schools in the school district.

(3) Employees of a charter school shall be members of the public employees' retirement association. The charter school and the teacher shall contribute the appropriate respective amounts as required by the funds of the association.

**Source: L. 93:** Entire article added, p. 1059, § 1, effective June 3. **L. 2015:** (3) amended, (SB 15-264), ch. 259, p. 955, § 51, effective August 5.

**22-30.5-112. Charter schools - financing - guidelines - definitions - repeal.** (1) (a) For purposes of the "Public School Finance Act of 1994", article 54 of this title, pupils enrolled in a charter school shall be included in the pupil enrollment, the online pupil enrollment, or the preschool program enrollment, whichever is applicable, of the school district that granted its charter. The school district that granted its charter shall report to the department the number of pupils included in the school district's pupil enrollment, the school district's online pupil enrollment, and the school district's preschool program enrollment that are actually enrolled in each charter school.

(b) The school district shall also identify each charter school that is a qualified charter school as defined in section 22-54-124 (1)(f.6), identify each qualified charter school that will be operating in a school district facility and that does not have ongoing financial obligations incurred to repay the outstanding costs of new construction undertaken for the charter school's benefit, and provide an estimate of the number of pupils expected to be enrolled in each qualified charter school during the budget year following the budget year in which the district makes a report.

(2) (a) (I) As part of the charter school contract, the charter school and the school district shall agree on funding and any services to be provided by the school district to the charter school.

(II) For the 1999-2000 budget year, the charter school and the school district shall begin discussions on the contract using eighty percent of the district per pupil revenues.

(III) (A) For budget year 2000-01 and budget years thereafter, except as otherwise provided in paragraph (a.3) of this subsection (2), each charter school and the chartering school district shall negotiate funding under the contract. The charter school shall receive one hundred percent of the district per pupil revenues for each pupil enrolled in the charter school who is not an online pupil and one hundred percent of the district per pupil online funding for each online pupil enrolled in the charter school; except that the chartering school district may choose to retain the actual amount of the charter school's per pupil share of the central administrative overhead costs for services actually provided to the charter school, up to five percent of the district per pupil revenues for each pupil who is not an online pupil enrolled in the charter school and up to five percent of the district per pupil online funding for each online pupil enrolled in the charter school.

(B) For budget years 2001-02 through 2010-11, the minimum amount of funding specified in sub-subparagraph (A) of this subparagraph (III) shall reflect the one-percent increase in the statewide base per pupil funding for state fiscal years 2001-02 through 2010-11 received by the school district as required by section 17 of article IX of the state constitution.

(a.3) If the authorizing school district enrolls five hundred or fewer students, the charter school shall receive funding in the amount of the greater of one hundred percent of the district per pupil online funding for each online pupil enrolled in the charter school plus one hundred percent of the district per pupil revenues for each pupil who is not an online pupil enrolled in the charter school, minus the actual amount of the charter school's per pupil share of the central administrative overhead costs incurred by the school district, based on audited figures, or eighty-five percent of the district per pupil revenues for each pupil enrolled in the charter school who is not an online pupil plus eighty-five percent of the district per pupil online funding for each online pupil enrolled in the charter school.

(a.4) (I) Within ninety days after the end of each fiscal year, each school district shall provide to each charter school within its district an itemized accounting of all its central administrative overhead costs. If the itemized accounting includes services provided to the charter school by school district personnel, the itemized accounting, at the charter school's request, must include a list of the personnel positions and services provided by persons in each position. The actual central administrative overhead costs are the amount charged to the charter school. Any difference, within the limitations of subparagraph (III) of paragraph (a) of this subsection (2) and paragraph (a.3) of this subsection (2), between the amount initially charged to the charter school and the actual cost must be reconciled and paid to the owed party.

(II) Within ninety days after the end of each fiscal year, each school district shall provide to each charter school within its district an itemized accounting of all the actual costs of district services the charter school chose at its discretion to purchase from the district calculated in accordance with paragraph (b) of this subsection (2). If the itemized accounting includes services purchased by the charter school that were provided by school district personnel, the itemized accounting, at the charter school's request, must include a list of the personnel positions and

services provided by persons in each position. Any difference between the amount initially charged to the charter school and the actual cost shall be reconciled and paid to the owed party.

(III) If either party disputes an itemized accounting provided pursuant to subparagraphs (I) and (II) of this paragraph (a.4), any charges included in an accounting, or charges to either party, that party is entitled to request a third-party review at the requesting party's expense. The review shall be conducted by the department, and the department's determination shall be final.

(a.5) As used in this subsection (2):

(I) "Central administrative overhead costs" means indirect costs incurred in providing:

(A) Services listed under the heading of support services - general administration in the school district chart of accounts as specified by rule of the state board; and

(B) Salaries and benefits for administrative job classifications listed under the headings of support services - business and support services - central in the school district chart of accounts as specified by rule of the state board.

(II) "District per pupil revenues" means the district's total program as defined in section 22-54-103 (6) for any budget year divided by the district's funded pupil count as defined in section 22-54-103 (7) for said budget year.

(II.5) "District per pupil online funding" means a school district's online funding, as specified in section 22-54-104 (4.5), divided by the district's online pupil enrollment for any budget year.

(III) (Deleted by amendment, L. 2010, (HB 10-1013), ch. 399, p. 1913, § 38, effective June 10, 2010.)

(a.7) For the 2000-01 budget year through the 2008-09 budget year, each charter school shall annually allocate the minimum per pupil dollar amount specified in section 22-54-105 (2)(b), multiplied by the number of students enrolled in the charter school who are not students enrolled in an online program or an online school, as defined in sections 22-30.7-102 (9) and 22-30.7-102 (9.5), to a fund created by the charter school for capital reserve purposes, as set forth in section 22-45-103 (1)(c) and (1)(e), or solely for the management of risk-related activities, as identified in section 24-10-115, C.R.S., and article 13 of title 29, C.R.S., or among such allowable funds. Said moneys shall be used for the purposes set forth in section 22-45-103 (1)(c) and (1)(e) and may not be expended by the charter school for any other purpose. Any moneys remaining in the fund that have not been expended prior to the 2009-10 budget year shall be budgeted for the purposes set forth in section 22-45-103 (1)(c) and (1)(e) in the 2009-10 budget year or any budget year thereafter.

(a.8) (I) For the 2000-01 budget year and budget years thereafter, the school district shall provide federally required educational services to students enrolled in charter schools on the same basis as such services are provided to students enrolled in other public schools of the school district. Each charter school shall pay an amount equal to the per pupil cost incurred by the school district in providing federally required educational services, multiplied by the number of students enrolled in the charter school. At either party's request, however, the charter school and the school district may negotiate and include in the charter contract alternate arrangements for the provision of and payment for federally required educational services.

(II) Notwithstanding any provision of subparagraph (I) of this paragraph (a.8) to the contrary, the school district shall calculate the per pupil cost of providing federally required educational services after subtracting the amount received in federal and state moneys for providing said services.

(a.9) For budget year 2002-03 and budget years thereafter, and in accordance with section 22-30.5-406, the funding provided by a chartering school district to a charter school pursuant to this subsection (2) shall be reduced by the amount of any direct payments of principal and interest due on bonds issued on behalf of a charter school by a governmental entity other than a school district for the purpose of financing charter school capital construction that were made by the state treasurer or the chartering school district on behalf of the charter school.

(b) The charter school, at its discretion, may contract with the school district for the direct purchase of district services in addition to those included in central administrative overhead costs, including but not limited to food services, custodial services, maintenance, curriculum, media services, and libraries. The amount to be paid by a charter school in purchasing any district service pursuant to this paragraph (b) shall be determined by dividing the cost of providing the service for the entire school district, as specified in the school district's budget, by the number of students enrolled in the school district and multiplying said amount by the number of students enrolled in the charter school.

(b.5) (I) The charter school and the school district shall negotiate prior to the beginning of each fiscal year for the payment to the school district of any direct costs incurred by the school district. If the charter school and the school district do not reach agreement regarding the payment of direct costs, the school district shall be barred from withholding from the charter school any moneys as reimbursement for direct costs. The school district shall provide an itemized accounting to each charter school for the direct costs incurred by the school district with the itemized accounting provided pursuant to paragraph (a.4) of this subsection (2).

(II) For purposes of this paragraph (b.5), "direct costs" means the direct costs incurred by a school district solely for the purpose of reviewing charter applications, negotiating the charter contract, and providing direct oversight to charter schools. "Direct costs" shall not include the school district's legal or other costs attributable to litigation or the resolution of a dispute with a charter school.

(c) (I) (Deleted by amendment, L. 2010, (HB 10-1013), ch. 399, p. 1913, § 38, effective June 10, 2010.)

(II) For budget year 2000-01 and budget years thereafter, the amount of funding received by a charter school pursuant to this subsection (2) shall not be less than one hundred percent of the chartering school district's district per pupil revenues, minus up to five percent as provided in subparagraph (III) of paragraph (a) of this subsection (2), multiplied by the number of pupils enrolled in the charter school or as otherwise provided in paragraph (a.3) of this subsection (2) for any charter school chartered by a school district that enrolls five hundred or fewer students.

(III) For purposes of calculating a charter school's funding pursuant to this subsection (2):

(A) If the charter school operates a full-day kindergarten educational program, the pupils enrolled in the program are counted as full-day pupils; except that a student enrolled as less than a full-time pupil is counted in accordance with rules promulgated by the state board; and

(B) If the charter school operates a half-day kindergarten educational program, the pupils enrolled in the program are counted as half-day pupils and the number of pupils enrolled in the charter school must include the supplemental kindergarten enrollment as defined in section 22-54-103 (15).

(d) (Deleted by amendment, L. 2004, p. 1583, § 10, effective June 3, 2004.)

(e) (I) Fees collected from students enrolled at a charter school shall be retained by such charter school.

(II) (A) A charter school shall not charge the parent of a child enrolled in a kindergarten educational program tuition to attend any portion of the program and shall not charge the parent fees for the child to attend the program other than fees that are routinely charged to the parents of students enrolled in other grades and are applicable to the kindergarten educational program.

(B) Notwithstanding the provisions of subsection (2)(e)(II)(A) of this section to the contrary, if the general assembly amends the "Public School Finance Act of 1994", article 54 of this title 22, to count a student enrolled in kindergarten only as a half-day pupil, with or without the addition of supplemental kindergarten enrollment as defined in section 22-54-103 (15) for purposes of calculating the funded pupil count as defined in section 22-54-103 (7), a charter school may charge the student's parents tuition or a fee for the portion of the school day for which it does not receive funding for the student pursuant to the "Public School Finance Act of 1994"; except that the amount of tuition or fee charged shall not exceed the amount of tuition or fee that the charter school charged to attend a full-day kindergarten educational program for the 2018-19 budget year, adjusted for inflation and prorated by the percentage of the school day for which the student is no longer funded by the "Public School Finance Act of 1994". As used in this subsection (2)(e)(II)(B), "inflation" means the annual percentage change in the United States department of labor bureau of labor statistics consumer price index for Denver-Aurora-Lakewood for all items paid by all urban consumers, or its applicable successor index.

(3) (a) (I) For the 1999-2000 budget year, notwithstanding subsection (2) of this section, the proportionate share of state and federal resources generated by students with disabilities or staff serving them shall be directed to charter schools enrolling such students by their school districts or administrative units. The proportionate share of moneys generated under other federal or state categorical aid programs shall be directed to charter schools serving students eligible for such aid.

(II) For budget year 2000-01 and budget years thereafter, if the charter school and the school district have negotiated to allow the charter school to provide federally required educational services pursuant to paragraph (a.8) of subsection (2) of this section, the proportionate share of state and federal resources generated by students receiving such federally required educational services or staff serving them shall be directed by the school district or administrative unit to the charter school enrolling such students.

(III) For budget year 2000-01 and budget years thereafter, the proportionate share of moneys generated under federal or state categorical aid programs, other than federally required educational services, shall be directed to charter schools serving students eligible for such aid; except that a school district that receives small attendance center aid pursuant to section 22-54-122 for a small attendance center that is a charter school shall forward the entire amount of such aid to the charter school for which it was received.

(IV) The school district shall distribute to each charter school on a per-pupil basis any state or federal money that is not otherwise addressed in subsection (2) of this section or in this subsection (3) and that the school district receives based on a per pupil calculation if the calculation includes pupils enrolled in the charter school.

(a.5) Each charter school that serves students who may be eligible to receive services provided through federal aid programs shall comply with all federal reporting requirements to receive the federal aid.

(b) If a student with a disability attends a charter school, the school district of residence shall be responsible for paying any tuition charge for the excess costs incurred in educating the child in accordance with the provisions of section 22-20-109 (5).

(c) Within ninety days after the end of each budget year, each school district shall provide to each charter school of the school district an itemized accounting of all the actual special education costs that the school district incurred for the applicable budget year and the basis of any per pupil charges for special education that the school district imposed against the charter school for the applicable budget year. If the itemized accounting includes services provided to the charter school by school district personnel, the itemized accounting, at the charter school's request, must include a list of the personnel positions and services provided by persons in each position.

(4) The governing body of a charter school is authorized to accept gifts, donations, or grants of any kind made to the charter school and to expend or use said gifts, donations, or grants in accordance with the conditions prescribed by the donor; however, no gift, donation, or grant shall be accepted by the governing body if subject to any condition contrary to law or contrary to the terms of the contract between the charter school and the local board of education.

(4.5) Except as provided in section 22-30.5-112.3 (2)(b), any moneys received by a charter school from any source and remaining in the charter school's accounts at the end of any budget year shall remain in the charter school's accounts for use by the charter school during subsequent budget years and shall not revert to the school district or to the state.

(5) Repealed. / (Deleted by amendment, L. 2004, p. 1583, § 10, effective June 3, 2004.)

(6) (Deleted by amendment, L. 2004, p. 1583, § 10, effective June 3, 2004.)

(7) A charter school shall comply with all of the state financial and budget rules, regulations, and financial reporting requirements with which the chartering school district is required to comply, including but not limited to annual completion of a governmental audit that complies with the requirements of the department.

(8) (a) Notwithstanding any provision of this section to the contrary, a chartering school district, under the circumstances specified in the contract between the school district and the charter school pursuant to section 22-30.5-105 (2)(c)(IV), may withhold a portion of a charter school's monthly payment due pursuant to this section.

(b) The chartering school district may withhold a portion of the payment due to the charter school only until such time as the charter school complies with the financial reporting requirements.

(9) (a) If a charter school determines that its chartering school district has not forwarded to the charter school the amount due to the charter school in accordance with the terms of the charter contract and the provisions of this section, the charter school may seek a determination from the state board regarding whether the chartering school district improperly withheld any portion of the amount due to the charter school. A charter school that chooses to request a determination pursuant to this subsection (9) of issues arising on or after July 1, 2004, shall submit the request within the next fiscal year following the fiscal year in which the chartering school district may have improperly withheld funding; except that, if the charter contract requires the charter school to complete any requirements prior to seeking a determination from the department pursuant to this subsection (9), the charter school shall submit the request no later than the end of the next fiscal year following the fiscal year in which the charter school completes said requirements.

(b) Upon receipt from a charter school of a request for a determination of whether the chartering school district has improperly withheld any portion of the amount due to the charter school, the state board shall direct the department to review the terms of the charter contract and the financial information of the charter school and the chartering school district and make a recommendation to the state board regarding whether the chartering school district improperly withheld any portion of the amount due to the charter school. The department shall request from the chartering school district and the charter school all information necessary to make the recommendation, including but not limited to audited financial data. The chartering school district and the charter school shall provide the requested information as soon as possible following the request, but in no event later than thirty days after completion of the annual financial audit. The department shall forward its recommendation to the state board within sixty days after receiving all of the requested information from the chartering school district and the charter school.

(c) At the next state board meeting following receipt of the recommendation of the department pursuant to paragraph (b) of this subsection (9), the state board shall issue its decision regarding whether the chartering school district improperly withheld any portion of the amount due to the charter school. If the state board finds that the chartering school district improperly withheld any portion of the amount due to the charter school, the chartering school district shall pay to the charter school, within thirty days after issuance of the decision, the amount improperly withheld. In addition, the chartering school district shall pay the costs incurred by the department in reviewing the necessary information to make its recommendation. If the state board finds that the chartering school district did not improperly withhold any portion of the amount due to the charter school, the charter school shall pay the costs incurred by the department in reviewing the necessary information to make its recommendation.

(d) If the chartering school district fails within the thirty-day period to pay the full amount that was improperly withheld, the charter school may notify the department, and the department shall withhold from the chartering school district's state equalization payment the unpaid portion of the amount improperly withheld by the chartering school district from the charter school and pay the unpaid portion directly to the charter school.

(10) (a) If a charter school determines that a school district has not paid the tuition charge for the excess costs incurred in educating a child with a disability as required in section 22-20-109 (5), the charter school may seek a determination from the state board in accordance with the provisions of subsection (9) of this section.

(b) If the state board determines that the school district has improperly withheld moneys due to the charter school, the school district, within thirty days after the state board's determination, shall pay to the charter school the amount improperly withheld. In addition, the school district shall pay the costs incurred by the department in reviewing the necessary information to make its recommendation. If the school district fails, within the thirty-day period, to pay the full amount that was improperly withheld, the charter school shall notify the department, and the department shall withhold from the school district's state equalization payment the unpaid portion of the amount improperly withheld by the district and pay the unpaid portion directly to the charter school.

(c) If the state board finds that the school district did not improperly withhold any portion of the amount due to the charter school, the charter school shall pay the costs incurred by the department in reviewing the necessary information to make its recommendation.

(11) (a) Notwithstanding any provision of this section to the contrary, a district charter school that converts from an institute charter school pursuant to section 22-30.5-504 (10) continues to receive, as calculated pursuant to section 22-30.5-513, the accounting district's adjusted per pupil revenues and at-risk supplemental aid as the funding applied to the converted school before the conversion; except that this subsection (11) does not apply if the converted school is authorized by a small rural school district, as described in section 22-54-108 (3)(b)(IV).

(b) This subsection (11) is repealed, effective July 1, 2021.

**Source: L. 93:** Entire article added, p. 1059, § 1, effective June 3. **L. 94:** (2)(a) amended, p. 812, § 25, effective April 27; (1) and (3) amended, p. 1379, § 4, effective May 25. **L. 96:** (5) amended, p. 1240, § 97, effective August 7. **L. 97:** (1) amended, p. 587, § 18, effective April 30. **L. 99:** (2)(a), (2)(b), (2)(c), and (3)(a) amended and (2)(a.3), (2)(a.5), (2)(a.7), (2)(a.8), and (2)(b.5) added, p. 172, § 1, effective March 30; (3)(a) R&RE and (4.5) added, p. 1257, §§ 8, 7, effective June 2. **L. 2001:** (1) and (2)(a)(III) amended and (2)(a.4) added, pp. 349, 339, 358, §§ 11, 2, 25, effective April 16; (2)(a)(III) amended, p. 337, § 2, effective April 16. **L. 2002:** (1), (2)(a)(III)(A), (2)(a.3), (2)(a.7), and (3)(a)(III) amended and (2)(a.5)(II.5), (2)(a.9), and (3)(a.5) added, pp. 1750, 1751, 1766, §§ 25, 26, 34, effective June 7. **L. 2003:** (4.5) amended, p. 517, § 7, effective March 5; (1), (2)(a)(III)(A), (2)(a.3), (2)(a.5)(I), and (2)(a.5)(II.5) amended, p. 2127, § 19, effective May 22. **L. 2004:** (2)(a)(III)(A), (2)(a.4)(III), (2)(c)(II), (2)(d), (5), and (6) amended, (5) repealed, and (7), (8), (9), and (10) added, pp. 1583, 1591, §§ 10, 25, effective June 3; (2)(a)(III)(A), (2)(b.5), and (5) amended, p.1632, § 34, effective July 1. **L. 2006:** (2)(a.8) amended, p. 577, § 6, effective April 24; (1)(a) amended, p. 696, § 39, effective April 28; (1)(b) amended, p. 606, § 20, effective August 7. **L. 2007:** (2)(a.5)(II.5) and (2)(a.7) amended, p. 1090, §§ 17, 19, effective July 1. **L. 2008:** (2)(a)(III)(A) amended, p. 1899, § 74, effective August 5. **L. 2009:** (2)(a.7) amended, (SB 09-256), ch. 294, p. 1554, § 11, effective May 21; (1)(a) amended, (SB 09-292), ch. 369, p. 1962, § 57, effective August 5. **L. 2010:** (2)(a)(II), (2)(a.5)(III), and (2)(c)(I) amended, (HB 10-1013), ch. 399, p. 1913, § 38, effective June 10. **L. 2012:** (2)(a.7) amended and (2)(c)(III) added, (HB 12-1240), ch. 258, pp. 1316, 1311, §§ 27, 10, effective June 4. **L. 2014:** (3)(c) added, (HB 14-1292), ch. 243, p. 909, § 12, effective May 21. **L. 2016:** (2)(a.4)(I), (2)(a.4)(II), and (3)(c) amended and (3)(a)(IV) added, (HB 16-1422), ch. 351, p. 1435, § 13, effective June 10; (11) added, (SB 16-208), ch. 271, p. 1124, § 1, effective August 10. **L. 2019:** (2)(c)(III) and (2)(e) amended, (HB 19-1262), ch. 245, p. 2397, § 5, effective May 21.

**Editor's note:** (1) Amendments to subsection (2)(a)(III) by Senate Bill 01-129 and House Bill 01-1232 were harmonized. Amendments to subsection (2)(a)(III)(A) by House Bill 04-1141 and House Bill 04-1362 were harmonized.

(2) Subsection (5) was amended in House Bill 04-1362, effective July 1, 2004. However, those amendments will not take effect due to the repeal of subsection (5) by House Bill 04-1141, effective June 3, 2004.

**Cross references:** (1) For the legislative declaration contained in the 1996 act amending subsection (5), see section 1 of chapter 237, Session Laws of Colorado 1996. For the legislative declaration contained in the 1999 act amending subsection (3)(a) and enacting subsection (4.5), see section 1 of chapter 302, Session Laws of Colorado 1999.

(2) For the short title ("Student Success Act") in HB 14-1292, see section 1 of chapter 243, Session Laws of Colorado 2014.

**22-30.5-112.1. Charter schools - exclusive jurisdiction districts - authorized on or after July 1, 2004 - financing - definitions - repeal.** (1) As used in this section, unless the context otherwise requires:

(a) (I) "Adjusted district per pupil revenues" means the greater of:

(A) The qualifying school district's per pupil funding plus the qualifying school district's at-risk per pupil funding; or

(B) Minimum per pupil funding as calculated pursuant to section 22-54-104 (3.5)(d).

(II) Notwithstanding any provision of subparagraph (I) of this paragraph (a) to the contrary, in a budget year in which a qualifying school district receives minimum per pupil funding as calculated pursuant to section 22-54-104 (3.5)(d), "adjusted district per pupil revenues" means minimum per pupil funding as calculated pursuant to section 22-54-104 (3.5)(d).

(b) "At-risk funding" means the amount of funding determined in accordance with the formulas described in section 22-54-104 (4).

(c) "At-risk per pupil funding" means the amount of funding determined in accordance with the following formula:

(The qualifying school district's at-risk funding divided by the qualifying school district's funded pupil count) x (the district charter school's percentage of at-risk pupils divided by the qualifying school district's percentage of at-risk pupils)

(d) "At-risk pupils" shall have the same meaning as provided in section 22-54-103 (1.5).

(e) "Central administrative overhead costs" shall have the same meaning as provided in section 22-30.5-112 (2)(a.5)(I).

(f) "District charter school" means a charter school for which the charter application is approved on or after July 1, 2004, by a qualifying school district.

(g) "District funded pupil count" shall have the same meaning as provided in section 22-54-103 (7).

(h) "District per pupil funding" means a qualifying school district's per pupil funding as determined in accordance with the formula described in section 22-54-104 (3).

(i) "District per pupil online funding" means a school district's online funding, as specified in section 22-54-104 (4.5), divided by the district's online pupil enrollment for any budget year.

(j) "District per pupil revenues" means the qualifying school district's total program, as defined in section 22-54-103 (6), for any budget year divided by the qualifying school district's funded pupil count for said budget year.

(k) "Online pupil enrollment" means:

(I) Repealed.

(II) For the 2008-09 budget year, and for budget years thereafter, the number of pupils, on the pupil enrollment count day within the applicable budget year, enrolled in, attending, and actively participating in a multi-district online school, as defined in section 22-30.7-102 (6), created pursuant to article 30.7 of this title, by the district charter school.

(l) "Pupil enrollment" shall have the same meaning as provided in section 22-54-103 (10).

(m) "Qualifying school district" means a school district:

(I) That has retained exclusive authority to authorize charter schools pursuant to the provisions of section 22-30.5-504; and

(II) In which more than forty percent of the pupil enrollment consists of at-risk pupils.

(2) Notwithstanding the provisions of section 22-30.5-112 (2)(a) to (2)(a.5), (2)(b), (2)(b.5), and (2)(c), the amount of funding to be received by a district charter school, the accounting of central administrative overhead costs between a district charter school and a qualifying school district, and the direct purchase of district services by a district charter school from a qualifying school district shall be determined pursuant to the provisions of this section.

(3) (a) For budget year 2004-05 and budget years thereafter, each district charter school and the qualifying school district that approved the charter shall negotiate funding under the charter contract. The district charter school shall receive one hundred percent of the adjusted district per pupil revenues for each pupil enrolled in the district charter school who is not an online pupil and one hundred percent of the district per pupil online funding for each online pupil enrolled in the district charter school; except that the qualifying school district may choose to retain the sum of the actual amount of the district charter school's per pupil share of the central administrative overhead costs for services actually provided to the district charter school, up to five percent of the adjusted district per pupil revenues for each pupil who is not an online pupil enrolled in the district charter school and up to five percent of the district per pupil online funding for each online pupil enrolled in the district charter school.

(b) Notwithstanding any provision of this subsection (3) to the contrary, if a qualifying school district enrolls five hundred or fewer students, the district charter school shall receive funding in the amount of the greater of one hundred percent of the district per pupil online funding for each online pupil enrolled in the district charter school plus one hundred percent of the district per pupil revenues for each pupil who is not an online pupil enrolled in the district charter school, minus the actual amount of the district charter school's per pupil share of the central administrative overhead costs incurred by the qualifying school district, based on audited figures, or eighty-five percent of the district per pupil revenues for each pupil enrolled in the district charter school who is not an online pupil plus eighty-five percent of the district per pupil online funding for each online pupil enrolled in the district charter school.

(c) For purposes of calculating a charter school's funding pursuant to this subsection (3):

(I) If the charter school operates a full-day kindergarten educational program, the pupils enrolled in the program are counted as full-day pupils; except that a student enrolled as less than a full-time pupil is counted in accordance with rules promulgated by the state board; and

(II) If the charter school operates a half-day kindergarten educational program, the pupils enrolled in the program are counted as half-day pupils and the number of pupils enrolled in the charter school must include the supplemental kindergarten enrollment as defined in section 22-54-103 (15).

(4) Within ninety days after the end of each fiscal year, each qualifying school district shall provide to each district charter school authorized by the qualifying school district an itemized accounting of all its central administrative overhead costs. The actual central administrative overhead costs shall be the amount charged to the district charter school. Any difference, within the limitations specified in subsection (3) of this section, between the amount

initially charged to the district charter school and the actual cost shall be reconciled and paid to the owed party.

(5) The district charter school, at its discretion, may contract with the qualifying school district for the direct purchase of district services in addition to those included in central administrative overhead costs, including but not limited to food services, custodial services, maintenance, curriculum, media services, and libraries. The amount to be paid by a district charter school in purchasing any district service pursuant to this subsection (5) shall be determined through an agreement between the district charter school and the qualifying school district using one of the following methods:

(a) By dividing the cost of providing the service for the entire qualifying school district, as specified in the qualifying school district's budget, by the number of students enrolled in the qualifying school district and multiplying said amount by the number of students enrolled in the district charter school;

(b) By determining the actual costs incurred by the qualifying school district in providing support services; or

(c) By negotiating a services agreement between the district charter school and the qualifying school district pursuant to which multiple services are provided for a fixed cost.

(6) Notwithstanding any other provision of this section to the contrary and for the purposes of this section only, a school district in which more than forty percent of the pupil enrollment consists of at-risk pupils at the time a charter school's application is first approved shall be deemed to have the same percentage of at-risk pupil enrollment for the term of the charter contract. For purposes of renewal of the charter contract, the percentage of at-risk pupils in the school district at the time the renewal application is submitted shall be the percentage used for purposes of determining whether the school district is a qualifying school district and subject to the provisions of this section.

(7) (a) Notwithstanding any provision of this section to the contrary, a district charter school that converts from an institute charter school pursuant to section 22-30.5-504 (10) continues to receive, as calculated pursuant to section 22-30.5-513, the accounting district's adjusted per pupil revenues and at-risk supplemental aid as the funding applied to the converted school before the conversion; except that this subsection (7) does not apply if the converted school is authorized by a small rural school district, as described in section 22-54-108 (3)(b)(IV).

(b) This subsection (7) is repealed, effective July 1, 2021.

**Source: L. 2006:** Entire section added, p. 574, § 5, effective April 24. **L. 2007:** (1)(i) and (1)(k) amended, pp. 1090, 1086, §§ 18, 8, effective July 1. **L. 2009:** (1)(k)(I) repealed, (SB 09-292), ch. 369, p. 1962, § 58, effective August 5. **L. 2012:** (1)(k)(II) amended, (HB 12-1090), ch. 44, p. 150, § 7, effective March 22; (1)(k)(II) amended and (3)(c) added, (HB 12-1240), ch. 258, pp. 1317, 1311, §§ 28, 11, effective June 4. **L. 2014:** (1)(a) amended, (HB 14-1298), ch. 244, p. 925, § 10, effective May 21. **L. 2016:** (7) added, (SB 16-208), ch. 271, p. 1124, § 2, effective August 10. **L. 2019:** (3)(c) amended, (HB 19-1262), ch. 245, p. 2398, § 6, effective May 21.

**Editor's note:** Amendments to subsection (1)(k)(II) by House Bill 12-1090 and House Bill 12-1240 were harmonized.

**22-30.5-112.2. Charter schools - at-risk supplemental aid - definitions - legislative declaration - repeal.** (1) As used in this section, unless the context otherwise requires:

(a) "Adjusted district per pupil revenues" has the same meaning as defined in section 22-30.5-112.1 (1)(a).

(b) "ASCENT program" means the accelerating students through concurrent enrollment program created in section 22-35-108.

(c) "At-risk pupils" has the same meaning as defined in section 22-54-103 (1.5).

(d) "District per pupil revenues" has the same meaning as defined in section 22-30.5-112 (2)(a.5)(II).

(e) "Qualifying school district" has the same meaning as defined in section 22-30.5-112.1.

(2) (a) For the 2012-13 budget year and each budget year thereafter, the general assembly shall appropriate to the department of education for allocation to school districts the amount calculated for at-risk supplemental aid for those school districts and district charter schools described in paragraph (b) of this subsection (2). The at-risk supplemental aid is additional funding and does not supplant any other funding provided pursuant to this article.

(b) (I) Each qualifying school district shall receive at-risk supplemental aid if the percentage of at-risk pupils in a district charter school authorized by the qualifying school district prior to July 1, 2004, is less than the percentage of at-risk pupils in the qualifying school district. The amount of the school district's at-risk supplemental aid is equal to the difference between one hundred percent of district per pupil revenues and one hundred percent of adjusted district per pupil revenues for each pupil enrolled in the district charter school, not including online pupils or pupils enrolled in the ASCENT program.

(II) Each district charter school in a qualifying school district that was initially authorized prior to July 1, 2004, shall receive at-risk supplemental aid if the percentage of at-risk students in the district charter school exceeds the percentage of at-risk pupils in the qualifying school district. The amount of the district charter school's at-risk supplemental aid is equal to the difference between one hundred percent of adjusted district per pupil revenues and one hundred percent of district per pupil revenues for each pupil enrolled in the district charter school, not including online pupils or pupils enrolled in the ASCENT program. A school district shall pass through one hundred percent of a district charter school's at-risk supplemental aid to the district charter school.

(III) Each district charter school in a school district that is not a qualifying district and whose percentage of at-risk pupils exceeds the percentage of at-risk pupils in the chartering school district shall receive at-risk supplemental aid. The amount of the district charter school's at-risk supplemental aid is equal to the difference between one hundred percent of adjusted district per pupil revenues and one hundred percent of district per pupil revenues for each pupil enrolled in the district charter school, not including online pupils or pupils enrolled in the ASCENT program. A school district shall pass through one hundred percent of a district charter school's at-risk supplemental aid to the district charter school.

(3) If the appropriation to the department of education is insufficient to fund one hundred percent of the at-risk supplemental aid calculated pursuant to paragraph (b) of subsection (2) of this section, the department of education shall reduce each school district's and each district charter school's at-risk supplemental aid proportionately.

(4) (a) Notwithstanding any provision of this section to the contrary, at-risk supplemental aid for a district charter school that converts from an institute charter school pursuant to section 22-30.5-504 (10) continues to be calculated for the converted school pursuant to section 22-30.5-513 as the funding applied to the converted school before the conversion; except that this subsection (4) does not apply if the converted school is authorized by a small rural school district, as described in section 22-54-108 (3)(b)(IV).

(b) This subsection (4) is repealed, effective July 1, 2021.

**Source: L. 2012:** Entire section added, (HB 12-1345), ch. 188, p. 721, § 8, effective May 19. **L. 2016:** (4) added, (SB 16-208), ch. 271, p. 1125, § 3, effective August 10.

**22-30.5-112.3. Charter schools - additional aid from district.**

(1) (a) and (a.5) Repealed.

(a.7) (I) For the 2003-04 budget year and each budget year thereafter, a qualified charter school, as defined in section 22-54-124 (1)(f.6), shall receive state education fund moneys from the school district that granted its charter in an amount equal to the percentage of the district's certified charter school pupil enrollment that is attributable to pupils expected to be enrolled in the qualified charter school multiplied by the total amount of state education fund moneys distributed to the district for the same budget year pursuant to section 22-54-124 (3).

(II) As used in this paragraph (a.7), "pupils" means pupils, other than pupils enrolled in an online program or online school, as defined in sections 22-30.7-102 (9) and 22-30.7-102 (9.5), who are enrolled in a charter school.

(b) Funding received pursuant to paragraph (a), (a.5), or (a.7) of this subsection (1) shall be in addition to any funding provided pursuant to section 22-30.5-112.

(c) A district shall provide funding to each qualified charter school, as defined in section 22-54-124 (1)(f.6), by making a monthly payment to the qualified charter school as soon as possible after the district receives a monthly payment of state education fund moneys pursuant to section 22-54-124 (4).

(2) (a) A charter school shall use moneys it receives pursuant to subsection (1) of this section solely for capital construction, as defined in section 22-54-124 (1)(a).

(b) Notwithstanding the provisions of section 22-30.5-112 (4.5), any moneys received by a charter school pursuant to subsection (1) of this section for the 2001-02 budget year that are not expended by January 31, 2003, shall be transferred back to the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 2001:** Entire section added, p. 348, § 10, effective April 16. **L. 2002:** (1)(a) and (1)(c) amended, p. 1751, § 27, effective June 7. **L. 2003:** (1)(a)(I), (1)(c), and (2) amended and (1)(a.5) added, p. 517, § 8, effective March 5; (1)(a)(I), (1)(b), and (1)(c) amended and (1)(a.7) added, pp. 2133, 2134, §§ 29, 30, effective May 22. **L. 2006:** (1)(a) and (1)(a.5) repealed and (1)(c) amended, p. 606, §§ 21, 22, effective August 7. **L. 2007:** (1)(a.7)(II) amended, p. 1090, § 20, effective July 1. **L. 2010:** (1)(c) amended, (HB 10-1013), ch. 399, p. 1896, § 1, effective June 10. **L. 2012:** (1)(a.7)(II) amended, (HB 12-1240), ch. 258, p. 1317, § 29, effective June 4.

**22-30.5-112.5. Charter schools - transportation plans.** If a charter school's charter or contract includes provision of transportation services by the school district, the charter school and the school district shall collaborate in developing a transportation plan to use school district equipment to transport students enrolled in the charter school to and from the charter school and their homes and to and from the charter school and any extracurricular activities. The transportation plan may include, but need not be limited to, development of bus routes and plans for sharing the use of school district equipment for the benefit of students enrolled in charter schools of the school district and students enrolled in other schools of the school district.

**Source: L. 2001:** Entire section added, p. 368, § 37, effective April 16.

**22-30.5-113. State board - department of education - duties - charter schools - evaluation - report.** (1) Notwithstanding section 24-1-136 (11)(a)(I), beginning in the 2004-05 budget year, and at least every three years thereafter, the department shall prepare a report and evaluation for the governor and the house and senate committees on education on the success or failure of charter schools and of institute charter schools authorized pursuant to part 5 of this article 30.5, their relationship to other school reform efforts, and suggested changes in state law necessary to strengthen or change the charter school program described in this article 30.5.

(2) The state board shall compile evaluations of charter schools received from local boards of education and evaluations of institute charter schools prepared by the state charter school institute created in section 22-30.5-503. The state board shall review information regarding the statutes, regulations, and policies from which charter schools were released pursuant to section 22-30.5-105 and from which institute charter schools were released pursuant to section 22-30.5-508 to determine if the releases assisted or impeded the charter schools or the institute charter schools in meeting their stated goals and objectives.

(3) In preparing the report required by this section, the state board shall compare the performance of charter school pupils and institute charter school pupils with the performance of ethnically and economically comparable groups of pupils in other public schools who are enrolled in academically comparable courses.

**Source: L. 93:** Entire article added, p. 1061, § 1, effective June 3. **L. 98:** (2) repealed, p. 1076, § 6, effective June 1. **L. 2004:** Entire section R&RE, p. 1591, § 26, effective June 3; (1) and (3) amended, p. 1633, § 35, effective July 1. **L. 2017:** (1) amended, (HB 17-1267), ch. 242, p. 995, § 10, effective August 9.

**22-30.5-114. Repeal of part. (Repealed)**

**Source: L. 93:** Entire article added, p. 1061, § 1, effective June 3. **L. 96:** Entire section amended, p. 668, § 7, effective May 2. **L. 98:** Entire section repealed, p. 164, § 1, effective April 6.

**22-30.5-115. Construction of article - severability.** If any provision of this article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this article that can be given effect without the invalid

provision or application, and to this end the provisions of this article are declared to be severable.

**Source: L. 96:** Entire section added, p. 755, § 9, effective May 22.

**22-30.5-116. Charter schools - school bullying policies required.** (1) On or before October 1, 2011, each charter school shall adopt and implement a policy concerning bullying prevention and education. Each charter school's policy, at a minimum, shall set forth appropriate disciplinary consequences for students who bully other students and for any person who takes any retaliatory action against a student who reports in good faith an incident of bullying, which consequences shall comply with all applicable state and federal laws.

(2) For the purposes of this section, "bullying" shall have the same meaning as set forth in section 22-32-109.1 (1)(b).

(3) Each charter school is encouraged to ensure that its policy, at a minimum, incorporates the biennial administration of surveys of students' impressions of the severity of bullying in their schools, as described in section 22-93-104 (1)(c); includes character building; and includes the designation of a team of persons at each school of the school district who advise the school administration concerning the severity and frequency of bullying incidents that occur in the school, which team may include, but need not be limited to, law enforcement officials, social workers, prosecutors, health professionals, mental health professionals, counselors, teachers, administrators, parents, and students.

**Source: L. 2011:** Entire section added, (HB 11-1254), ch. 173, p. 653, § 3, effective May 13. **L. 2012:** (2) amended, (HB 12-1345), ch. 188, p. 747, § 35, effective May 19.

**22-30.5-117. Developmental education placement or assessment tests - intervention plans.** (1) Each charter school that includes any of grades nine through twelve may administer to students enrolled in those grades the developmental education placement or assessment tests that are administered to matriculated first-time freshman students pursuant to section 23-1-113. The charter school may administer the tests to a student at any time and as often as it deems necessary while the student is enrolled in any of grades nine through twelve, but the department of education shall allocate money to each charter school to offset the costs incurred in administering each of the test units only once per student while he or she is enrolled in those grades.

(2) If a charter school chooses to administer the developmental education placement or assessment tests, each student's individual career and academic plan must include the scores achieved by the student on the developmental education placement or assessment tests and, based on an analysis of the scores, the student's level of postsecondary and workforce readiness at the time he or she takes the tests. If a student's scores indicate that he or she is at risk of being unable to demonstrate postsecondary and workforce readiness prior to or upon graduating from high school, school personnel shall work with the student and the student's parent or legal guardian to create an intervention plan that identifies the necessary courses and education support services the student requires to be able to achieve postsecondary and workforce readiness prior to or upon graduating from high school and to be prepared to continue into the postsecondary education option, if any, selected by the student in his or her individual career and

academic plan without need for developmental educational services. If appropriate, the charter school, the student, and the student's parent or legal guardian may choose to enroll the student in gateway courses in English or mathematics, as defined in section 23-1-113 (11)(b.5), with additional supports through supplemental academic instruction, as defined in section 23-1-113 (11)(e), at an institution of higher education, through the "Concurrent Enrollment Programs Act", article 35 of this title 22.

**Source: L. 2012:** Entire section added, (HB 12-1345), ch. 188, p. 726, § 14, effective May 19. **L. 2019:** Entire section amended, (HB 19-1206), ch. 133, p. 600, § 8, effective April 25.

**Cross references:** For the legislative declaration in the 2012 act adding this section, see section 11 of chapter 188, Session Laws of Colorado 2012. For the legislative declaration in HB 19-1206, see section 1 of chapter 133, Session Laws of Colorado 2019.

**22-30.5-118. Needs-based inclusion of charter schools in school district mill levy elections - eligibility - allocation of additional local revenues - definitions.** (1) In enacting this section, it is the intent of the general assembly to respect the principle of school district local control and to encourage school districts and charter schools to work together to ensure that charter schools' needs for operating revenues can be met. Accordingly, nothing in this section limits in any way the existing ability of a school district to include a charter school in a school district election to approve additional local revenues or to otherwise assist a charter school in obtaining funding to meet its needs for operating revenues in a legal manner mutually agreed upon by the school district and the charter school.

(2) As used in this section, unless the context otherwise requires:

(a) "Additional local revenues" means a mill levy increase for which a school district receives voter approval pursuant to section 22-40-102 (1.5) or (1.7), 22-54-108, or 22-54-108.5.

(b) "Operating revenues" means moneys used by a school district or a charter school to pay expenses other than capital construction expenses.

(c) "Planning committee" means a committee formed by a school district to assess and prioritize the school district's needs for operating revenues and to consider seeking additional local revenues.

(3) If a school district has a planning committee, the school district must allow the charter schools that the local board of education authorizes to have at least one representative on the school district's planning committee that represents the group of charter schools and must notify the charter schools of the planning committee's meeting schedule. The charter schools of a school district shall cooperate in determining the person or persons who will represent the interests of charter schools on the planning committee.

(4) A school district that considers submitting, or receives a petition requiring it to submit, a ballot question to the eligible electors of the school district to authorize additional local revenues pursuant to section 22-40-102 (1.5) or (1.7), 22-54-108, or 22-54-108.5 shall invite each charter school authorized by the school district to participate in discussions regarding submission of the question. The school district shall extend the invitation at the earliest possible time but no later than June 1 of the applicable election year. Each school district is encouraged to voluntarily include funding for the operating revenues needs of charter schools in the school district's ballot questions to authorize additional local revenues without requiring a charter

school to comply with the operating revenues plan submission process set forth in subsection (5) of this section.

(5) (a) A charter school that has operating revenues needs may request that the local board of education of its chartering school district:

(I) Include the charter school's operating revenues needs as part of a ballot question to authorize additional local revenues that the school district submits to the eligible electors of the school district; or

(II) Submit a ballot question to authorize additional local revenues for the charter school to the eligible electors of the school district pursuant to section 22-30.5-119.

(b) A charter school that seeks to have its operating revenues needs included as part of a ballot question that the local board of education of its chartering school district submits to the eligible electors of the district or that seeks to obtain funding for its operating revenues needs through the authorization of additional local revenues pursuant to section 22-30.5-119 shall submit an operating revenues plan to the local board of education of its chartering school district. The plan must include:

(I) A statement of the reasons why the operating revenues needs that would be funded through additional local revenues are necessary;

(II) A description of the specific operations that would be funded through additional local revenues; and

(III) A statement of the reasons why revenue sources other than additional local revenues are inadequate to fully fund the charter school's operating revenues needs.

(6) (a) The local board of education shall review the operating revenues plan submitted by a charter school pursuant to subsection (5) of this section and determine the priority of the charter school's operating revenues needs in relation to the operating revenues needs of other schools of the district.

(b) At least sixty days before the date by which a school district must certify a ballot question to the county clerk and recorder, the local board of education shall notify the charter school in writing that the school district has or has not prioritized the charter school's operating revenues needs for inclusion in the ballot question at the upcoming election.

(c) If the local board of education prioritizes the charter school operating revenues needs for inclusion in the ballot question at the upcoming election, the local board of education shall include the charter school's operating revenues request in the same ballot question being submitted by the school district to authorize additional local revenues.

(d) If the local board of education does not prioritize the charter school's operating revenues needs for inclusion in the ballot question at the upcoming election, the local board of education shall provide to the charter school, with the notice required in paragraph (b) of this subsection (6), a written statement specifying the reasons for excluding the charter school's operating revenues needs. The local board of education shall allow the charter school an opportunity to address any issues raised by the board.

(e) Nothing in this subsection (6) requires a local board of education to prioritize the operating revenues plan of a charter school. The local board of education and a charter school may agree to reserve or escrow moneys for the benefit of the charter school.

(f) Notwithstanding the provisions of this subsection (6) concerning the prioritization of a charter school's operating revenues plan and inclusion in a district ballot question to authorize

additional local revenues, the local board of education and a charter school may agree to an alternative financial plan to address a charter school's operating revenues needs.

(7) When a school district includes a charter school's operating revenues needs in a district ballot question to authorize additional local revenues:

(a) Before the school district submits the ballot question to the eligible electors of the school district, the local board of education and the charter school must agree to the process by which the school district will distribute the additional local revenues to the charter school; and

(b) The school district and the charter school must bear the costs of submitting the ballot question in proportion to their respective portions of the total additional local revenues that the school district will receive, unless the local board of education and the charter school agree to a different cost-sharing arrangement.

(8) If a charter school requests that a school district submit a ballot question to the eligible electors of the school district pursuant to section 22-30.5-119 to approve additional local revenues, the charter school must pay all of the costs of submitting the ballot question; except that, if the local board of education submits a separate special mill levy ballot question on the same ballot as a ballot question to approve additional local revenues, the school district and the charter school must agree to bear the costs of submitting the special mill levy ballot question. The school district shall distribute to the charter school all of the revenues received as a result of a ballot question submitted pursuant to section 22-30.5-119.

(9) The additional revenues that a charter school receives as a result of inclusion in a district ballot question or a ballot question submitted pursuant to section 22-30.5-119 to authorize additional local revenues are in addition to, and do not replace, the moneys the charter school receives from the school district pursuant to sections 22-30.5-112 to 22-30.5-112.3. A charter school that receives additional revenues as a result of inclusion in a district ballot question or a ballot question submitted pursuant to section 22-30.5-119 is subject to any restrictions on the use of those revenues that may be imposed by the statute that authorizes the school district to seek authorization of the additional local revenues.

(10) Notwithstanding any other provision of this section to the contrary, a school district shall not include a charter school in a district ballot question to authorize additional local revenues or submit a ballot question on the charter school's behalf pursuant to section 22-30.5-119 unless the charter school that is to receive additional local revenues and the school district have entered into a contract specifying that the ownership of any items purchased using the additional local revenues automatically reverts to the school district if:

(a) The charter school's charter is revoked or not renewed;

(b) The charter school becomes insolvent and can no longer operate as a charter school; or

(c) The charter school otherwise ceases to operate.

**Source: L. 2014:** Entire section added, (HB 14-1314), ch. 206, p. 756, § 1, effective August 6.

**22-30.5-119. Mill levy for charter school operating revenues.** (1) With the agreement of all charter schools that will receive the revenues generated by a mill levy to collect additional local revenues, the local board of education may, at any time at which a ballot issue arising under section 20 of article X of the state constitution may be decided, submit to the eligible

electors of the school district a question to authorize additional local revenues pursuant to section 22-40-102 (1.5) or (1.7), 22-54-108, or 22-54-108.5 to provide operating revenues for one or more charter schools chartered by the school district. The local board of education shall consult with all affected charter schools that will receive the revenues before determining the amount of the additional local revenues. The local board of education has the discretion to combine the ballot question to authorize additional local revenues with any other tax question that the school district is submitting to the eligible electors of the district or to submit the ballot question as a separate question.

(2) An election called pursuant to subsection (1) of this section shall be conducted pursuant to the provisions of articles 1 to 13 of title 1, C.R.S. Each charter school that is to receive a portion of the additional local revenues shall bear the costs of submitting the ballot question in proportion to the amount of revenues it is to receive unless the charter schools and the school district agree to other cost-sharing arrangements.

(3) If the majority of votes cast at an election held pursuant to this section are in favor of the question, the mill levy of the school district for additional local revenues is as approved by the eligible electors of the district, and taxes shall be levied as approved. Additional local revenues that are approved pursuant to this section by a ballot question submitted as provided in section 22-40-102 (1.5) or (1.7), 22-54-108, or 22-54-108.5 are subject to the limitations on the amount and use of the revenues specified in section 22-40-102 (1.5) or (1.7), 22-54-108, or 22-54-108.5, respectively.

(4) Notwithstanding the provisions of section 22-30.5-118 (6) and any provisions of this section to the contrary, a school district shall not impose a mill levy pursuant to this section to benefit a charter school unless the charter school and the school district enter into a contract specifying that the ownership of any items purchased by the charter school using the revenues received from the mill levy automatically reverts to the school district if:

(a) The charter school's charter is revoked or not renewed;

(b) The charter school becomes insolvent and can no longer operate as a charter school; or

(c) The charter school otherwise ceases to operate.

**Source: L. 2014:** Entire section added, (HB 14-1314), ch. 206, p. 760, § 1, effective August 6.

**22-30.5-120. Charter schools - child sexual abuse and assault prevention plan.** (1) Each charter school is encouraged to adopt a child sexual abuse and assault prevention plan. Each charter school is encouraged to include in the plan delivery of a comprehensive, age-appropriate curricula for each grade level that the charter school serves regarding child sexual abuse and assault awareness and prevention. The curricula may address, but need not be limited to:

(a) The skills to recognize:

(I) Child sexual abuse and assault;

(II) Boundary violations and unwanted forms of touching and contact; and

(III) Behaviors that an offender uses to groom or desensitize a victim; and

(b) Strategies to:

(I) Promote disclosure;

(II) Reduce self-blame; and

(III) Mobilize bystanders.

(2) Each charter school is encouraged to include in the child sexual abuse and assault prevention plan professional development for school personnel and parents in preventing, identifying, and responding to child sexual abuse and assault. Professional development may include providing training in preventing, identifying, and responding to child sexual abuse and assault, including using the child abuse reporting hotline system created pursuant to section 26-5-111, C.R.S., and distributing resources to raise the awareness of school personnel and parents regarding child sexual abuse and assault and preventing child sexual abuse and assault.

(3) A charter school is encouraged to use curricula and professional development materials, training, and other resources available from the school safety resource center pursuant to section 24-33.5-1809, C.R.S.

(4) As used in this section, "school personnel" includes teachers, administrators, school resource officers, and other employees of a charter school.

**Source: L. 2015:** Entire section added, (SB 15-020), ch. 277, p. 1134, § 4, effective June 5.

PART 2

CHARTER SCHOOL DISTRICTS

**22-30.5-201 to 22-30.5-209. (Repealed)**

**Editor's note:** (1) This part 2 was added in 1996. For amendments to this part 2 prior to its repeal in 2003, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 22-30.5-209 provided for the repeal of this part 2, effective July 1, 2003. (See L. 96, p. 667.)

PART 3

INDEPENDENT CHARTER SCHOOLS

**22-30.5-301. Legislative declaration.** (1) The general assembly hereby finds that section 2 of article IX of the state constitution requires the general assembly to provide for the establishment and maintenance of a thorough and uniform system of free public schools. The state therefore has an obligation to ensure that every student has a chance to attend a school that will provide an opportunity for a quality education. If a school is not providing a thorough and adequate education, as determined by the annual performance review conducted by the department pursuant to section 22-11-210, the state has an obligation to the students enrolled in that school to make changes to ensure that they have an opportunity to receive a quality education comparable to students in other public schools in the state.

(2) Therefore, the general assembly finds it necessary to establish a system for independent charter schools to operate within local school buildings when school districts have failed to provide adequate educational opportunities.

**Source: L. 2000:** Entire part added, p. 351, § 8, effective April 10. **L. 2009:** (1) amended, (SB 09-163), ch. 293, p. 1536, § 29, effective May 21.

**22-30.5-302. Definitions.** As used in this part 3, unless the context otherwise requires:

(1) "Applicant" means the person or group of persons submitting a proposal for an independent charter to operate an independent charter school pursuant to the provisions of this part 3. An "applicant" may include, but shall not be limited to, an individual, a group of individuals, a nonprofit or for-profit company, an existing public school, a school district, or an institution of higher education.

(2) "Commissioner" means the commissioner of education appointed pursuant to section 22-2-110.

(3) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(4) "Independent charter" means the agreement between a local board of education and an independent charter school governing the existence and operation of the independent charter school.

(5) "Independent charter proposal" means a proposal for the operation of an independent charter school submitted in response to a request for proposals pursuant to the provisions of this part 3.

(6) "Independent charter school" means a charter school approved pursuant to this part 3 that is a public school of a school district.

(7) "Local board of education" means the board of education of the school district in which the independent charter school is or is proposed to be located.

(8) "State board" means the state board of education created pursuant to section 1 of article IX of the state constitution.

**Source: L. 2000:** Entire part added, p. 351, § 8, effective April 10.

**22-30.5-303. Independent charter schools - request for proposals - response contents.** (1) Whenever the state board determines that it is necessary to recommend conversion of a public school to an independent charter school to a local board of education pursuant to the provisions of section 22-11-210 (5), the state board shall issue a request for proposals pursuant to subsection (2) of this section and supervise the appointment of a review committee pursuant to section 22-30.5-304.

(2) (a) If an independent charter school is to be organized, the state board, on or before January 15 of the year in which the independent charter school is to open, shall cause to be issued a request for proposals. The request for proposals shall solicit proposals from interested parties, including but not limited to individuals, persons, nonprofit or for-profit companies, existing public schools or school districts, and institutions of higher education, for the operation of an independent charter school within a building that currently houses a public school of a school district. Responses to the request for proposals shall be due no later than the date

specified by the state board pursuant to rules adopted by the state board in accordance with paragraph (b) of this subsection (2). The state board shall issue the request for proposals without regard to the provisions of the "Procurement Code", articles 101 to 112 of title 24, C.R.S.

(b) The state board shall adopt rules specifying a schedule for receipt of the responses to the request for proposals pursuant to paragraph (a) of this subsection (2), the formation of a review committee and receipt of the recommendations of said committee pursuant to section 22-30.5-304, and the selection of an applicant and notification to the local board of education pursuant to section 22-30.5-305. Said schedule must ensure the completion of negotiations on the independent charter no later than May 30 of the year in which the independent charter school is to open. The rules must also specify the information that an independent charter proposal must include in order to be eligible for consideration. Such information must include, but need not be limited to, the following:

(I) Demonstrable evidence that the applicant for the independent charter has prior experience in improving the academic performance of students;

(II) The goals, objectives, and student performance standards to be achieved by the independent charter school, including but not limited to the measures for the performance indicators specified in section 22-11-204;

(III) A description of the independent charter school's educational program, student performance standards, annual targets for the measures used to determine the levels of attainment of the performance indicators specified in section 22-11-204, and curriculum, which must meet or exceed the state preschool through elementary and secondary education standards adopted pursuant to part 10 of article 7 of this title and must be designed to enable each student to achieve such standards and targets;

(IV) A description of the independent charter school's plan for evaluating student performance, the types of assessments that must be used to measure student progress toward achievement of the school's student performance standards and the targets for the measures used to determine the levels of attainment of the performance indicators, including but not limited to the state assessments administered pursuant to section 22-7-1006.3, the timeline for achievement of the school's student performance standards and the targets, and the procedures for taking corrective action in the event that student performance at the independent charter school fails to meet such standards and targets;

(V) Evidence that the applicant is economically sound, including balance sheets and operating statements for recent years of operation when appropriate, a proposed budget for the term of the independent charter, and a description of the manner in which an annual audit of the financial and administrative operations of the independent charter school is to be conducted;

(VI) A list of the rules and statutory requirements for which the independent charter school is requesting a waiver and an explanation of the manner in which the independent charter school shall comply with the intent of any rule or statutory requirement that is waived;

(VII) A description of the governance and operation of the independent charter school;

(VIII) An explanation of the relationship that will exist between the independent charter school and its employees;

(IX) The employment policies of the independent charter school;

(X) How the independent charter school will handle legal liability between the school and the school district and any applicable insurance coverage;

(XI) A description of how the independent charter school plans to meet the transportation needs of its students and, if the independent charter school plans to provide transportation for its students, a plan for addressing the transportation needs of low-income students;

(XII) A description of the independent charter school's enrollment policy, consistent with the requirements of section 22-30.5-104 (3), and the criteria for enrollment decisions, which shall include offering enrollment to students already enrolled in the school and students who would be assigned to the school under school district policy.

(c) If the commissioner finds that the information in any independent charter proposal is incomplete, the commissioner shall request the information necessary to complete the minimum requirements for the proposal.

**Source: L. 2000:** Entire part added, p. 352, § 8, effective April 10. **L. 2001:** (2)(a) and IP(2)(b) amended, p. 357, § 21, effective April 16. **L. 2003:** (2)(a) and IP(2)(b) amended, p. 730, § 3, effective March 20. **L. 2009:** (1), (2)(b)(II), (2)(b)(III), and (2)(b)(IV) amended, (SB 09-163), ch. 293, p. 1536, § 30, effective May 21. **L. 2015:** IP(2)(b), (2)(b)(III), and (2)(b)(IV) amended, (HB 15-1323), ch. 204, p. 723, § 29, effective May 20.

**22-30.5-304. Review committee - membership - recommendations.** (1) Whenever an independent charter school is to be organized pursuant to this part 3, on or before the date specified by rule adopted by the state board in accordance with section 22-30.5-303 (2)(b), the commissioner shall cause a review committee to be formed. The review committee shall consist of:

(a) The commissioner or a designee of the commissioner, who shall chair the review committee but shall be a nonvoting member of the committee;

(b) A member of the board of education of the school district in which the school is geographically located who shall be the member elected from the director district in which the school is geographically located, if members of the board are elected from director districts, or the member who resides closest to the school, if members are not elected from director districts;

(c) (I) A licensed professional employed at the school who is elected by a vote of all licensed professionals who provide instruction at the school or have an office in the school.

(II) The election required by this paragraph (c) shall be conducted during the month specified by rule adopted by the state board in accordance with section 22-30.5-303 (2)(b).

(d) (I) Two parents of students enrolled in the school who are members of the school accountability committee and are elected by a vote of the members of the school accountability committee.

(II) The election required by this paragraph (d) shall be conducted during the month specified by rule adopted by the state board in accordance with section 22-30.5-303 (2)(b).

(e) (I) A principal of a school at the same elementary, middle, or high school level as the independent charter school that is to be organized, appointed by the governor.

(II) In appointing a principal pursuant to this paragraph (e), the governor shall appoint a principal of a public school that received the highest possible accreditation rating pursuant to the accreditation policy implemented pursuant to section 22-11-307 by the public school's local board of education or by the state charter school institute, whichever is applicable, for the immediately preceding school year.

(f) (I) A teacher in a school at the same elementary, middle, or high school level as the independent charter school that is to be organized, appointed by the governor.

(II) In appointing a teacher pursuant to this paragraph (f), the governor shall appoint a teacher from a public school that received the highest possible accreditation rating pursuant to the accreditation policy implemented pursuant to section 22-11-307 by the public school's local board of education or by the state charter school institute, whichever is applicable; and

(g) A business representative, appointed by the governor, who resides in the neighborhood of the school.

(2) The committee shall meet by call of the chair of the review committee as needed to review the proposals received in response to the request for proposals issued pursuant to section 22-30.5-303. The committee shall evaluate the proposals and, on or before the date specified by rule adopted by the state board in accordance with section 22-30.5-303 (2)(b), shall forward to the state board all proposals and its recommendations on each proposal. The committee may make recommendations on applicants without regard to the provisions of the "Procurement Code", articles 101 to 112 of title 24, C.R.S.

**Source: L. 2000:** Entire part added, p. 353, § 8, effective April 10. **L. 2001:** IP(1), (1)(c)(II), (1)(d)(II), and (2) amended, p. 357, § 22, effective April 16; (1)(e)(II) and (1)(f)(II) amended, p. 1499, § 24, effective June 8. **L. 2009:** (1)(d)(I), (1)(e), and (1)(f) amended, (SB 09-163), ch. 293, p. 1537, § 31, effective May 21; (1)(d)(I) amended, (SB 09-090), ch. 291, p. 1443, § 15, effective August 5.

**22-30.5-305. Independent charter schools - selection.** (1) On or before the date specified by rule adopted by the state board in accordance with section 22-30.5-303 (2)(b), the state board shall select an applicant to recommend to the local board of education. The state board may select the applicant without regard to the provisions of the "Procurement Code", articles 101 to 112 of title 24, C.R.S.

(2) On or before the date specified by rule adopted by the state board in accordance with section 22-30.5-303 (2)(b), the commissioner shall forward to the local board of education a copy of the selected applicant's response to the request for proposals.

(3) The commissioner or the commissioner's designee shall assist the selected applicant in negotiating an independent charter with the local board of education pursuant to section 22-30.5-306.

**Source: L. 2000:** Entire part added, p. 355, § 8, effective April 10. **L. 2001:** (1) and (2) amended, p. 358, § 23, effective April 16.

**22-30.5-306. Independent charter schools - charter - term.** (1) The response to the request for proposals forwarded by the commissioner pursuant to section 22-30.5-305 (2) shall constitute the application for a charter pursuant to section 22-30.5-106. Notwithstanding the time limit established in section 22-30.5-107 (1), the local board of education shall consider the application for the upcoming school year.

(2) With the assistance from the commissioner or the commissioner's designee, the selected applicant and the local board of education shall negotiate the terms of the independent

charter, which may be different from or in addition to the terms of the response to the request for proposals; except that:

(a) The independent charter school shall be entitled to use the school building in which the public school that is subject to conversion was operated. The independent charter school and the local board of education shall negotiate an amount of rent to be paid, which shall be not more than twelve dollars per year, and all other costs for the operation and maintenance of the building and related facilities.

(b) The term of the independent charter school's charter shall be four years.

(3) (a) On or before May 30 of the year in which the independent charter school is to open, all negotiations between the selected applicant and the local board of education shall be concluded and the local board of education shall accept the application following a public hearing held upon public notice.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (3), if, during the year prior to the year in which the independent charter school is to open, the school is required to implement a priority improvement plan, an improvement plan, or a performance plan pursuant to section 22-11-405, 22-11-404, or 22-11-403, respectively, the local board of education and the applicant may jointly agree to allow the school to remain under the administration of the local board of education.

(4) Except as specifically provided in this part 3, an independent charter school shall be entitled to all of the rights granted by and subject to the obligations imposed by section 22-30.5-104.

(5) (a) (Deleted by amendment, L. 2009, (SB 09-163), ch. 293, p. 1538, § 32, effective May 21, 2009.)

(b) Repealed.

**Source: L. 2000:** Entire part added, p. 355, § 8, effective April 10. **L. 2001:** (3)(a) amended, p. 358, § 24, effective April 16; (2)(a), (3)(b), and (5) amended, p. 1499, § 25, effective June 8. **L. 2002:** (5)(b) repealed, p. 1019, § 29, effective June 1. **L. 2003:** (3)(a) amended, p. 730, § 4, effective March 20. **L. 2009:** (2)(a), (3)(b), and (5)(a) amended, (SB 09-163), ch. 293, p. 1538, § 32, effective May 21.

**22-30.5-307. Independent charter schools - expiration - renewal - conversion.** (1) If an independent charter school is required pursuant to section 22-11-210 to implement a turnaround plan during the third year of the school's independent charter, the state board shall issue a new request for proposals pursuant to section 22-30.5-303 (2), and a new independent charter school application process shall commence.

(2) If an independent charter school is required to implement a priority improvement plan, improvement plan, or performance plan pursuant to section 22-11-405, 22-11-404, or 22-11-403, respectively, during the third year of the school's independent charter, the parents and legal guardians of the students enrolled at the independent charter school shall decide by majority vote whether, at the expiration of the independent charter school's charter, the school shall apply for a renewal of the independent charter or shall seek to become a regular school of the school district in which the independent charter school is located.

(3) The independent charter school shall arrange for an election to decide which of the options specified in subsection (2) of this section the school shall pursue. The election shall be

conducted during the month of September of the fourth school year of the independent charter. All parents and legal guardians of students enrolled in the independent charter school on the date of the election and for at least thirty days prior to the election shall be eligible to vote in the election conducted pursuant to this subsection (3).

(4) If a majority of the parents and legal guardians vote in favor of renewing the independent charter application, the renewal process shall be governed by section 22-30.5-110. If a majority of the parents and legal guardians vote in favor of becoming a regular school of the school district, the independent charter school's charter shall not be renewed, and the operation of the school shall return to the local board of education.

**Source: L. 2000:** Entire part added, p. 356, § 8, effective April 10. **L. 2001:** (1) and (2) amended, p. 1500, § 26, effective June 8. **L. 2009:** (1) and (2) amended, (SB 09-163), ch. 293, p. 1538, § 33, effective May 21.

**22-30.5-308. Independent charter schools - employee options - financing options - guidelines.** (1) The provisions of section 22-30.5-111 shall apply to employees of an independent charter school.

(2) The provisions of section 22-30.5-112 shall govern the financing of independent charter schools.

**Source: L. 2000:** Entire part added, p. 357, § 8, effective April 10.

PART 4

CHARTER SCHOOL CAPITAL FACILITIES FINANCING ACT

**22-30.5-401. Short title.** This part 4 shall be known and may be cited as the "Charter School Facilities Financing Act".

**Source: L. 2002:** Entire part added, p. 1753, § 31, effective June 7.

**22-30.5-402. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) The "Charter Schools Act", part 1 of this article, was enacted by the general assembly without providing a method for funding the capital construction needs of charter schools;

(b) Since the enactment of the "Charter Schools Act", the general assembly has enacted legislation requiring a portion of the moneys in the state education fund to be distributed to charter schools for use in funding capital construction, but such moneys are not sufficient to fully meet the capital construction needs of charter schools;

(c) Pursuant to Senate Bill 01-237, enacted at the first regular session of the sixty-third general assembly, the general assembly declared its intent to establish a method for funding the capital construction needs of charter schools that is equitable, withstands constitutional challenge, and promotes cooperation between charter schools and their authorizing school districts and encouraged representatives of local boards of education, school district administrators, charter schools, the business community, and any other interested persons to

meet and develop a comprehensive legislative proposal for funding the capital construction needs of charter schools for consideration by the sixty-third general assembly at the 2002 regular session.

(2) The general assembly further finds and declares that this part 4 is the product of legislative examination and modification of a comprehensive legislative proposal that resulted from meetings of representatives of local boards of education, school district administrators, charter schools, the business community, and any other interested persons and represents a comprehensive legislative proposal for funding the capital construction needs of charter schools that is equitable, withstands constitutional challenge, and promotes cooperation between charter schools and their authorizing school districts.

**Source: L. 2002:** Entire part added, p. 1753, § 31, effective June 7.

**22-30.5-403. Definitions.** As used in this part 4, unless the context otherwise requires:

(1) "Board of education" or "board" means a school district board of education.

(2) "Budget year" means the period beginning on July 1 of each year and ending on the following June 30 for which a budget for a district is adopted.

(3) "Charter school" means a charter school as described in section 22-30.5-104, and also includes a nonprofit corporation exempt from taxation under section 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended, that owns a facility used for occupancy by pupils enrolled or to be enrolled in a charter school on behalf of a charter school and that was created for the sole purpose of holding title to such facility.

(4) "Charter school capital construction" or "capital construction" means constructing, demolishing, remodeling, financing, or refinancing the acquisition of land, buildings, or facilities used for occupancy by pupils enrolled in or to be enrolled in a charter school or an institute charter school. The term also includes actions taken to achieve the purposes set forth in section 22-42-102 (2)(a)(I) to (2)(a)(V), (2)(a)(VII), and (2)(a)(VIII).

(5) "Charter school per pupil facilities aid program moneys" means state education fund moneys to be distributed to charter schools and institute charter schools for capital construction pursuant to section 22-54-124.

(5.5) "Institute charter school" means a charter school authorized by the state charter school institute pursuant to part 5 of this article, and also includes a nonprofit corporation exempt from taxation under section 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended, that owns, on behalf of an institute charter school, a facility used for occupancy by pupils enrolled or to be enrolled in the institute charter school, which nonprofit corporation was created for the sole purpose of holding title to the facility.

(6) "School district" or "district" means a school district organized and existing pursuant to law; except that the term does not include a local college district.

(7) "Special mill levy" means a mill levy authorized by section 22-30.5-405.

**Source: L. 2002:** Entire part added, p. 1754, § 31, effective June 7. **L. 2009:** (4) and (5) amended and (5.5) added, (SB 09-089), ch. 440, p. 2439, § 6, effective June 4; (4) amended, (SB 09-176), ch. 247, p. 1113, § 1, effective August 5.

**Editor's note:** Amendments to subsection (4) by Senate Bill 09-176 and Senate Bill 09-089 were harmonized.

**22-30.5-404. Needs-based inclusion of charter schools in district bond elections - eligibility - allocation of bond revenues.** (1) (a) In enacting this section, it is the intent of the general assembly to respect the principle of school district local control and to encourage school districts and charter schools to work together to ensure that the capital construction needs of charter schools can be met. Accordingly, nothing in this section shall be construed to limit in any way the existing ability of any school district to include a charter school in any local bond elections or to otherwise assist a charter school in financing its capital construction needs in any legal manner mutually agreed upon by the school district and the charter school.

(b) A school district shall allow for representation by charter schools on the school district's long-range planning committee and any committee established by the school district to assess and prioritize the district's capital construction needs and shall notify charter schools of the committee's meeting schedule. Charter schools shall cooperate in determining the person or persons who will represent the interests of charter schools on the committee.

(c) Each school district that is considering submitting any question of contracting bonded indebtedness to the eligible electors of the district at an upcoming election shall invite each charter school chartered by the district to participate in discussions regarding the possible submission of such a question at the earliest possible time but no later than June 1 of the applicable election year, and each school district is encouraged to voluntarily include funding for the capital construction needs of charter schools in the district's questions of contracting bonded indebtedness without requiring a charter school to comply with the capital construction plan submission process set forth in subsection (3) of this section.

(2) A charter school that has capital construction needs may seek to obtain moneys to fund such capital construction needs by requesting that the board of education of its chartering school district:

(a) Include the charter school's capital construction needs as part of a ballot question for approval of bonded indebtedness to be submitted by the district to the voters of the district;

(b) Submit a ballot question for approval of a special mill levy to the voters of the district pursuant to section 22-30.5-405; or

(c) Include the charter school's capital construction needs as part of a ballot question for approval of an additional mill levy for ongoing cash funding for the capital construction, new technology, existing technology upgrade, and maintenance needs of the district to be submitted by the district to the voters of the district pursuant to section 22-54-108.7.

(3) A charter school that seeks to have its capital construction needs included as part of a ballot question to be submitted by the board of education of its chartering school district to the voters of the district or that seeks to obtain funding for its capital construction needs through the imposition of a special mill levy pursuant to section 22-30.5-405 or an additional mill levy pursuant to section 22-54-108.7 shall submit a capital construction plan to the board of education of its chartering school district. The plan shall include:

(a) A statement of reasons why the capital construction to be financed by bonded indebtedness or a special or additional mill levy is necessary;

(b) A description of the capital construction to be financed by bonded indebtedness or revenues from a special or additional mill levy;

(c) A description of the architectural, functional, and construction standards that meet applicable state building code requirements and are to be applied to each facility that is the subject of the capital construction project;

(d) An estimate of the total cost of completing the capital construction to be financed by bonded indebtedness or a special or additional mill levy and, if any moneys other than proceeds of bonded indebtedness or a special or additional mill levy and interest earned on such proceeds are to be used to finance the capital construction, a breakdown of the moneys that will be used to finance the capital construction;

(e) An estimate of the amount of time needed to complete the capital construction;

(f) A statement addressing whether construction and renovation, payment of overrun costs, and other capital construction project issues are to be managed by the charter school or the district, with costs for management to be negotiated by the charter school and the district;

(g) A statement of reasons why revenue sources other than bonded indebtedness or a special or additional mill levy are inadequate to fully finance the capital construction; and

(h) A statement of the charter school's preferred means of obtaining moneys.

(4) (a) (I) The board of education of a school district shall review a capital construction plan submitted by a charter school pursuant to subsection (3) of this section and determine the priority of the charter school capital construction need in relation to the capital construction needs of other schools in the district. If the charter school's capital construction plan remedies shortcomings in the charter school's facilities identified in the financial assistance priority assessment of public school facilities created pursuant to section 22-43.7-108, or, when the assessment created pursuant to section 22-43.7-108 is no longer valid, in another assessment using similar criteria for all schools in the district, the board of education shall prioritize a charter school's capital construction needs in the school district's long-range plan and include those needs in the current ballot question in the upcoming election if the charter school's facility needs receive a higher priority assessment than the other schools in the district.

(II) Notwithstanding the provisions of this subsection (4) concerning the prioritization of a charter school's capital construction plan and inclusion in a district ballot question for approval of bonded indebtedness, the board of education of a school district and a charter school may agree to an alternative financial plan that addresses a charter school's facilities needs, including retiring financial obligations or bonds previously issued for the benefit of the charter school.

(III) (A) Nothing in this subsection (4) shall require a school district to prioritize the capital construction plan of a charter school that is on probation with the district or that has been authorized within the previous five years.

(B) The board of education of a school district may require a charter school to certify that school construction to be financed with bond proceeds in accordance with this section will remediate a shortcoming in the charter school's facilities identified pursuant to section 22-43.7-108, and that any construction will conform to any construction guidelines established pursuant to 22-43.7-107.

(C) Notwithstanding the provisions of sub-subparagraph (A) of this subparagraph (III), the board of education of a school district and a charter school may agree to reserve or escrow funds for the benefit of the charter school.

(IV) The board of education shall notify the charter school in writing whether the school district has prioritized the charter school's capital construction needs for inclusion in the ballot

question at the upcoming election no later than sixty days prior to the date by which the school district is required to certify the ballot question to the county clerk and recorder.

(b) If the board has prioritized the charter school capital construction needs pursuant to paragraph (a) of this subsection (4) for inclusion in the ballot question at the upcoming election, the board shall include the charter school's capital construction in the same ballot question being submitted by the district for approval of bonded indebtedness in accordance with subsection (5) of this section.

(c) If the board has not prioritized the charter school's capital construction needs for inclusion in the ballot question at the upcoming election, the board shall provide the charter school with a written statement specifying the reasons for excluding the needs, and the charter school shall have an opportunity to address any issues raised by the board.

(5) When a district includes a charter school's capital construction in a district ballot question seeking approval of bonded indebtedness:

(a) (Deleted by amendment, L. 2009, (SB 09-176), ch. 247, p. 1113, § 2, effective August 5, 2009.)

(b) The board and the charter school shall agree to the process by which the bond proceeds and investment and interest earnings on such proceeds shall be distributed to the charter school prior to submitting the ballot question to the voters of the school district;

(c) The investment and interest earnings on bond proceeds shall be distributed on a pro rata basis to the participating charter school after management fees have been collected; and

(d) The costs of submitting the ballot question shall be borne by both the district and the charter school in proportion to their respective portions of the total bond proceeds to be received unless the board and the charter school agree to a different cost-sharing arrangement.

(5.5) If a charter school requests that a school district submit a ballot question for approval of a special mill levy to the voters of the district pursuant to section 22-30.5-405, the charter school shall agree to pay all costs of submitting the ballot question. Notwithstanding this requirement, if the board of the district submits a separate special mill levy ballot question on the same ballot as a ballot question for approval of bonded indebtedness, the costs of submitting the special mill levy ballot question shall be borne as agreed upon by the school district and the charter school.

(6) (a) Notwithstanding any other provision of this section, no bonds shall be issued for the purpose of financing charter school capital construction unless the charter school that is to receive bond proceeds and the district have entered into a contract specifying that, if the charter school's charter is revoked or not renewed, the charter school becomes insolvent and can no longer operate as a charter school, or the charter school otherwise ceases to operate, following payment of all other debts secured by the capital construction, the ownership of any capital construction financed by the bond proceeds shall automatically revert to the school district.

(b) The charter school shall not encumber any capital construction financed by bond revenues with any additional debt without the express approval of the school district. If the school district denies approval, the school district shall provide written reasons for such denial.

**Source: L. 2002:** Entire part added, p. 1754, § 31, effective June 7. **L. 2009:** (1), (4), (5), and (6) amended and (5.5) added, (SB 09-176), ch. 247, p. 1113, § 2, effective August 5. **L. 2016:** (2)(a), (2)(b), IP(3), (3)(a), (3)(b), (3)(d), and (3)(g) amended and (2)(c) added, (HB 16-1354), ch. 166, p. 528, § 1, effective May 17.

**22-30.5-405. Mill levy for charter school capital construction.** (1) With the agreement of all charter schools that will receive the revenues generated by a special mill levy, the board of education of any school district shall, at any time at which a ballot issue arising under section 20 of article X of the state constitution may be decided, submit to the eligible electors of the district the question of whether to impose a mill levy of a stated amount and for a stated duration for the purpose of financing capital construction for one or more charter schools chartered by the district. When a mill levy for more than one year has been approved, the board shall, without calling an election, decrease the amount or duration of the mill levy as necessary to avoid excessive collections as each capital construction project financed by the mill levy is completed or the financing for such capital construction has been paid by the taxpayers of such school district. If the board is required to submit the ballot question for a mill levy pursuant to section 22-30.5-404 (4), the board shall consult with all affected charter schools that will receive the revenues generated by the special mill levy before determining the amount and duration of the special mill levy. The board of education of any school district has the discretion to combine the ballot question for a mill levy with any other tax question that the school district is submitting to the eligible electors of the district or to submit the ballot question as a separate question.

(2) Any election called pursuant to subsection (1) of this section shall be conducted pursuant to the provisions of articles 1 to 13 of title 1, C.R.S. The costs of the election shall be borne by each charter school that is to receive revenues generated by the mill levy in proportion to the amount of revenues it is to receive unless other cost-sharing arrangements are agreed to by the charter schools and, if the school district submitting the ballot question agrees to bear any of the costs of the election and is not prohibited from bearing such costs by section 22-30.5-404 (4)(b), the district.

(3) If the majority of votes cast at an election held pursuant to this section are in favor of the question, the mill levy of the district for charter school capital construction shall be as so approved by the eligible electors of the district and taxes shall be levied as so approved.

(4) Notwithstanding the provisions of section 22-30.5-404 (4) and any other provisions of this section, no mill levy shall be imposed pursuant to this section to benefit a charter school unless the charter school and the district have entered into a contract specifying to whom the ownership of any capital construction financed by the mill levy shall revert if the charter school loses its charter, fails to pay for the capital construction to be financed by revenues from the mill levy, or becomes insolvent and can no longer operate as a charter school.

(5) (Deleted by amendment, L. 2009, (SB 09-176), ch. 247, p. 1117, § 3, effective August 5, 2009.)

**Source: L. 2002:** Entire part added, p. 1757, § 31, effective June 7. **L. 2009:** (1) and (5) amended, (SB 09-176), ch. 247, p. 1117, § 3, effective August 5.

**22-30.5-406. Direct payment of charter school bonds by the state treasurer and school districts.** (1) (a) For the purpose of enhancing the ability of a charter school or an institute charter school to obtain favorable financing terms on bonds issued on behalf of the charter school or institute charter school by a governmental entity other than a school district for the purpose of financing charter school capital construction, a charter school that is entitled to receive moneys from the state public school fund pursuant to part 1 of this article, or an institute

charter school that is entitled to receive moneys from the state public school fund pursuant to part 5 of this article, may request that the state treasurer make direct payments of principal and interest on the bonds on behalf of the charter school or institute charter school. The charter school or institute charter school shall specify the amount of each payment to be made.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (1), if the state treasurer concludes that the amount of moneys from the state public school fund that a charter school or an institute charter school will receive pursuant to part 1 or part 5 of this article for any given budget year will be less than the amount of the payments specified by the charter school or institute charter school pursuant to paragraph (a) of this subsection (1) that will be due during the budget year, the state treasurer shall not agree to make direct payments on behalf of the charter school or institute charter school.

(c) (I) In the case of a charter school authorized by a school district board of education, the state treasurer shall withhold the amount of any direct payments made on behalf of a charter school plus administrative costs associated with the making of direct payments in an amount agreed upon by the state treasurer and the charter school from the payments to the chartering district of the state share of the district's total program made pursuant to article 54 of this title. The state treasurer shall notify the chief financial officers of the chartering district and the charter school of any amount of moneys withheld and the chartering district shall reduce the amount of funding it provides to the charter school by said amount. Any administrative costs withheld by the state treasurer pursuant to this subparagraph (I) shall be credited to the charter school financing administrative cash fund, which fund is hereby created. Moneys in the fund shall be continuously appropriated to the state treasurer for the direct and indirect costs of the administration of this section. Moneys in the charter school financing administrative cash fund shall remain in the fund and shall not revert to the general fund at the end of any fiscal year.

(II) In the case of an institute charter school, the state treasurer shall withhold the amount of any direct payments made on behalf of an institute charter school plus administrative costs associated with the making of direct payments in an amount agreed upon by the state treasurer and the institute charter school from the payments to the state charter school institute made by the department of education pursuant to article 54 of this title. The state treasurer shall notify the department of education, the state charter school institute, and the chief financial officer of the institute charter school of any amount of moneys withheld. Any administrative costs withheld by the state treasurer pursuant to this subparagraph (II) shall be credited to the charter school financing administrative cash fund created pursuant to subparagraph (I) of this paragraph (c).

(d) The state treasurer shall establish the procedures necessary to implement this subsection (1) and may promulgate rules for that purpose. Any rules shall be promulgated in accordance with article 4 of title 24, C.R.S.

(e) This subsection (1) shall not be construed to require the state to continue the payment of state assistance to any school district or to the state charter school institute or to limit or prohibit the state from repealing or amending any law relating to the amount of state assistance to school districts or the state charter school institute or the manner or timing of the payment of such assistance. This subsection (1) shall not be construed to create a debt of the state or any state financial obligation whatsoever with respect to any bonds issued on behalf of a charter school or an institute charter school by a governmental entity other than a school district for the purpose of financing charter school capital construction within the meaning of any state

constitutional provision or to create any liability except to the extent provided in this subsection (1).

(2) (a) If the state treasurer does not agree to make direct payments of principal and interest on bonds on behalf of a charter school or an institute charter school pursuant to subsection (1) of this section because the charter school or institute charter school is not entitled to receive moneys from the state public school fund pursuant to part 1 or part 5 of this article or because the state treasurer has concluded that the amount of moneys from the state public school fund that the charter school or institute charter school will receive pursuant to part 1 or part 5 of this article for any given budget year will be less than the amount of the direct payment specified by the charter school or institute charter school that will be due during the budget year, the charter school may request that its chartering district, or the institute charter school may request that the state charter school institute, make direct payments of principal and interest on the bonds on behalf of the charter school or the institute charter school. The charter school or the institute charter school shall specify the amount of each payment to be made.

(b) (I) Notwithstanding the provisions of paragraph (a) of this subsection (2), if the board of education of a chartering district concludes that the total amount of moneys that a charter school will receive for any given budget year from the district pursuant to the operating contract between the district and the charter school will be less than the amount of the payments specified by the charter school pursuant to paragraph (a) of this subsection (2) that will be due during the budget year, the chartering district shall not agree to make direct payments on behalf of the charter school.

(II) Notwithstanding the provisions of paragraph (a) of this subsection (2), if the governing board of the state charter school institute concludes that the total amount of moneys that an institute charter school will receive for any given budget year from the state charter school institute pursuant to the charter contract between the state charter school institute and the institute charter school will be less than the amount of the payments specified by the institute charter school pursuant to paragraph (a) of this subsection (2) that will be due during the budget year, the governing board shall not agree to make direct payments on behalf of the institute charter school.

(c) (I) A chartering district shall withhold the amount of any direct payments made on behalf of a charter school plus administrative costs associated with the making of direct payments in an amount agreed upon by the chartering district and the charter school from the funding provided by the district to the charter school pursuant to part 1 of this article.

(II) The state charter school institute shall withhold the amount of any direct payments made on behalf of an institute charter school plus administrative costs associated with the making of direct payments in an amount agreed upon by the state charter school institute and the institute charter school from the funding provided by the institute to the institute charter school pursuant to part 5 of this article.

(d) This subsection (2) shall not be construed to create a debt of any chartering district or the state charter school institute or any district or institute obligation whatsoever with respect to any lease agreement or installment purchase agreement entered into by a charter school or institute charter school within the meaning of any state constitutional provision or to create any liability except to the extent provided in this subsection (2).

(3) In accordance with section 11 of article II of the state constitution, the state hereby covenants with the purchasers of any outstanding bonds issued on behalf of a charter school or

an institute charter school by a governmental entity in reliance upon this section that it will not repeal, revoke, or rescind the provisions of this section or modify or amend the same so as to limit or impair the rights and remedies granted by this section. However, nothing in this subsection (3) shall be deemed or construed to require the state to continue the payment of state assistance received by charter schools or institute charter schools or to limit or prohibit the state from repealing, amending, or modifying any law relating to the amount of state assistance received by charter schools or institute charter schools or the manner of payment or timing thereof. Nothing in this section shall be deemed or construed to create a debt of the state with respect to such bonds or other obligations within the meaning of any state constitutional provision or to create any liability except to the extent provided in this section.

**Source: L. 2002:** Entire part added, p. 1758, § 31, effective June 7. **L. 2003:** (3) added, p. 1798, § 1, effective May 21. **L. 2004:** (1)(c) amended, p. 1634, § 36, effective July 1. **L. 2009:** Entire section amended, (SB 09-089), ch. 440, p. 2440, § 7, effective June 4.

**22-30.5-407. State charter school debt reserve fund - creation - use of fund moneys - legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) The state charter school debt reserve fund created by this section is intended to enhance the ability of any qualified charter school that chooses to finance capital construction with revenues from bonds issued on behalf of the qualified charter school by the Colorado educational and cultural facilities authority created in section 23-15-104 (1)(a), C.R.S., to obtain such financing on favorable terms by providing a source of moneys that can be used to make bond payments if the qualified charter school fails to make such payments;

(b) It is appropriate for state education fund moneys to be appropriated to the state charter school debt reserve fund and it is also appropriate for those qualified charter schools that receive more favorable financing terms that result in interest rate savings due to the existence of and reliance upon the state charter school debt reserve fund and the provisions of section 22-30.5-408 with respect to such bonds to pay a portion of their resulting savings to the state charter school debt reserve fund and for all charter schools to bear the risk of having charter school per pupil facilities aid program moneys withheld to replenish the state charter school debt reserve fund in the event that moneys from the state charter school debt reserve fund are expended to make bond payments.

(2) (a) There is hereby created in the state treasury the state charter school debt reserve fund. The fund shall consist of the following moneys:

(I) One million dollars that are hereby appropriated from the state education fund to the state charter school debt reserve fund on July 1, 2002;

(I.5) Six million five hundred thousand dollars that are transferred from the state education fund to the state charter school debt reserve fund on July 1, 2014;

(II) Moneys credited to the state charter school interest savings account of the fund pursuant to subsection (3) of this section;

(III) Moneys transferred from the state education fund to the state charter school debt reserve fund pursuant to paragraph (d) of subsection (4) of this section;

(IV) Moneys credited to the fund by the state treasurer pursuant to section 22-30.5-408 (2)(c)(II); and

(V) Interest and income credited to the fund pursuant to paragraph (c) of this subsection (2).

(b) There is hereby created within the state charter school debt reserve fund the state charter school interest savings account. The account shall consist of moneys credited to the account by the state treasurer pursuant to subsection (3) of this section and any interest and income derived from the deposit and investment of moneys in the account.

(c) All interest and income derived from the deposit and investment of moneys in the state charter school debt reserve fund on or before June 30, 2014, are credited to the state education fund, and all interest and income derived from the deposit and investment of moneys in the state charter school debt reserve fund on and after July 1, 2014, are credited to the state charter school debt reserve fund; except that all interest and income derived from the deposit and investment of moneys in the state charter school interest savings account shall be credited to the account in accordance with paragraph (b) of this subsection (2). At the end of any fiscal year, all unexpended and unencumbered moneys in the state charter school debt reserve fund and the account remain in the fund and the account respectively.

(d) All moneys credited to the state charter school debt reserve fund or expended from the fund, other than moneys credited to or expended from the state charter school interest savings account, are moneys originally credited to the state education fund and are therefore, in accordance with section 17 (3) of article IX of the state constitution and section 22-55-103 (5), exempt from:

(I) The limitation on state fiscal year spending set forth in section 20 (7)(a) of article X of the state constitution and section 24-77-103, C.R.S.; and

(II) The limitation on local government fiscal year spending set forth in section 20 (7)(b) of article X of the state constitution.

(3) (a) A qualified charter school that chooses to finance capital construction with revenues from bonds issued on behalf of the qualified charter school by the Colorado educational and cultural facilities authority created in section 23-15-104 (1)(a), C.R.S., shall pay to the state treasurer, on an annual basis, commencing and calculated on the date of issuance of the bonds and on each one-year anniversary of the issuance of the bonds thereafter while the bonds remain outstanding, an amount equal to ten basis points of the principal amount of the bonds outstanding as of each calculation date, and such amount shall be deemed to be the amount of any interest rate savings resulting from more favorable financing terms attributable to the reliance upon the state charter school debt reserve fund and the provisions of section 22-30.5-408 with respect to such bonds. Each annual payment of ten basis points shall be prorated and payable in equal installments among the debt service payments required of the qualified charter school, with respect to the qualified charter school bonds issued for its benefit, during the twelve months following the annual computation date. The state treasurer shall credit any payment received pursuant to this paragraph (a) to the state charter school interest savings account.

(b) The state treasurer may require each qualified charter school that makes required payments to the state treasurer pursuant to paragraph (a) of this subsection (3) to pay a fee to the state treasurer to defray any direct and indirect administrative costs incurred by the state treasurer in executing duties required by this section. The state treasurer shall deposit any fees received into the state charter school interest savings account of the state charter school debt reserve fund.

(4) (a) Moneys in the state charter school debt reserve fund are hereby continuously appropriated to the state treasurer, who shall expend such moneys solely for the purpose of paying principal and interest on bonds issued on behalf of a qualified charter school by the Colorado educational and cultural facilities authority and only if:

(I) The state treasurer has been notified and has confirmed, in accordance with paragraph (b) of this subsection (4), that the qualified charter school has expended all moneys in its own debt service reserve fund or account that has been funded with proceeds derived from the issuance of the bonds and is unable to make bond payments; and

(II) The qualified charter school has made payments to the state treasurer as required by subsection (3) of this section.

(a.5) Notwithstanding the provisions of paragraph (a) of this subsection (4), fees deposited into the state charter school interest savings account of the state charter school debt reserve fund pursuant to paragraph (b) of subsection (3) of this section may be expended by the state treasurer for the purpose of defraying any direct and indirect administrative costs incurred by the state treasurer in executing duties required by this section.

(b) Whenever the trustee responsible for making payments to the holders of any qualified charter school bonds, as defined in section 22-30.5-408 (1)(d), issued on behalf of a qualified charter school by the Colorado educational and cultural facilities authority has not received payment of principal or interest on the bonds on the tenth business day immediately prior to the date on which such payment is due and the debt service reserve fund for the qualified charter school has been depleted, the trustee shall so notify the state treasurer and the qualified charter school by telephone, facsimile, or other similar communication, followed by written verification, of such payment status. The state treasurer shall immediately contact the qualified charter school and determine whether the qualified charter school will make the payment by the date on which it is due and, if the state treasurer confirms that the qualified charter school will not make the payment, the state treasurer shall make the payment.

(c) The state treasurer shall expend all moneys in the state charter school interest savings account before expending any other moneys in the state charter school debt reserve fund. If a qualified charter school defaults on a payment with respect to outstanding qualified charter school bonds, as defined in section 22-30.5-408 (1)(d), and the amounts of such payment defaults exceed the amounts available in the state charter school interest savings account and the state charter school debt reserve fund, moneys from the account and the fund shall be allocated pro rata among the qualified charter school bonds that will have a default in the payment of principal or interest based on the ratio that the payment default on each series of such bonds bears to the total payment defaults on all series of such qualified charter school bonds.

(d) If the state treasurer expends moneys from the portion of the state charter school debt reserve fund that is not the state charter school interest savings account or if the state treasurer expends moneys from the state charter school interest savings account for purposes other than the payment of the administrative costs of the state treasurer, the state treasurer shall withhold charter school per pupil facilities aid program moneys to the extent necessary to restore that portion of the state charter school debt reserve fund, by the transfer of all withheld amounts from the state education fund to that portion of the state charter school debt reserve fund, to a balance of seven million five hundred thousand dollars and to the extent necessary to restore the state charter school interest savings account, by the transfer of all withheld amounts from the state

education fund to the state charter school interest savings account, to the balance prior to expenditure of moneys from the account, in accordance with the following requirements:

(I) Each qualified charter school that has had bonds issued on its behalf by the Colorado educational and cultural facilities authority that have relied upon the state charter school debt reserve fund and the provisions of section 22-30.5-408, shall have its payments reduced by the same percentage and by a maximum of fifty percent.

(II) If, in any given fiscal year, the state treasurer determines that after withholding the maximum amount of charter school per pupil facilities aid program moneys that may be withheld pursuant to subparagraph (I) of this paragraph (d) the portion of the state charter school debt reserve fund that is not the state charter school interest savings account will not be restored to a balance of seven million five hundred thousand dollars or the state charter school interest savings account will not be restored to the balance in the account prior to the state treasurer's expenditure of moneys from the account, each charter school that is not relying upon the state charter school debt reserve fund and the provisions of section 22-30.5-408 with respect to bonds issued on its behalf by the Colorado educational and cultural facilities authority shall have its payment reduced by the same percentage and by a maximum of ten percent.

(5) This section shall not be construed to create any state debt, to require the state to make any bond payments on behalf of any qualified charter school from any source of state moneys other than the state charter school debt reserve fund, or to require the state to fully pay off any outstanding bonds of a qualified charter school that cannot make scheduled bond payments.

(6) For purposes of this section, "qualified charter school" means a qualified charter school as defined in section 22-30.5-408 (1)(c).

(7) A qualified charter school that chooses to finance capital construction with revenues from bonds issued on behalf of the qualified charter school by the Colorado educational and cultural facilities authority created in section 23-15-104 (1)(a), C.R.S., shall request that the state treasurer make direct payments of principal and interest on the bonds on behalf of the qualified charter school in accordance with section 22-30.5-406 (1). If the state treasurer does not agree to make direct payments and the qualified charter school is a district charter school, the qualified charter school shall request that its chartering district make direct payments in accordance with section 22-30.5-406 (2). If the state treasurer does not agree to make direct payments and the qualified charter school is an institute charter school, the qualified charter school shall request that the state charter school institute make direct payments of principal and interest on the bonds on behalf of the institute charter school.

(8) This section shall only apply to bonds issued by the Colorado educational and cultural facilities authority in reliance upon the provisions of section 22-30.5-408 (2).

(9) This section is in addition to, and not in limitation of, the powers granted to the Colorado educational and cultural facilities authority pursuant to article 15 of title 23, C.R.S., to finance the costs of facilities of charter schools.

(10) In accordance with section 11 of article II of the state constitution, the state hereby covenants with the purchasers of any outstanding bonds issued in reliance upon the existence of the state charter school interest savings account that the state will not repeal, revoke, or rescind the provisions of this part 4 concerning the account or modify or rescind the same so as to limit or impair the rights and remedies granted by this section to the purchasers of such bonds and that any moneys in the account shall not revert to the general fund.

**Source: L. 2002:** Entire part added, p. 1760, § 31, effective June 7. **L. 2003:** Entire section amended, p. 1798, § 2, effective May 21. **L. 2004:** (7) amended, p. 1634, § 37, effective July 1. **L. 2006:** (4)(b), (4)(c), and (6) amended, p. 1493, § 25, effective June 1. **L. 2011:** (2)(a)(IV) added and IP(4)(d) and (4)(d)(II) amended, (SB 11-188), ch. 186, p. 712, §§ 1, 2, effective July 1. **L. 2014:** (2)(a)(I.5) and (2)(a)(V) added and (2)(a)(III), (2)(a)(IV), (2)(c), IP(4)(d), and (4)(d)(II) amended, (HB 14-1292), ch. 243, p. 915, § 18, effective May 21.

**Cross references:** For the short title ("Student Success Act") in HB 14-1292, see section 1 of chapter 243, Session Laws of Colorado 2014.

**22-30.5-408. Replenishment of qualified charter school debt service reserve funds - additional responsibilities - state treasurer - qualified charter schools - definitions.** (1) As used in this section:

(a) "Charter school debt service reserve fund" means a reasonably required debt service reserve fund or account that has been funded with proceeds derived from the issuance of qualified charter school bonds or other moneys of the qualified charter school.

(b) "Investment grade" means debt obligations that are rated in one of the four highest investment rating categories by one or more nationally recognized rating agencies.

(b.5) "Maximum principal outstanding" means the aggregate outstanding principal amount of bonds for which moneys may be appropriated pursuant to paragraph (a) of subsection (2) of this section.

(c) "Qualified charter school" means a charter school that is described in section 22-30.5-104 or an institute charter school as that term is defined in section 22-30.5-502 that has a stand-alone credit assessment or rating of at least investment grade by a nationally recognized rating agency at the time of issuance of any qualified charter school bonds on behalf of the charter school by the Colorado educational and cultural facilities authority pursuant to the "Colorado Educational and Cultural Facilities Authority Act", article 15 of title 23, C.R.S., and that has been certified as a qualified charter school by the state treasurer.

(d) "Qualified charter school bonds" means bonds that are issued by the Colorado educational and cultural facilities authority for the purpose of financing a facility to be used for occupancy by pupils enrolled in a qualified charter school and are secured by the state charter school debt reserve fund created by section 22-30.5-407 (2) and the provisions of this section.

(e) "Qualified charter school debt service reserve fund requirement" means the level of funding required for a qualified charter school debt service reserve fund as specified in the trust indenture or resolution pursuant to which qualified charter school bonds have been issued, which level of funding shall be no less than the maximum annual principal and interest requirement for the allocable portion of the qualified charter school bonds issued for the benefit of the qualified charter school; except that an amount equal to the qualified charter school debt service reserve fund may be subtracted from the final principal payment for the allocable portion of the qualified charter school bonds issued for the benefit of the qualified charter school when determining the maximum annual principal and interest requirement amount.

(f) "Rating agency" means any nationally recognized statistical rating organization as defined under rule 2a-7 of the "Securities Exchange Act of 1934", as amended, 17 CFR 270.2a-7 (a)(17).

(1.5) (a) The Colorado educational and cultural facilities authority shall develop and publicly disclose the application requirements for the qualified charter school, the application and processing timeline, and all issuer fees and expenses that will apply to the transaction.

(b) The Colorado educational and cultural facilities authority shall not charge a qualified charter school for which it issues bonds pursuant to section 22-30.5-407 an annual fee after the issuance of the bonds occurs; except that this paragraph (b) shall not be construed to prohibit the authority from charging a qualified charter school for fees and expenses incurred in the enforcement of covenants or remedies.

(2) (a) If the Colorado educational and cultural facilities authority has issued qualified charter school bonds on behalf of any qualified charter school that fails immediately to restore its qualified charter school debt service reserve fund to the applicable qualified charter school debt service reserve fund requirement, the board of directors of the authority shall submit to the governor a certificate certifying any amount of moneys required to restore the qualified charter school debt service reserve fund to the applicable qualified charter school debt service reserve fund requirement. The governor shall submit a request for appropriations in an amount sufficient to restore any or all qualified charter school debt reserve funds to their respective qualified charter school debt service reserve fund requirements and the general assembly may, but shall not be required to, appropriate moneys for said purpose. If, in its sole discretion, the general assembly appropriates any moneys for said purpose, the aggregate outstanding principal amount of bonds for which moneys may be appropriated for said purpose shall not exceed five hundred million dollars.

(b) Any moneys appropriated for the purpose of restoring any qualified charter school debt service reserve fund to its qualified charter school debt service reserve fund requirement shall be deposited into the applicable qualified charter school debt service reserve fund.

(c) (I) Upon the expenditure of moneys from the state charter school debt reserve fund or the state charter school interest savings account of the fund by the state treasurer, the state treasurer may file a lien on behalf of the state on the property securing the bonds for which the qualified charter school debt reserve fund is expended in an amount equal to the amount of moneys expended from the state charter school debt reserve fund or the state charter school interest savings account; except that such lien shall not be on a parity with or superior to any lien then secured by the property, including any lien securing such qualified charter school bonds.

(II) Any net proceeds from the sale of property securing the bonds for which the qualified charter school debt reserve fund is established shall be used to reimburse the state treasurer for any costs incurred in connection with the sale of such property. The state treasurer shall credit any additional net proceeds from the sale of such property to the state charter school debt reserve fund to restore the fund to a balance of seven million five hundred thousand dollars. The state treasurer shall credit any remaining net proceeds from the sale of such property to the state charter school interest savings account in the state charter school debt reserve fund.

(d) Upon the expenditure of moneys from the state charter school debt reserve fund or the state charter school interest savings account of the fund by the state treasurer, a qualified charter school shall provide the state treasurer with at least the following information:

(I) A copy of any official statement or other offering document for the issuance or incurrence of the financial obligation of the qualified charter school;

(II) A copy of any filings or correspondence with the federal internal revenue service with respect to the issuance or incurrence, including, if applicable, a copy of each form 8038 or form 8038G;

(III) A copy of the continuing disclosure undertaking; and

(IV) Any other information that is described in the state public financing policy promulgated pursuant to section 24-36-121 (5), C.R.S., related to the issuance or incurrence.

(2.7) A qualified charter school that has financed capital construction with qualified charter school bonds shall confirm a stand-alone credit assessment or rating of at least investment grade by a nationally recognized rating agency on its outstanding qualified charter school bonds at the time of the issuance of any new charter school bonds.

(3) This section shall not be construed to create any debt of the state or any state financial obligation whatsoever within the meaning of any state constitutional provision or to create any state liability whatsoever.

(4) The general assembly hereby finds and declares that its intent in enacting this section is to support charter schools and charter school capital construction by helping qualified charter schools that choose to have the Colorado educational and cultural facilities authority issue qualified charter school bonds on their behalf obtain more favorable financing terms for the bonds.

**Source: L. 2002:** Entire part added, p. 1763, § 31, effective June 7. **L. 2003:** (1)(b), (1)(c), (1)(d), (1)(e), and (2)(a) amended and (1)(c.5) and (4) added, pp. 1803, 1804, §§ 3, 4, effective May 21. **L. 2004:** (1)(b) amended, p. 1635, § 38, effective July 1. **L. 2006:** (2)(a) amended, p. 590, § 1, effective April 24; (1) amended, p. 1494, § 26, effective June 1. **L. 2011:** (1)(b.5), (1.5), (2)(c), and (2.7) added, (SB 11-188), ch. 186, pp. 713, 714, §§ 3, 5, 4, effective July 1. **L. 2012:** (2)(d) added, (SB 12-150), ch. 196, p. 786, § 3, effective May 24. **L. 2014:** (2)(a) and (2)(c)(II) amended, (HB 14-1292), ch. 243, p. 916, § 19, effective May 21.

**Editor's note:** Subsection (4) was originally enacted as subsection (3) in House Bill 03-1021, but has been renumbered on revision for ease of location.

**Cross references:** For the short title ("Student Success Act") in HB 14-1292, see section 1 of chapter 243, Session Laws of Colorado 2014.

**22-30.5-409. Annual reports on bonds issued on behalf of charter schools - review by state auditor.** (1) Prior to January 30, 2003, and prior to January 30 of each year thereafter, the Colorado educational and cultural facilities authority created in section 23-15-104 (1)(a), C.R.S., shall submit a report to the state auditor that includes information concerning the issuance of qualified charter school bonds, as defined in section 22-30.5-408 (1)(d), that have resulted in charter schools obtaining more favorable financing terms by reliance on the existence of the state charter school debt reserve fund created in section 22-30.5-407 (2)(a) and the potential replenishment of the state charter school debt reserve fund pursuant to section 22-30.5-408 (2)(a). Such report shall include, but need not be limited to:

(a) The total amount of such qualified charter school bonds issued during the most recently completed calendar year;

(b) The charter schools on whose behalf such qualified charter school bonds were issued;

(c) An itemization of the charter school facilities for which such qualified charter school bonds were issued, the total cost of each such charter school facility, and the percentage of the total cost of each such facility to be paid from the proceeds obtained from the issuance of such qualified charter school bonds;

(d) The investment ratings of such qualified charter school bonds;

(e) The total amount of net and gross proceeds obtained from the issuance of such qualified charter school bonds during the most recently completed calendar year;

(f) The total amount of such outstanding qualified charter school bonds;

(g) The total amount of annual installments of principal and interest on such qualified charter school bonds that were scheduled to be paid during the most recently completed calendar year, the total amount of such annual installments actually paid during the most recently completed calendar year, and the total amount of such annual installments scheduled to be paid during the current calendar year and future calendar years;

(h) The total amount, if any, of moneys expended from each charter school's own debt service reserve fund or account during the most recently completed calendar year for the purpose of paying principal and interest on such qualified charter school bonds; and

(i) The total amount, if any, of moneys expended from the state charter school debt reserve fund during the most recently completed calendar year for the purpose of paying principal and interest on such qualified charter school bonds.

(2) Notwithstanding section 24-1-136 (11)(a)(I), no later than March 1, 2002, and no later than March 1 each year thereafter, the state auditor shall examine the report submitted in accordance with subsection (1) of this section and, upon completion of such review, shall report any findings regarding said submitted report to the education committees of the senate and the house of representatives, the legislative audit committee, the capital development committee, the joint budget committee, and the department of education.

**Source: L. 2002:** Entire part added, p. 1764, § 31, effective June 7. **L. 2003:** IP(1) and (1)(i) amended, p. 1804, § 5, effective May 21. **L. 2006:** IP(1) amended, p. 1495, § 27, effective June 1. **L. 2017:** (2) amended, (HB 17-1267), ch. 242, p. 996, § 11, effective August 9.

## PART 5

## INSTITUTE CHARTER SCHOOLS

**22-30.5-501. Legislative declaration.** (1) The general assembly hereby finds, determines, and declares that:

(a) There is a growing demand for more charter schools in the state;

(b) There is an underserved population of at-risk students in the state, for whom innovative educational models are needed.

(2) The intent of the general assembly in establishing the state charter school institute pursuant to this part 5 is to:

(a) Provide an alternative mode of authorizing charter schools as a means to assist school districts in utilizing best practices for chartering schools and to approve and oversee charter schools in school districts not desiring to do so themselves; and

(b) Preserve the authority of a school district to authorize charter schools, at the school district's option.

**Source: L. 2004:** Entire part added, p. 1594, § 1, effective July 1.

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

(1) "At-risk student" means a student:

(a) Who is eligible to receive free or reduced-cost lunch pursuant to the provisions of the federal "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq.; or

(b) Who has performed below the level of meeting expectations, as identified by rule of the state board, on a statewide English language arts or mathematics assessment.

(1.5) "Automatic waiver" means the waiver of a state statute or state board rule:

(a) That is included on the list of automatic waivers adopted by rule of the state board;

(b) That is available to each charter school, including each institute charter school, and is valid for the initial, or subsequent renewal, term of the charter contract; and

(c) For which a charter school, including an institute charter school, is not required to submit a statement that specifies the manner in which the charter school intends to comply with the intent of the automatically waived state statute or state board rule.

(2) "Board of cooperative services" means a board of cooperative services as defined in section 22-5-103 (2).

(2.5) "Bullying" shall have the same meaning as set forth in section 22-32-109.1 (1)(b).

(3) "Commissioner" means the office of the commissioner of education created and existing pursuant to section 1 of article IX of the state constitution.

(4) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(4.5) "Education management provider" means a nonprofit, not-for-profit, or for-profit entity that contracts with an institute charter school to provide, manage, or oversee all or substantially all of the educational services provided by the institute charter school.

(5) "Institute board" means the governing board of the state charter school institute that is appointed pursuant to section 22-30.5-505 (2).

(6) "Institute charter school" means a charter school authorized pursuant to this part 5.

(7) "Local board of education" or "local board" means a school district board of education.

(8) "Moratorium" means a school district's official policy of refusing to authorize charter schools and an ongoing pattern or practice of refusing to accept or review charter school applications.

(9) "Online pupil" means:

(a) For the 2007-08 budget year, a child who receives educational services predominantly through an online program or online school created pursuant to article 30.7 of this title;

(b) For the 2008-09 budget year, and for each budget year thereafter, a child who receives educational services predominantly through a multi-district online school, as defined in section 22-30.7-102 (6), created pursuant to article 30.7 of this title.

(9.5) "Pupil enrollment count day" has the same meaning as set forth in section 22-54-103 (10.5).

(10) "School district" means a school district organized and existing under the laws of Colorado, except a local college district.

(10.5) "School food authority" means:

(a) A school district or the state charter school institute;

(a.3) A charter school collaborative formed pursuant to section 22-30.5-603;

(a.5) A board of cooperative services created pursuant to article 5 of this title that elects to operate as a school food authority pursuant to section 22-5-120; or

(b) A district charter school or an institute charter school that:

(I) The commissioner or his or her designee provisionally authorizes as a school food authority pursuant to section 22-32-120 (6); or

(II) The department of education authorizes as a school food authority pursuant to section 22-32-120 (5).

(11) "State board" means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

(12) "State charter school institute" or "institute" means the entity created pursuant to section 22-30.5-503.

**Source: L. 2004:** Entire part added, p. 1595, § 1, effective July 1. **L. 2006:** (10) amended, p. 573, § 2, effective April 24. **L. 2007:** (9) amended, p. 1088, § 13, effective July 1. **L. 2009:** (10.5) added, (SB 09-230), ch. 227, p. 1033, § 4, effective May 4. **L. 2010:** (10.5)(a) amended and (10.5)(a.5) added, (HB 10-1335), ch. 326, p. 1513, § 4, effective August 11. **L. 2011:** (2.5) added, (HB 11-1254), ch. 173, p. 654, § 4, effective May 13; (10.5)(a.3) added, (HB 11-1277), ch. 306, p. 1504, § 33, effective August 10. **L. 2012:** (9.5) added, (HB 12-1090), ch. 44, p. 151, § 8, effective March 22; (4.5) added, (SB 12-061), ch. 109, p. 381, § 6, effective April 13; (1) amended, (HB 12-121), ch. 177, p. 638, § 6, effective May 11; (2.5) amended, (HB 12-1345), ch. 188, p. 747, § 36, effective May 19; (9) amended, (HB 12-1240), ch. 258, p. 1317, § 30, effective June 4; (4.5) added, (SB 12-067), ch. 131, p. 451, § 5, effective August 8. **L. 2014:** (1.5) added, (HB 14-1292), ch. 243, p. 904, § 7, effective May 21. **L. 2018:** (1)(b) amended, (HB 18-1355), ch. 324, p. 1958, § 24, effective May 30.

**Cross references:** For the short title ("Student Success Act") in HB 14-1292, see section 1 of chapter 243, Session Laws of Colorado 2014.

**22-30.5-503. State charter school institute - establishment - rules.** (1) (a) There is established, as an independent agency in the department of education, the state charter school institute. The institute shall exercise its powers and perform its duties and functions as if it were transferred to the department by a **type 1** transfer under the provisions of the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

(b) In addition to any other powers or duties granted by law to the institute, the institute shall:

(I) Review institute charter school applications and assist in the establishment of institute charter schools throughout the state;

(II) Assist in the conversion of a school district charter school to an institute charter school pursuant to section 22-30.5-510 (1);

(III) Approve or deny institute charter school applications and revoke, renew, or refuse to renew institute charter school contracts; and

(IV) Monitor the operations of institute charter schools and the academic achievement of students attending institute charter schools, including compliance with applicable state and federal accountability requirements.

(c) The institute is authorized to enter into contracts or service agreements with any public or private contractor to provide administrative services or technical assistance to institute charter schools pursuant to this part 5. Any such contract or service agreement shall also include provisions establishing liquidated damages and penalties for failure to comply with the terms and conditions of the contract and shall be in accordance with rules promulgated by the institute board.

(2) It is the intent of the general assembly that the institute shall exist to model best practices in authorizing charter schools and make those practices available to school districts.

(3) For purposes of federal law, the state charter school institute shall be a local educational agency, deemed to be a public authority legally constituted within the state for the administrative control and direction of, and to perform a service function for, public elementary schools and secondary schools in the state.

(3.5) (a) The state charter school institute may act as the fiscal manager for purposes of grant management for a district charter school, an institute charter school, or a consortium of charter schools that chooses to apply for a grant through a nonformulaic, competitive grant program created by a federal or state statute or program; except that the provisions of this subsection (3.5) shall not apply to an application for:

(I) A grant program created in the federal "Individuals with Disabilities Education Act", 20 U.S.C. sec. 1400 et seq., as amended, or in its implementing regulations.

(II) (Deleted by amendment, L. 2011, (HB11-1089), ch. 55, p. 147, 1, effective March 25, 2011.)

(b) In acting as a fiscal manager for purposes of grant management pursuant to this subsection (3.5), the institute shall treat district charter schools and institute charter schools equally.

(c) The institute board, by rule, may establish a fee that a district charter school, an institute charter school, or a consortium of charter schools shall pay if it requests that the institute act as the fiscal manager for purposes of grant management for the charter school or consortium of charter schools pursuant to this subsection (3.5). The amount of the fee must not exceed the direct costs incurred by the institute in implementing the provisions of this subsection (3.5). Any amount received by the institute from fees paid pursuant to this subsection (3.5) is continuously appropriated to the institute for the costs incurred in implementing this subsection (3.5). The institute board shall adopt rules as necessary to implement the provisions of this subsection (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.

(4) For purposes of the "Exceptional Children's Educational Act", article 20 of this title, the state charter school institute shall be considered an administrative unit, responsible for assisting in the delivery of federally required services to students enrolled in institute charter

schools. The institute may provide or contract for the provision of services to a student enrolled in an institute charter school.

(5) The state charter school institute shall be responsible for monitoring the fiscal management of each institute charter school. Each institute charter school shall annually provide to the institute the results of an independent financial audit of the institute charter school. The institute shall report to the state board the same financial information in the same format that school districts are required to report to the state board pursuant to this title. Institute charter schools shall compile and report to the institute the same financial information in the same format that charter schools are required to report to school districts pursuant to part 1 of this article.

(6) The institute and institute charter schools shall be deemed part of the thorough and uniform system of free public schools to be established and maintained by the general assembly, as required in section 2 of article IX of the state constitution. The state board shall have general supervision of institute charter schools, as required in section 1 of article IX of the state constitution.

(7) The institute, by virtue of its functions and duties, shall not be deemed to be a school district for any purpose.

(8) The institute and the institute board are agencies of the state for purposes of the public records provisions of part 2 of article 72 of title 24, C.R.S., and state public bodies for purposes of the open meetings provisions of part 4 of article 6 of title 24, C.R.S.

**Source: L. 2004:** IP(1)(b) amended, p. 1591, § 24, effective June 3; entire part added, p. 1596, § 1, effective July 1. **L. 2008:** (1)(b)(II) amended and (8) added, p. 495, 487, §§ 9, 1, effective April 17. **L. 2010:** (3.5) added, (SB 10-161), ch. 250, p. 1116, § 5, effective August 11. **L. 2011:** (3.5)(a) amended, (HB 11-1089), ch. 55, p. 147, § 1, effective March 25; (3.5)(d) added, (HB 11-1277), ch. 306, p. 1504, § 30, effective August 10. **L. 2012:** (3.5) amended, (SB 12-121), ch. 177, p. 637, § 5, effective May 11. **L. 2013:** IP(3.5)(a), (3.5)(b), and (3.5)(c) amended, (HB 13-1219), ch. 104, p. 362, § 9, effective August 7.

**22-30.5-503.5. School response framework.** The state charter school institute shall establish a school response framework that complies with the provisions of section 22-32-109.1 (4) for each state charter school.

**Source: L. 2008:** Entire section added, p. 804, § 4, effective May 14.

**Cross references:** For the legislative declaration contained in the 2008 act enacting this section, see section 1 of chapter 215, Session Laws of Colorado 2008.

**22-30.5-504. Institute chartering authority - institute charter schools - exclusive authority - retention - recovery - revocation - repeal.** (1) The institute shall be authorized to approve or deny an application submitted for the establishment of an institute charter school pursuant to this part 5.

(2) An institute charter school applicant may submit an application to the institute only if the school district in which the institute charter school is to be located has not retained exclusive authority to authorize charter schools as provided in subsection (5) of this section. If a school

district has not retained exclusive authority to authorize charter schools as provided in subsection (5) of this section, the school district and the institute shall have concurrent authority to authorize charter schools and institute charter schools, respectively, to be located within the geographic boundaries of the school district. The school district shall monitor and oversee all charter schools authorized by the school district as provided in part 1 of this article. The institute shall monitor and oversee all institute charter schools authorized by the institute as provided in this part 5.

(3) Nothing in this part 5 shall be construed to eliminate the ability of a school district to authorize charter schools pursuant to part 1 of this article. A school district shall retain the authority to re-authorize and to oversee any charter school which it has authorized, except with respect to any charter school that is converted to an institute charter school pursuant to section 22-30.5-510.

(4) (a) A local board of education may seek to retain or recover exclusive authority to authorize charter schools within the geographic boundaries of the school district by presenting to the state board, on or before March 1 of the fiscal year prior to that for which the exclusive authority is to apply, a written resolution adopted by the local board of education indicating the intent to retain or recover exclusive authority to authorize charter schools. The written resolution shall be accompanied by a written description of those portions of subsection (5) of this section that the local board of education intends to demonstrate. The local board of education shall provide a complete copy of the resolution, including the description, to each charter school authorized by the local board on or before the date the local board submits the resolution to the state board. The state board shall determine within sixty days after receiving the resolution whether to grant the local board of education exclusive authority. If the state board denies the local board exclusive authority to authorize charter schools within the geographic boundaries of the school district, it shall provide to the local board of education a written explanation of the basis for the denial.

(b) A party may challenge the grant of exclusive authority made by the state board pursuant to subsection (5) of this section by filing with the state board a notice of challenge within thirty days after the state board grants exclusive authority. The notice shall be accompanied by a specific written description, with supporting documentation, of the basis for the challenge. The challenging party, at the time of filing notice with the state board, shall provide a copy of the notice of challenge, with the written description of the basis and supporting documentation, to the local board of education that has been granted exclusive authority. The state board shall permit the local board the opportunity to appear at a public hearing and respond to the challenge and shall permit the challenger the opportunity at the public hearing to rebut any arguments made by the local board. If the local board of education intends to respond to the challenge, it shall submit a copy of its response in writing, with supporting documentation, to the challenging party and the state board at least fifteen days prior to the public hearing. The state board shall make a determination upon the challenge within sixty days after receipt of the notice of challenge. In announcing its determination, the state board shall provide a written explanation of the basis for its decision to either grant or deny to the local board exclusive authority to authorize charter schools within the geographic boundaries of the school district.

(c) If a local board of education recovers exclusive authority pursuant to this section to authorize charter schools within the geographic boundaries of the school district, any institute charter schools authorized within the geographic boundaries of the school district prior to the

date on which the local board of education recovered exclusive authority shall continue to be authorized by and accountable to the institute; except that an institute charter school that is converted to a district charter school pursuant to subsection (10) of this section shall be accountable to the local board of education.

(d) Each local board of education that has been granted, prior to or on or after April 17, 2008, exclusive authority to charter schools within the geographic boundaries of the school district shall retain exclusive authority until the local board of education voluntarily relinquishes the exclusive authority or the state board of education revokes the exclusive authority pursuant to the provisions of subsection (7.5) of this section. A local board of education that voluntarily relinquishes exclusive authority may regain exclusive authority by applying pursuant to the provisions of this subsection (4).

(5) (a) The state board shall grant to a local board of education exclusive authority to authorize charter schools within the geographic boundaries of the school district if the state board determines, after adequate notice and in a public hearing and after receiving input from any charter schools authorized by the local board of education, that the local board can show a recent pattern of providing fair and equitable treatment to its charter schools through the local board's demonstration of:

(I) Full compliance with the provisions of the "Charter Schools Act", part 1 of this article, which includes, at a minimum:

(A) Compliance with full and accurate accounting practices and charges for central administrative overhead costs;

(B) Compliance with sections 22-30.5-112 and 22-30.5-112.1, which permit a charter school to purchase, at its discretion, certain services or a combination of services;

(C) The absence of a school district moratorium regarding charter schools or the absence of any district-wide charter school enrollment limits; and

(D) Compliance with valid orders of the state board; and

(II) Any combination of the following:

(A) The distribution to charter schools authorized by the local board of a pro rata share of mill levy overrides, except for any mill levied for a particular purpose that by its express terms is intended to benefit a grade, a program, or a school and, as a result, is not available to be offered to any charter school that did not participate in the mill levy proceeds;

(B) The provision of assistance to charter schools to meet their facilities needs, by including those needs in local bond issues or otherwise providing available land and facilities that are comparable to those provided to other public school students in the same grade levels within the school district;

(C) The distribution to charter schools authorized by the local board of a pro rata share of federal and state grants received by the school district, except for any grant received for a particular purpose that by its express terms is intended to benefit a student population not able to be served by, or a program not able to be offered at, a charter school which did not receive a proportionate share of such grant proceeds;

(D) The provision of adequate staff and other resources to serve charter schools authorized by the local board, which services are provided by the school district at a cost to the charter schools that does not exceed their actual cost to the school district, or, in the case of federally required educational services, the amount specified in section 22-30.5-112 (2)(a.8);

(E) The lack of a policy or practice of imposing individual charter school enrollment limits, except as otherwise provided in article 36 of this title; or

(F) The provision of an adequate number of educational choice programs to serve students exercising their rights to transfer pursuant to the "No Child Left Behind Act of 2001", Public Law 107-110, and a history of charter school approval that encourages programs that serve at-risk student populations.

(b) Notwithstanding any other provision of this subsection (5) to the contrary, the state board shall grant to a local board of education exclusive authority to authorize charter schools within the geographic boundaries of the school district if the local board certifies that:

(I) The total pupil enrollment of the school district is less than three thousand pupils.

(II) (Deleted by amendment, L. 2008, p. 487, § 2, effective April 17, 2008.)

(c) Notwithstanding any other provision of this subsection (5), the state board shall not deny exclusive authority to a local board of education based upon a school district moratorium regarding charter schools that was in existence prior to July 1, 2004, but was repealed on or before October 1, 2004.

(d) If the state board denies the exclusive authority of a local board of education to authorize charter schools within the geographic boundaries of the school district, the local board may reapply to retain or recover exclusive authority as provided in subsection (4) of this section as soon as the local board determines it has resolved the issue that was the basis for the denial.

(6) For local boards of education that have no discernable history of considering charter school applications or authorizing charter schools, the state board shall grant exclusive authority if the local board demonstrates its compliance with the provisions of sub-subparagraphs (C) and (D) of subparagraph (I) of paragraph (a) of subsection (5) of this section and presents to the state board a plan to implement a combination of the authorizing practices described in paragraph (a) of subsection (5) of this section.

(7) A grant of exclusive authority by the state board shall continue so long as a local board of education continues to comply with the provisions of subsection (5) of this section, and the local board need not reapply; except that a local board of education that retains exclusive authority pursuant to paragraph (b) of subsection (5) of this section shall reapply for exclusive authority if the criteria specified in said paragraph (b) no longer apply to the school district.

(7.5) (a) A charter school, a charter school applicant, or an organization that represents charter schools may request revocation of a local board of education's exclusive authority to authorize charter schools within the geographic boundaries of the school district by filing a request for revocation with the state board. A charter school may request revocation of the exclusive authority only of its chartering local board. A charter applicant may request revocation of the exclusive authority only of a local board of education to which it may apply for a charter.

(b) A charter school, a charter school applicant, or an organization that represents charter schools may request revocation of a local board of education's exclusive authority only on the grounds that the local board, since the date that the local board received exclusive authority, has demonstrated a pattern of failing to comply with one or more of the provisions of paragraph (a) of subsection (5) of this section. A charter school, a charter school applicant, or an organization that represents charter schools may not request revocation of a local board of education's exclusive authority solely on the basis of:

(I) The local board's refusal of a charter application; or

(II) An action by the local board that a charter school or a charter school applicant may appeal to the state board pursuant to section 22-30.5-108, unless the action would otherwise constitute grounds for denial or revocation of exclusive authority.

(c) To request revocation of a local board of education's exclusive authority, a charter school, a charter school applicant, or an organization that represents charter schools shall file a notice of request for revocation with the state board, accompanied by a specific written description, with supporting documentation, of the basis for the request. The requesting party, at the time of filing the notice with the state board, shall provide a copy of the notice of request for revocation and the basis for the request, with the supporting documentation, to the affected local board of education. The state board shall permit the local board the opportunity to appear at a public hearing and respond in writing to the request for revocation and shall permit the requesting party the opportunity at the public hearing to rebut any arguments made by the local board. If the local board intends to respond to the request for revocation, it shall submit a copy of its response in writing, with supporting documentation, to the requesting party and the state board at least fifteen days prior to the public hearing. The state board shall determine whether to grant or deny the request for revocation, based on the criteria for granting exclusive authority specified in subsections (5) and (6) of this section, within sixty days after receiving the notice. If the state board revokes the local board of education's exclusive authority to authorize charter schools within the geographic boundaries of the school district, it shall provide a written explanation of the basis for the revocation.

(d) If the state board revokes a local board of education's exclusive authority, the local board may apply to recover the grant of exclusive authority as provided in subsection (4) of this section as soon as the local board determines it has resolved the issue that was the basis for the revocation. The state board shall consider the local board of education's application and either grant or deny the local board exclusive authority as provided in subsection (5) of this section.

(8) Notwithstanding any other provision of this section to the contrary, a local board of education may permit the establishment of one or more institute charter schools within the geographic boundaries of the school district by adopting a favorable resolution and submitting the resolution to the state board. An institute charter school that is established with permission granted in a resolution adopted by the local board of the school district in which the institute charter school is located continues to be authorized by and accountable to the institute regardless of later actions by the local board unless the institute charter school voluntarily converts to a district charter school as provided in subsection (10) of this section.

(9) (a) Notwithstanding any other provision of this section to the contrary, the state board shall grant to a local board of education exclusive authority to authorize charter schools within the geographic boundaries of the school district if the school district annually certifies to the state board that the total number of students enrolled in charter schools authorized by the school district, or the maximum number of students allowed to be enrolled pursuant to charter school contracts entered into by the school district, whichever is greater, divided by the district pupil enrollment, as defined in section 22-54-103, for that budget year, reflected as a percentage, exceeds by more than three percentage points the percentage of students enrolled in charter schools statewide.

(b) A school district that retains exclusive authority to authorize charter schools pursuant to paragraph (a) of this subsection (9) shall satisfy the requirements of paragraph (a) of subsection (5) of this section.

(10) (a) An institute charter school that is located within the geographic boundaries of a school district that recovers exclusive authority to authorize charter schools, as provided in subsection (4) of this section, or that permitted the establishment of the institute charter school within its geographic boundaries, as provided in subsection (8) of this section, may apply to the board of education of the school district in which it is located to convert to a district charter school. To convert to a district charter school, the institute charter school shall submit an application to the local board of education as if it were applying for a new charter in accordance with the provisions of part 1 of this article.

(b) An application to convert an existing institute charter school to a district charter school shall include evidence that an adequate number of parents, teachers, or pupils, or any combination thereof, supports the conversion of the institute charter school to a district charter school.

(c) A local board of education's approval of an application from an existing institute charter school submitted pursuant to this subsection (10) shall not relieve the institute charter school of any preexisting contractual obligations or relationships, including obligations of the institute charter school to the institute; except that the institute charter school shall no longer be subject to the oversight and control of the institute. The transfer of oversight of an institute charter school from the institute to a school district shall not be deemed a dissolution or other event that empowers or obligates the institute to wind down the institute charter school's affairs or to dispose of the institute charter school's assets.

(d) (I) If an institute charter school converts to a district charter school, the authorizing school district shall calculate the converted school's funding, including at-risk supplemental aid, as it was calculated before the conversion using the formulas specified in section 22-30.5-513; except that this paragraph (d) does not apply if the converted school is authorized by a small rural school district, as described in section 22-54-108 (3)(b)(IV).

(II) This paragraph (d) is repealed, effective July 1, 2021.

**Source: L. 2004:** Entire part added, p. 1597, § 1, effective July 1. **L. 2007:** (5)(c) added, p. 740, § 16, effective May 9. **L. 2008:** (4), IP(5)(a), (5)(a)(I)(B), (5)(b), (6), and (7) amended and (5)(d), (7.5), and (10) added, pp. 487, 490, 491, §§ 2, 3, 4, effective April 17. **L. 2016:** IP(7.5)(b) and (8) amended, (HB 16-1422), ch. 351, p. 1434, § 11, effective June 10; (10)(d) added, (SB 16-208), ch. 271, p. 1125, § 4, effective August 10.

**22-30.5-505. State charter school institute - institute board - appointment - powers and duties - rules.** (1) The institute shall consist of the institute board, appointed pursuant to subsection (2) of this section, and any staff or contract employees hired by the institute board as authorized by law. Any staff hired by the institute board shall be deemed employees subject to the state personnel system of this state as defined in section 13 of article XII of the state constitution and article 50 of title 24, C.R.S.; except that, as a matter of legislative determination, all positions classified by the institute board as professional officers and professional staff of the institute are declared to be educational in nature and exempt from the state personnel system.

(2) (a) The institute board shall consist of nine members, no more than five of whom are members of the same political party. Seven of the members shall be appointed by the governor, with the consent of the senate, and two of the members shall be appointed by the commissioner. In making the appointments, the governor and the commissioner shall ensure the institute board

reflects the geographic diversity of the state. In making appointments on and after August 5, 2009, the governor and the commissioner shall ensure that at least one member of the institute board is a parent of a student who is, or who has been, enrolled in an institute charter school. Members appointed to the institute board shall have experience in at least one of the following areas:

(I) Experience as a charter school board member or founder of a charter school;

(II) Experience as a public school administrator with experience working with charter schools;

(III) Financial management expertise;

(IV) Detailed knowledge of charter school law;

(V) Other board or public service experience;

(VI) Experience as a public school teacher;

(VII) Online education and online curriculum development expertise;

(VIII) School district special education expertise; and

(IX) Curriculum and assessment expertise.

(b) The members of the institute board shall serve terms of three years; except that, of the members first appointed by the governor, two members shall serve a term of three years, three members shall serve a term of two years, and two members shall serve a term of one year; and of the members first appointed by the commissioner, one member shall serve a term of three years and one member shall serve a term of one year. No member shall serve more than six consecutive years. The governor and the commissioner shall make the initial appointments no later than thirty days after July 1, 2004.

(c) An institute board member may be removed for any cause that renders the member incapable or unfit to discharge the duties of the office. Whenever a vacancy on the institute board exists, the person making the original appointment shall appoint a member for the remaining portion of the unexpired term created by the vacancy.

(d) For any board member appointed on or after May 22, 2008, during his or her term of office, a member of the institute board shall not be a member of the general assembly; an officer, employee, or board member of a school district; a member of the state board; or an employee of the institute board or the department of education.

(3) The mission of the institute board shall be to foster high-quality public school choices offered through institute charter schools, including particularly schools that are focused on closing the achievement gap for at-risk students. In discharging its duties pursuant to this part 5, the institute shall:

(a) Act as a model of best practices in authorizing charter schools;

(b) Use state and federal systems for ensuring the accountability of each institute charter school in meeting the obligations and goals set forth in its contract and shall adopt and implement policies for accreditation of institute charter schools as described in section 22-11-307;

(c) Measure the academic success of each institute charter school student through longitudinal indices;

(d) Measure the academic success of each institute charter school through performance-based means and not process-based means;

(d.5) Meet at least once each year with the school accountability committees of the institute charter schools to discuss issues concerning accountability and accreditation of institute charter schools;

(e) Provide the opportunity for a student enrolled in an institute charter school to develop a plan for academic remediation upon the request of the student's parent or legal guardian; and

(f) Ensure that, in developing and maintaining each student's individual career and academic plan, the counselor or teacher explains to the student's parent or legal guardian, by electronic mail or other written form, and to the student the requirements for and benefits of concurrently enrolling in courses with an institution of higher education pursuant to the "Concurrent Enrollment Programs Act", article 35 of this title 22. Based on a request from the student or the student's parent or legal guardian, the counselor or teacher shall assist the student in course planning to enable the student to concurrently enroll in courses with an institution of higher education.

(3.5) The institute board shall ensure that the names of institute board members and the schedule of, agendas for, and minutes of the meetings and hearings held by the institute board are promptly posted and updated on the state charter school institute's website. The department on its website shall provide a link to the state charter school institute's website.

(4) In addition to any other powers granted by law to the institute board, the institute board shall have the following powers:

(a) To have and use a corporate seal;

(b) To sue and be sued in its own name;

(c) To incur debts, liabilities, and obligations, subject to any limitations imposed thereon pursuant to law;

(d) To cooperate and contract with the state or federal government or an agency or instrumentality thereof and to apply for and receive grants or financial assistance from any such entities;

(e) To acquire, hold, lease, sell, or otherwise dispose of real or personal property or a commodity or service;

(f) To do or perform an act authorized by this part 5 by means of an agent or by contract with a person, firm, or corporation;

(g) To provide for the necessary expenses of the institute board in the exercise of its powers and the performance of its duties and to reimburse a board member for necessary expenses incurred in the performance of the board member's duties;

(h) To provide for the proper keeping of accounts and records and for budgeting of funds;

(i) To act as a public entity for purposes of the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S.;

(j) To exercise the same powers retained by boards of cooperative services that are described in section 22-5-108;

(k) To promulgate rules in accordance with article 4 of title 24, C.R.S., for the administration of this part 5; and

(l) To award grants from the institute charter school assistance fund as provided in section 22-30.5-515.5.

(5) No later than ninety days after the date the institute commences operations, as described in section 22-30.5-506 (2)(a), the institute board shall promulgate rules that set forth

the procedures for the acceptance of institute charter school applications and the criteria for authorizing institute charter schools pursuant to this part 5.

(6) (a) The institute may contract with boards of cooperative services created pursuant to article 5 of this title, or with any other qualified individual or public or private entity or organization, including a school district, for the provision of administrative or other support services directly to the institute or for the benefit of institute charter schools.

(b) This part 5 shall not be construed to require the institute to provide services to an institute charter school, to require an institute charter school to purchase services from the institute, nor to prohibit an institute charter school from purchasing education-related services from any sources available, including a school district.

(7) The institute shall ensure that each institute charter school complies with the provisions of articles 7 and 11 of this title. Each institute charter school shall be responsible for gathering and submitting to the institute the data necessary to prepare a school performance report required by section 22-11-503 for the institute charter school.

(8) The institute shall ensure that each institute charter school adopts content standards as required in section 22-7-1013.

(9) The institute shall ensure that each institute charter school addresses the expulsion, suspension, and education of expelled or suspended students in a manner consistent with the intents and purposes of sections 22-33-105, 22-33-106, 22-33-106.1, and 22-33-203.

(10) The institute may issue requests for proposals to solicit applications for an institute charter school to serve at-risk students.

(11) The institute shall annually review each institute charter school's accomplishment of the goals described in section 22-30.5-509.

(12) (a) The institute shall collect from each institute charter school authorized on or after July 1, 2010, the data specified in paragraph (b) of this subsection (12) for the institute charter school's first academic year of operation. At a minimum, the institute shall require the institute charter school to submit the collected data by August 1 of the institute charter school's first academic year of operation and to update the information, if necessary, by the following May 1. Upon receipt of a request from a school district, the institute shall provide a copy of the collected data to the school district.

(b) The data collected pursuant to this subsection (12) shall include, at a minimum:

(I) The projected aggregate number of students enrolling in the institute charter school for the academic year who were enrolled in schools of the school district for the preceding academic year; and

(II) For each student included in subparagraph (I) of this paragraph (b), to the extent known:

(A) The name of the school in which the student was enrolled in the preceding academic year; and

(B) The name of the institute charter school and the grade in which the student is enrolled for the academic year.

(13) Pursuant to section 22-30.5-517, the institute shall adopt and implement a policy that regulates the sale of beverages to students at an institute charter school.

(14) If an institute charter school requests in writing that the institute provide food services pursuant to a contract with the institute charter school that includes certain terms specified by the institute charter school, the institute may attempt to negotiate the terms of the

contract with the institute charter school. If the institute and the institute charter school attempt to negotiate contract terms that are mutually satisfactory, and the negotiations fail to produce such mutually satisfactory terms, the institute shall:

(a) Agree to provide food services to the institute charter school according to the terms requested by the institute charter school; or

(b) Allow the institute charter school to transfer the maintenance, supervision, and operation of the institute charter school's food-service facility from the institute to a school food authority.

(15) Pursuant to section 22-30.5-518, the institute shall adopt and implement a policy for the management of food allergies and anaphylaxis among students enrolled in institute charter schools.

(16) Pursuant to section 22-30.5-519, the institute shall annually provide to parents and legal guardians the standardized immunization document developed by the department of public health and environment pursuant to section 25-4-902 (4), C.R.S.

(17) Repealed.

(18) The institute shall ensure that each institute charter school, working with its school accountability committee, adopts and implements a policy concerning physical activity for students enrolled in the institute charter school, which policy meets the requirements specified in section 22-32-136.5.

(19) (a) Pursuant to section 22-30.5-521, on or before October 1, 2011, the institute shall adopt and implement a policy concerning bullying prevention and education. The policy, at a minimum, shall set forth appropriate disciplinary consequences for students who bully other students and for any person who takes any retaliatory action against a student who reports in good faith an incident of bullying, which consequences shall comply with all applicable state and federal laws.

(b) The institute is encouraged to include in the policy it adopts and implements pursuant to paragraph (a) of this subsection (19) the biennial administration of surveys of students' impressions of the severity of bullying in their schools, as described in section 22-93-104 (1)(c); character building; and the designation of a team of persons at each institute charter school who advise the school administration concerning the severity and frequency of bullying incidents that occur in the school, which team may include, but need not be limited to, law enforcement officials, social workers, prosecutors, health professionals, mental health professionals, counselors, teachers, administrators, parents, and students.

(20) The institute shall annually distribute to each institute charter school informational materials received from the department of education pursuant to section 22-2-112 (1)(t) relating to federal student loan repayment programs and student loan forgiveness programs.

**Source: L. 2004:** Entire part added, p. 1600, § 1, effective July 1. **L. 2005:** (3)(e) added, p. 520, § 3, effective May 24. **L. 2007:** (2)(d) added, p. 740, § 17, effective May 9. **L. 2008:** IP(3) amended and (3.5) and (12) added, p. 492, §§ 5, 6, effective April 17; (2)(d) amended, p. 1211, § 23, effective May 22; (13) added, p. 643, § 5, effective August 5. **L. 2009:** (14) added, (SB 09-230), ch. 227, p. 1034, § 5, effective May 4; (3)(b) and (7) amended, (SB 09-163), ch. 293, p. 1539, § 34, effective May 21; (3)(d) and (3)(e) amended and (3)(f) added, (SB 09-256), ch. 294, p. 1555, § 13, effective May 21; (4)(j) and (4)(k) amended and (4)(l) added, (SB 09-089), ch. 440, p. 2435, § 3, effective June 4; (2)(a) and (2)(d) amended, (SB 09-090), ch. 291, p.

1440, §§ 6, 7, effective August 5; (15) added, (SB 09-226), ch. 245, p. 1105, § 3, effective August 5. **L. 2010:** (3)(d.5) and (17) added and (4)(l), (12)(a), (12)(b)(I), and (12)(b)(II)(B) amended, (SB 10-111), ch. 170, pp. 604, 600, 602, 603, §§ 13, 3, 6, 10, effective August 11; (16) added, (SB 10-056), ch. 50, p. 191, § 1, effective August 11. **L. 2011:** (18) added, (HB 11-1069), ch. 117, p. 366, § 2, effective April 20; (19) added, (HB 11-1254), ch. 173, p. 654, § 5, effective May 13. **L. 2012:** (3)(f) and (9) amended, (HB 12-1345), ch. 188, pp. 728, 750, §§ 16, 42, effective May 19; (3)(f) amended, (HB 12-1043), ch. 209, p. 899, § 2, effective August 8. **L. 2015:** (8) amended, (HB 15-1323), ch. 204, p. 724, § 30, effective May 20. **L. 2019:** (20) added, (SB 19-057), ch. 35, p. 113, § 3, effective August 2; (9) amended, (HB 19-1194), ch. 160, p. 1888, § 6, effective July 1, 2020. **L. 2020:** (3)(f) amended, (HB 20-1396), ch. 138, p. 599, § 2, effective September 14.

**Editor's note:** (1) Subsection (3)(e) was originally numbered as (3)(l) in House Bill 05-1027 but has been renumbered on revision for ease of location.

(2) Subsection (17)(b) provided for the repeal of subsection (17), effective July 1, 2011. (See L. 2010, p. 600.)

(3) Amendments to subsection (3)(f) by House Bill 12-1043 and House Bill 12-1345 were harmonized.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsection (2)(d), see section 1 of chapter 286, Session Laws of Colorado 2008. For the legislative declaration contained in the 2008 act enacting subsection (13), see section 1 of chapter 185, Session Laws of Colorado 2008. For the legislative declaration contained in the 2009 act adding subsection (15), see section 1 of chapter 245, Session Laws of Colorado 2009. For the legislative declaration in the 2012 act amending subsection (3)(f), see section 11 of chapter 188, Session Laws of Colorado 2012. For the legislative declaration in HB 19-1194, see section 1 of chapter 160, Session Laws of Colorado 2019.

**22-30.5-506. State charter school institute fund - created.** (1) The state charter school institute is authorized to receive and expend gifts, grants, and donations of any kind from any public or private entity to carry out the purposes of this part 5, subject to the terms and conditions under which given; except that no gift, grant, or donation shall be accepted if the conditions attached thereto require the use or expenditure thereof in a manner contrary to law. Any gifts, grants, or donations received pursuant to this subsection (1) shall be transmitted to the state treasurer who shall credit the same to the state charter school institute fund, hereinafter referred to as the "fund", which fund is hereby created in the state treasury. Moneys in the fund are continuously appropriated to the institute, to offset the actual and reasonable costs incurred by the institute in implementing this part 5. All investment earnings derived from the deposit and investment of the moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of any fiscal year shall remain in the fund and shall not be transferred to the general fund or any other fund.

(2) (a) The institute shall not be obligated to commence operations necessary to receive applications, until such time as there is at least fifty thousand dollars in the fund, whether received from gifts, grants, donations, or other sources.

(b) The institute shall not be obligated to commence review of applications actually received, until such time as the balance in the fund reaches at least one hundred fifty thousand dollars, whether received from gifts, grants, donations, or other sources.

(3) The state charter school institute shall create in the fund a school food authority account, and any moneys received by the state charter school institute as a result of its operations as a school food authority shall be credited to the school food authority account. Any moneys credited to the school food authority account are continuously appropriated to the state charter school institute to offset the costs incurred in operating as a school food authority.

(4) (a) The state charter school institute shall create in the fund an account for payment of the institute's administrative overhead costs, as defined in section 22-30.5-513 (1)(h), which account consists solely of moneys retained by the institute from the institute charter schools' adjusted per pupil revenues and per pupil online funding pursuant to section 22-30.5-513 (4)(a)(I.5)(E). Except as otherwise provided in paragraph (b) of this subsection (4), at the end of a budget year, if the amount of unexpended and unencumbered moneys remaining in the account exceeds twenty percent of the amount retained by the institution pursuant to section 22-30.5-513 (4)(a)(I.5)(E) for the applicable budget year, the institute shall transfer the amount of the excess to the institute charter school assistance fund created in section 22-30.5-515.5.

(b) The institute board may adopt a formula to annually adjust the percentage limit on the fund balance specified in paragraph (a) of this subsection (4) by multiplying the total pupil enrollment for institute charter schools in the preceding budget year by a per pupil dollar amount set annually by the institute board in collaboration with a council of institute charter schools.

**Source: L. 2004:** Entire part added, p. 1603, § 1, effective July 1. **L. 2010:** (1) amended and (3) added, (SB 10-111), ch. 170, p. 600, § 4, effective August 11. **L. 2012:** (1) amended and (4) added, (SB 12-121), ch. 177, p. 639, § 8, effective May 11. **L. 2013:** (4) amended, (SB 13-143), ch. 71, p. 227, § 1, effective March 22.

**22-30.5-507. Institute charter school - requirements - authority - rules - definitions.** (1) (a) An institute charter school shall be a public, nonsectarian, nonreligious, non-home-based school that operates pursuant to a charter contract authorized by the state charter school institute.

(b) An institute charter school shall exist as a public school within the state, unaffiliated with a school district. Nothing in this part 5 shall be construed to permit a school district to determine curriculum, policies, procedures, or operations of an institute charter school, including but not limited to compliance with the accountability provisions specified in this title, accreditation contracts, and statewide assessment requirements.

(c) Each institute charter school authorized on or after July 1, 2008, shall include within its name the phrase "state charter school".

(2) An institute charter school shall be:

(a) Subject to the terms of the charter contract entered into with the institute;

(b) Accountable to the institute for purposes of ensuring compliance with applicable laws and charter contract provisions; and

(c) Subject to accreditation by the institute board pursuant to the institute's policy for accrediting the institute charter schools adopted pursuant to section 22-11-307 and section 22-30.5-505 (3)(b). Each institute charter school shall also be subject to annual review by the department pursuant to section 22-11-210.

(3) (a) An institute charter school is subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, sex, sexual orientation, national origin, religion, ancestry, or need for special education services. Enrollment in an institute charter school must be open to any child who resides within the state; except that an institute charter school is not required to make alterations in the structure of the facility used by the institute charter school or to make alterations to the arrangement or function of rooms within the facility, except as may be required by state or federal law. Enrollment decisions shall be made in a nondiscriminatory manner specified by the applicant in the institute charter school application.

(b) As used in this subsection (3):

(I) "Protective hairstyle" includes such hairstyles as braids, locs, twists, tight coils or curls, cornrows, Bantu knots, Afros, and headwraps.

(II) "Race" includes hair texture, hair type, or a protective hairstyle that is commonly or historically associated with race.

(4) (a) An institute charter school shall be administered and governed by a governing body in a manner agreed to and set forth in the charter contract. Effective July 1, 2013, each institute charter school shall organize as a nonprofit corporation pursuant to the "Colorado Revised Nonprofit Corporation Act", articles 121 to 137 of title 7, C.R.S., which shall not affect its status as a public school for any purposes under Colorado law.

(b) An entity that holds a charter authorized pursuant to this part 5 may choose to contract with an education management provider, which education management provider may be a for-profit, a nonprofit, or a not-for-profit entity, so long as the institute charter school maintains a governing board that is independent of the education management provider.

(5) In order to clarify the status of institute charter schools for purposes of tax-exempt financing, an institute charter school, as a public school, is a governmental entity. Direct leases and financial obligations of an institute charter school shall not constitute debt or financial obligations of the state or any school district.

(6) Except as otherwise provided in sections 22-20-109 (5), 22-32-115 (1) and (2), and 22-54-109, an institute charter school shall not charge tuition.

(7) (a) Pursuant to the charter contract, an institute charter school may operate free from specified statutes and state board rules. The state board shall promulgate rules that list the automatic waivers for all charter schools, including institute charter schools. In promulgating the list of automatic waivers, the state board shall consider the overall impact and complexity of the requirements specified in the statute and the potential consequences that waiving the statute may have on the practices of a charter school, including an institute charter school. In accordance with its rule-making authority, the state board may review the list of automatic waivers at its discretion. Notwithstanding any provision of this subsection (7)(a) to the contrary, the state board shall not include the following statutes on the list of automatic waivers:

(I) Section 22-9-106, concerning the performance evaluation system for licensed personnel;

(I.5) Section 22-32-109 (1)(b), concerning procedures for competitive bidding in the purchase of goods and services, except professional services;

(II) Section 22-32-109 (1)(n)(I) and (1)(n)(II)(B), concerning the annual school calendar;

(II.5) Section 22-32-110 (1)(y), concerning the power to accept and expend gifts, donations, or grants; and

(III) Part 2 of article 63 of this title 22, concerning the employment of licensed personnel.

(b) An institute charter school may apply to the state board, through the institute, for a waiver of state statutes and state rules that are not automatic waivers. The state board may waive state statutory requirements or rules promulgated by the state board; except that the state board may not waive any statute or rule relating to:

(I) School accountability committees as described in section 22-11-401;

(II) The assessments required to be administered pursuant to section 22-7-1006.3;

(III) The school performance reports pursuant to part 5 of article 11 of this title;

(IV) The provisions of the "Public School Finance Act of 1994", article 54 of this title 22;

(V) The "Children's Internet Protection Act", article 87 of this title 22;

(VI) The requirement to post on the internet the statutes for which waivers are granted as provided in section 22-44-305;

(VII) Any provisions of section 22-1-130 relating to notification to parents of alleged criminal conduct by institute charter school employees;

(VIII) Section 22-33-106.1 concerning suspension and expulsion of students in preschool through second grade; or

(IX) Subsection (3) of this section and sections 22-32-110 (1)(k) and 22-63-206 (1) relating to discrimination based on hair texture, hair type, or a protective hairstyle that is commonly or historically associated with race.

(c) A waiver of state statute or state board rule made pursuant to this subsection (7) is for the term of the contract for which the waiver is made. A request for a waiver may be submitted to the institute as a part of the application for an institute charter school. If the institute applies to the state board for a waiver on behalf of an institute charter school, the institute is only required to provide a complete copy of the signed charter contract.

(8) (a) An institute charter school shall be responsible for its own operation including, but not limited to, preparation of a budget, contracting for services, and personnel matters.

(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).

(9) An institute charter school is authorized to offer any educational program, including but not limited to an online program or online school pursuant to article 30.7 of this title, that may be offered by a school district, unless expressly prohibited by its charter contract or by state law.

(10) All decisions regarding the planning, siting, and inspection of institute charter school facilities shall be made in accordance with section 22-32-124 and as specified by contract with the institute.

(11) An institute charter school may apply for authorization as a school food authority pursuant to section 22-32-120.

(12) An institute charter school may choose to apply, alone or with a consortium of charter schools, for a grant through a nonformulaic, competitive grant program created by a federal or state statute or program. If an institute charter school applies, alone or with a consortium of charter schools, for a grant, the institute charter school or consortium of charter schools is the local education agency only for the purposes of applying and determining eligibility for the grant and may request that the state charter school institute act as a fiscal manager for the institute charter school pursuant to section 22-30.5-503 (3.5) for purposes of grant management.

(13) Pursuant to the provisions of section 22-32-110 (1)(jj), an institute charter school shall not withhold records required for enrollment in another school or institution of higher education or the diploma, transcript, or grades of any student for failure to pay a fine or fee or to return or replace school property.

(14) An institute charter school shall annually distribute to each employee informational materials relating to federal student loan repayment programs and student loan forgiveness programs, including updated materials, received from the state charter school institute pursuant to section 22-30.5-505 (20). In addition to annual distribution, an institute charter school shall distribute the informational materials to newly hired employees as part of its employee orientation process. The institute charter school may distribute the informational materials to its employees through an e-mail to employees or as part of a mailing or regular communication to employees.

**Source: L. 2004:** (7) amended, p. 1592, § 27, effective June 3; entire part added, p. 1604, § 1, effective July 1. **L. 2007:** (9) amended, p. 1089, § 14, effective July 1. **L. 2008:** (1)(c) added, p. 492, § 7, effective April 17; (3) amended, p. 1601, § 22, effective May 29. **L. 2009:** (8)(b) amended and (11) added, (SB 09-230), ch. 227, p. 1034, § 6, effective May 4; (2)(c) and (7) amended, (SB 09-163), ch. 293, p. 1539, § 35, effective May 21; (7) amended, (SB 09-090), ch. 291, p. 1446, § 23, effective August 5. **L. 2010:** (8)(b) amended, (SB 10-111), ch. 170, p. 599, § 2, effective August 11; (8)(b) amended, (SB 10-161), ch. 250, p. 1115, § 2, effective August 11. **L. 2011:** (8)(b) amended, (HB 11-1277), ch. 306, p. 1504, § 34, effective August 10. **L. 2012:** (7) amended, (SB 12-121), ch. 177, p. 638, § 7, effective May 11; (9) amended, (HB 12-1240), ch. 258, p. 1317, § 31, effective June 4; (4) amended, (SB 12-067), ch. 131, p. 451, § 6, effective August 8. **L. 2013:** (12) added, (HB 13-1219), ch. 104, p. 363, § 10, effective August 7. **L. 2014:** (7) amended, (HB 14-1292), ch. 243, p. 905, § 8, effective May 21. **L. 2015:** (7)(b)(II) amended, (HB 15-1323), ch. 204, p. 724, § 31, effective May 20. **L. 2017:** (7)(a), (7)(b)(IV), and (7)(b)(V) amended and (7)(b)(VI) added, (HB 17-1375), ch. 287, p. 1597, § 8, effective June 2; (13) added, (HB 17-1301), ch. 201, p. 746, § 3, effective August 9. **L. 2018:** (7)(b)(V) and (7)(b)(VI) amended and (7)(b)(VII) added, (HB 18-1269), ch. 268, p. 1654, § 4, effective August 15. **L. 2019:** (14) added, (SB 19-057), ch. 35, p. 114, § 4, effective August 2; (7)(b)(VI) and (7)(b)(VII) amended and (7)(b)(VIII) added, (HB 19-1194), ch.160, p. 1888, § 7, effective July 1, 2020. **L. 2020:** (3), (7)(b)(VII), and (7)(b)(VIII) amended and (7)(b)(IX) added, (HB 20-1048), ch. 8, p. 16, § 5, effective September 14.

**Editor's note:** (1) Amendments to subsection (7) by Senate Bill 09-090 and Senate Bill 09-163 were harmonized.

(2) Amendments to subsection (8)(b) by Senate Bill 10-111 and Senate Bill 10-161 were harmonized.

(3) Section 13(2) of chapter 8 (HB 20-1048), Session Laws of Colorado 2020, provides that the act changing this section applies to conduct occurring on or after September 14, 2020.

**Cross references:** (1) For the legislative declaration contained in the 2008 act amending subsection (3), see section 1 of chapter 341, Session Laws of Colorado 2008. For the legislative declaration in HB 19-1194, see section 1 of chapter 160, Session Laws of Colorado 2019.

(2) For the short title ("Student Success Act") in HB 14-1292, see section 1 of chapter 243, Session Laws of Colorado 2014.

(3) For the short title ("Creating a Respectful and Open World for Natural Hair Act of 2020" or the "CROWN Act of 2020") and the legislative declaration in HB 20-1048, see sections 1 and 2 of chapter 8, Session Laws of Colorado 2020.

**22-30.5-508. Institute charter schools - contract contents - regulations.** (1) (a) An approved institute charter school application shall serve as the basis for a charter contract between the institute charter school and the institute.

(b) The institute board may approve an institute charter school application submitted by a nonprofit entity, and the institute may enter into a charter contract directly with the nonprofit entity to operate an institute charter school. The institute board shall not approve a charter school application that is submitted by a for-profit entity or that identifies a for-profit entity as one of the charter applicants, and the institute shall not enter into a charter contract directly with a for-profit entity to operate an institute charter school.

(2) Repealed.

(3) The charter contract between the institute charter school and the institute shall reflect all requests for release from state statutes and rules made by the institute charter school applicant. Within forty-five days after a request for release is received by the state board, the state board shall either grant or deny the request. If the state board grants the request, it may orally notify the institute charter school of its decision. If the state board denies the request, it shall notify the institute charter school in writing that the request is denied and specify the reasons for denial. If the institute charter school does not receive notice of the state board's decision within forty-five days after submittal of the request for release, the request shall be deemed granted. If the state board denies a request for release that includes multiple state statutes or rules, the denial shall specify the state statutes and rules for which the release is denied, and the denial shall apply only to those state statutes and rules so specified.

(4) A material revision of the terms of the charter contract may be made only with the approval of the institute and the governing body of the institute charter school.

(5) Any term included in a charter contract that would require an institute charter school to waive or otherwise forgo receipt of any amount of operational or capital construction funds provided to the institute charter school pursuant to the provisions of this part 5 or pursuant to any other provision of law is hereby declared null and void as against public policy and is unenforceable. In no event shall this subsection (5) be construed to prohibit any institute charter school from contracting with the institute for the purchase of services, including but not limited to the purchase of educational services.

(6) An institute charter school that provides a half-day kindergarten educational program before the 2019-20 school year and chooses to expand the kindergarten educational program to a full day shall notify the institute board of the expansion of the kindergarten educational program and of the school year in which the anticipated program expansion takes effect. The institute charter school and the institute board shall amend the charter contract as necessary to allow for the program expansion. If the institute board objects to the program expansion, the institute board shall provide to the institute charter school a written explanation of the grounds for its objection. If the institute charter school and the institute board cannot agree on an amendment to the charter contract for the program expansion, the institute charter school may submit to the state board a notice of appeal, stating the grounds for the appeal. Within sixty days after receiving the notice of appeal and after reasonable public notice, the state board shall review the decision of the institute to deny the program expansion and determine whether the decision was arbitrary and capricious. The state board shall remand the matter to the institute with instructions to approve or deny the program expansion. The decision of the state board shall be final and not subject to appeal.

**Source: L. 2004:** Entire part added, p. 1606, § 1, effective July 1. **L. 2007:** (2) repealed, p. 745, § 28, effective May 9. **L. 2009:** (5) amended, (SB 09-256), ch. 294, p. 1556, § 14, effective May 21. **L. 2012:** (1) amended, (SB 12-067), ch. 131, p. 452, § 7, effective August 8. **L. 2019:** (6) added, (HB 19-1262), ch. 245, p. 2400, § 9, effective May 21.

**22-30.5-509. Institute charter school application - contents.** (1) The institute charter school application is a proposed agreement upon which the institute charter applicant and the institute negotiate a charter contract. At a minimum, each institute charter school application includes:

(a) An executive summary that outlines the elements of the application and provides an overview of the proposed institute charter school;

(b) The vision and mission statements of the proposed institute charter school;

(c) The goals, objectives, and student performance standards the proposed institute charter school expects to achieve, including but not limited to the performance indicators specified in section 22-11-204 and applicable standards and goals specified in federal law;

(d) Evidence that an adequate number of parents and pupils support the formation of an institute charter school;

(e) Descriptions of the proposed institute charter school's educational program, student performance standards, and curriculum;

(f) A plan for evaluating student performance across the curriculum, which plan aligns with the proposed institute charter school's mission and educational objectives and provides a description of the proposed institute charter school's measurable annual targets for the measures used to determine the levels of attainment of the performance indicators specified in section 22-11-204 and procedures for taking corrective action if student performance at the school falls below the described targets;

(g) Evidence that the plan for the proposed institute charter school is economically sound, including a proposed budget for a term of at least five years. The institute charter application shall also describe the method for obtaining an independent annual audit of the proposed institute charter school's financial statements consistent with generally accepted

auditing standards and circular A-133 of the United States office of management and budget, as originally published in the federal register of June 30, 1997, and as subsequently amended.

(h) A description of the governance and operation of the proposed institute charter school, including the nature and extent of parental, professional educator, and community involvement in the governance and operation of the proposed institute charter school, that is consistent with the standards adopted by rule of the state board pursuant to section 22-2-106 (1)(h);

(i) An explanation of the relationship that will exist between the proposed institute charter school and its employees and the proposed institute charter school's employment policies;

(j) A proposal regarding the parties' respective legal liabilities and applicable insurance coverage, which insurance coverage shall include, at a minimum, workers' compensation, liability insurance, and insurance for the proposed institute charter school's facility and its contents;

(k) The proposed institute charter school's expectations and plans for ongoing parent and community involvement;

(l) A description of the proposed institute charter school's enrollment policy, consistent with the requirements of section 22-30.5-507 (3) and rules adopted by the state board pursuant to section 22-2-106 (1)(h), and the criteria for enrollment decisions;

(m) A statement of whether the proposed institute charter school plans to address the transportation or food service needs of its students while they are attending the school. The proposed institute charter school may choose not to provide transportation or food services, may choose to develop or form a charter school collaborative as described in section 22-30.5-603 to provide transportation or food services, or may choose to negotiate with a school district, board of cooperative services, or private provider to provide transportation or food services for its students. If the proposed institute charter school chooses to provide transportation or food services, the application shall include a plan for each provided service, which plan, at a minimum, shall specifically address serving the needs of low-income and academically low-achieving students, complying with insurance and liability issues, and complying with any applicable state or federal rules or regulations.

(n) A facilities plan that details viable facilities options that are consistent with section 22-32-124 and that includes the reasonable costs of the facility, which are reflected in the proposed budget;

(o) A list of the waivers of statute and state rules that the proposed institute charter school is requesting. For each requested waiver of a statute or state rule that is not an automatic waiver, the institute charter school application must state the rationale for each requested waiver and the manner in which the proposed institute charter school plans to meet the intent of the waived statute or rule.

(p) Policies regarding student discipline, expulsion, and suspension that are consistent with the intent and purpose of sections 22-33-106 and 22-33-106.1, provide adequately for the safety of students and staff, and provide a level of due process for students that, at a minimum, complies with the requirements of the federal "Individuals with Disabilities Education Act", 20 U.S.C. sec. 1400 et seq.;

(q) A plan for serving students with special needs, including budget and staff requirements, which plan shall include identifying and meeting the learning needs of at-risk students, students with disabilities, gifted and talented students, and English language learners;

(r) A dispute resolution process, as provided in section 22-30.5-107.5; and

(s) If the proposed institute charter school intends to contract with an education management provider:

(I) A summary of the performance data for all of the schools the education management provider is managing at the time of the application or has managed previously, including documentation of academic achievement and school management success;

(II) An explanation of and evidence demonstrating the education management provider's capacity for successful expansion while maintaining quality in the schools it is managing;

(III) An explanation of any existing or potential conflicts of interest between the governing board of the proposed institute charter school and the education management provider; and

(IV) A copy of the actual or proposed performance contract between the governing board for the proposed institute charter school and the education management provider that specifies, at a minimum, the following material terms:

(A) Performance evaluation measures;

(B) The methods of contract oversight and enforcement that the governing board will apply;

(C) The compensation structure and all fees that the proposed institute charter school will pay to the education management provider; and

(D) The conditions for contract renewal and termination.

**Source: L. 2004:** Entire part added, p. 1606, § 1, effective July 1. **L. 2009:** (1)(b), (1)(d), and (1)(e) amended, (SB 09-163), ch. 293, p. 1540, § 36, effective May 21. **L. 2012:** (1) R&RE, (SB 12-061), ch. 109, p. 379, § 5, effective April 13. **L. 2014:** (1)(o) amended, (HB 14-1292), ch. 243, p. 906, § 9, effective May 21. **L. 2019:** (1)(p) amended, (HB 19-1194), ch. 160, p. 1888, § 8, effective July 1, 2020.

**Cross references:** (1) For the short title ("Student Success Act") in HB 14-1292, see section 1 of chapter 243, Session Laws of Colorado 2014.

(2) For the legislative declaration in HB 19-1194, see section 1 of chapter 160, Session Laws of Colorado 2019.

**22-30.5-510. Institute charter school application - process - rule-making - repeal.** (1) (a) Except as otherwise provided in section 22-30.5-506 (2), the institute shall receive and review all applications for institute charter schools. An application for an institute charter school may be submitted by one or more individuals, by a nonprofit, governmental, or other entity or organization, or by an existing charter school authorized by a district. An entity applying for an institute charter school shall file an application with the institute by a date determined by rule of the institute board to be eligible for consideration for the following school year. An application is considered filed when the institute receives the institute charter application from the institute charter applicant either in hard copy or electronically. Prior to any change in the application deadline, the institute shall notify each known institute charter school applicant of the proposed

change by certified letter. Within fifteen days after receiving an institute charter school application, the institute shall determine whether the application contains the minimum components specified in section 22-30.5-509 (1) and is therefore complete. If the application is not complete, the institute shall notify the applicant within the fifteen-day period and provide a list of the information required to complete the institute charter application. The applicant has fifteen days after the date it receives the notice to provide the required information to the institute for review. The institute is not required to take action on the institute charter application if the applicant does not provide the required information within the fifteen-day period. The institute may request additional information during the review period and provide reasonable time for the applicant to respond. The institute may, but is not required to, accept any additional information the applicant provides that the institute does not request.

(a.3) An application to convert an existing charter school authorized by a school district to an institute charter school shall include evidence that an adequate number of parents, teachers, or pupils or any combination thereof support the conversion to an institute charter school.

(a.5) The institute's approval of an application from an existing charter school shall not relieve the charter school of any preexisting contractual obligations or relationships, including obligations of the charter school to the school district that oversees the charter school; except that the charter school shall no longer be subject to the oversight and control of the school district. The transfer of oversight of a charter school from a school district to the institute shall not be deemed a dissolution or other event that empowers or obligates the school district to wind down the charter school's affairs or to dispose of the charter school's assets.

(a.7) (I) If a district charter school converts to an institute charter school, the institute shall calculate the converted school's funding as it was calculated before the conversion using the applicable formulas specified in part 1 of this article; except that this paragraph (a.7) does not apply if the converted school was authorized by a small rural school district, as described in section 22-54-108 (3)(b)(IV), before the conversion.

(II) This paragraph (a.7) is repealed, effective July 1, 2021.

(b) The institute board shall set forth by rule all necessary procedures for the application process and for application review by the institute and the institute board. The rules shall describe a rigorous review of the application that includes, but is not necessarily limited to, the following key evaluative areas involving the institute charter school:

(I) The number of at-risk students that the institute charter school anticipates serving, both as an absolute number and as a percentage of the entire student body expected to enroll at the institute charter school;

(II) Curriculum and instructional program;

(III) Nonacademic program characteristics;

(IV) Financial viability;

(V) Appropriate governance model and proposed practices;

(VI) Appropriate, consistent, clear, and measurable accountability systems;

(VII) The extent to which the instructional program fits the mission statement of the institute charter school;

(VIII) Whether the institute charter school will provide an educational option that substantially differs from the educational opportunities provided by existing schools of the school district that have capacity to accommodate additional students;

(IX) The institute charter school's plan for outreach and recruitment of students whose race, gender, and ethnicity reflect the demographics of the community that the institute charter school intends to serve; and

(X) The institute charter school's plan for identifying and reducing the academic achievement gaps among its student population.

(c) The rules described in paragraph (b) of this subsection (1) shall require the applicant to provide written notification of the application to the school district board of education and the school district accountability committee of the school district in which the proposed institute charter school is to be located. The rules shall permit the board of education and the accountability committee to submit to the institute written comments concerning the institute charter school application.

(d) When the institute determines that it has received a complete application for an institute charter school, the institute shall send notice to the local board of education and the school district accountability committee for the school district in which the proposed institute charter school is to be located. At a minimum, the notice shall include the following information:

(I) The schedule by which the institute will review the application and determine whether to authorize the institute charter school;

(II) The dates and locations of meetings at which the institute will consider the application, including at least one meeting within the school district;

(III) Instructions specifying how the local board may request information from the institute regarding:

(A) The location of the proposed institute charter school, if known; and

(B) Enrollment projections for the proposed institute charter school, including the projected number of at-risk students; and

(IV) An invitation to the local board of education to send comments to the institute regarding the school district's concerns with any portion of the application, including any comments concerning whether the proposed new institute charter school substantially differs from existing educational options within the school district that have the capacity to accommodate additional students.

(2) (a) Prior to ruling on the application for an institute charter school, one or more representatives of the institute board shall hold a public meeting in the school district in which the institute charter school would be located. At the meeting, the representatives of the institute board, at a minimum, shall take public testimony regarding whether to approve or disapprove the application for an institute charter school.

(b) The institute board shall rule by resolution on the application for an institute charter school in a public hearing, following reasonable public notice, within ninety days after receiving the application filed pursuant to subsection (1) of this section. At the public hearing, prior to adopting the resolution, the institute board shall make available to persons in attendance at the hearing a written summary of the testimony received at the meeting held pursuant to paragraph (a) of this subsection (2) and, on the record, shall consider the testimony and its application to the institute board's decision.

(c) All negotiations between the institute charter school and the institute on the charter contract shall be concluded, and all terms of the charter contract agreed upon, no later than forty-five days after the institute board approves the application for an institute charter school.

(3) The institute charter school applicant and the institute may jointly waive the deadlines set forth in this section.

(4) If the institute denies an institute charter school application, it shall state its reasons for the denial. Within thirty days after the denial, the entity that submitted the institute charter school application may submit to the state board a notice of appeal, stating the grounds for the appeal.

(5) Within sixty days after receipt of a notice of appeal by the state board and after reasonable public notice, the state board shall review the decision of the institute and determine whether the decision was arbitrary and capricious. The state board shall remand the matter to the institute with instructions to approve or deny the institute charter school application. The decision of the state board shall be final and not subject to appeal.

**Source: L. 2004:** Entire part added, p. 1607, § 1, effective July 1. **L. 2008:** (1)(a), (1)(b), and (2) amended and (1)(a.3), (1)(a.5), and (1)(d) added, p. 493, § 8, effective April 17. **L. 2010:** (2)(b) amended, (SB 10-111), ch. 170, p. 603, § 9, effective August 11. **L. 2012:** (1)(a) and (2)(b) amended, (SB 12-061), ch. 109, p. 381, § 7, effective April 13. **L. 2016:** (1)(a.7) added, (SB 16-208), ch. 271, p. 1125, § 5, effective August 10.

**22-30.5-511. Institute charter schools - term - renewal of contract - grounds for nonrenewal or revocation - appeal.** (1) (a) The institute may approve a new charter contract for an institute charter school for a period of four academic years, and the institute may renew the charter contract for succeeding periods not to exceed five academic years.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (1) to the contrary, an institute charter school and the institute may agree to extend the length of the charter contract beyond five academic years for the purpose of enhancing the terms of any lease or financial obligation.

(2) During the term of a charter contract, the institute shall annually review the institute charter school's performance. At a minimum, the review includes the institute charter school's progress in meeting the objectives identified in the plan the institute charter school is required to implement pursuant to section 22-11-210 and the results of the institute charter school's most recent annual financial audit. The institute shall provide to the institute charter school written feedback from the review and shall include the results of the institute charter school's annual review in the body of evidence that the institute board takes into account in deciding whether to renew or revoke the charter contract and that supports the renegotiation of the charter contract.

(2.5) The institute shall adopt and revise as necessary procedures and timelines for the charter-renewal process, which procedures and timelines are in conformance with the requirements of this part 5. The institute shall ensure that each of the institute charter schools receives a copy of the institute's charter renewal procedures and timelines and any revisions to the procedures and timelines.

(3) The institute board may revoke or deny renewal of a charter contract if the institute board determines that the institute charter school did any of the following:

(a) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter contract of the institute charter school;

(b) Failed to meet or make adequate progress toward achievement of the content standards, pupil performance standards, or targets for the measures used to determine the levels

of attainment of the performance indicators identified in the charter contract of the institute charter school;

(c) Was required to adopt a turnaround plan and the state board recommended pursuant to section 22-11-210 that the institute charter school be restructured;

(d) Failed to meet generally accepted standards of fiscal management; or

(e) Violated any provision of law from which the institute charter school was not specifically exempted.

(4) In addition, the institute board may deny renewal of a charter contract upon a determination by the institute board that it is not in the best interests of the pupils attending the institute charter school to continue the operation of the institute charter school.

(4.5) If an institute charter school is required to implement a turnaround plan pursuant to section 22-11-210 (2) for a second consecutive school year, the institute charter school shall present to the institute board, in addition to the turnaround plan, a summary of the changes made by the institute charter school to improve its performance, the progress made in implementing the changes, and evidence, as requested by the institute board, that the institute charter school is making sufficient improvement to attain a higher accreditation category within two school years or sooner. If the institute board finds that the institute charter school's evidence of improvement is not sufficient or if the institute charter school is required to implement a turnaround plan for a third consecutive school year, the institute board may revoke the school's charter contract.

(5) (a) At least fifteen days prior to the date on which the institute board will consider whether to revoke or renew a charter contract, the institute shall provide to the institute board and the institute charter school a written recommendation, including the reasons supporting the recommendation, concerning whether to revoke or renew the charter contract.

(b) If the institute board revokes or denies renewal of a charter contract of an institute charter school, the institute board shall state its reasons for the revocation or denial.

(6) (a) The state board, upon receipt of a notice of appeal or upon its own motion, may review decisions of the institute board concerning the revocation or nonrenewal of an institute charter school's charter contract. An institute charter school or any other person who wishes to appeal a decision of the institute board concerning the revocation or nonrenewal of a charter contract shall provide the state board and the institute board with a notice of appeal within thirty days after the institute board's decision. The person bringing the appeal shall limit the grounds of the appeal to the grounds for the revocation or the nonrenewal of the charter contract specified by the institute board. The notice shall include a brief statement of the reasons the person contends the institute board's revocation or nonrenewal of the charter contract was in error.

(b) Within sixty days after receipt of the notice of appeal or the making of a motion to review by the state board and after reasonable public notice, the state board, at a public hearing which may be held in the school district in which the institute charter school is located, shall review the decision of the institute board and make its findings. If the state board finds that the institute board's decision was contrary to the best interests of the pupils attending the institute charter school, the state board shall remand such final decision to the institute board with instructions to renew or reinstate the charter contract of the institute charter school. The decision of the state board shall be final and not subject to appeal.

(7) The institute shall adopt procedures for closing an institute charter school following revocation or nonrenewal of the institute charter school's charter contract. At a minimum, the procedures shall ensure that:

(a) When practicable and in the best interest of the students of the institute charter school, the institute charter school continues to operate through the end of the school year. If the institute determines it is necessary to close the institute charter school prior to the end of the school year, the institute shall work with the institute charter school to determine an earlier closure date.

(b) The institute works with the parents of the students who are enrolled in the institute charter school when the charter contract is revoked or not renewed to ensure that the students are enrolled in schools that meet their educational needs; and

(c) The institute charter school meets its financial, legal, and reporting obligations during the period that the institute charter school is concluding operations.

(8) Notwithstanding any provision of this section to the contrary, on and after September 1, 2012, the institute shall not renew a charter contract to which a for-profit entity is a party.

**Source: L. 2004:** Entire part added, p. 1609, § 1, effective July 1. **L. 2006:** (3)(c) amended, p. 403, § 3, effective April 6. **L. 2009:** (2), (3)(b), and (3)(c) amended, (SB 09-163), ch. 293, p. 1540, § 37, effective May 21. **L. 2012:** Entire section amended, (SB 12-061), ch. 109, p. 382, § 8, effective April 13; (8) added, (SB 12-067), ch. 131, p. 452, § 8, effective August 8.

**22-30.5-511.3. Nonrenewal or revocation - qualified charter school - exceptions.** (1) Notwithstanding the provisions of section 22-30.5-511, the provisions of this section shall apply if:

(a) The institute board determines that the charter of a qualified charter school, as defined in section 22-30.5-408 (1)(c), will be revoked or will not be renewed; and

(b) The qualified charter school has financed capital construction with revenues from bonds issued on behalf of the qualified charter school by the Colorado educational and cultural facilities authority created in section 23-15-104 (1)(a), C.R.S., pursuant to section 22-30.5-407.

(2) (a) If the institute board makes a determination to revoke or not renew the charter of a qualified charter school and subsection (1) of this section applies, the institute board shall notify the state treasurer and the commissioner of education immediately upon such determination. Upon receipt of such notice, the commissioner shall suspend the revocation or nonrenewal of the charter until such time as the state treasurer, the commissioner, and the Colorado educational and cultural facilities authority determine, with the institute board and the qualified charter school, whether an alternative exists to such revocation or nonrenewal of the charter.

(b) The institute board shall not be required to suspend a revocation or nonrenewal of a charter pursuant to paragraph (a) of this subsection (2) for more than one hundred twenty days after the date that the commissioner of education and the state treasurer received notice of the determination to revoke or not renew the charter pursuant to paragraph (a) of this subsection (2) or sixty days after the action of the state board pursuant to section 22-30.5-511 (5)(b)(II), whichever is later.

(3) The state treasurer, commissioner of education, institute board, charter school, and Colorado educational and cultural facilities authority may pursue the following:

(a) The conversion of the qualified charter school from an institute charter school to a school of the accounting district of the institute charter school, as defined in section 22-30.5-513 (1)(a);

(b) The reorganization of the qualified charter school and application to the institute board or the local board of education of the accounting district for approval as a charter school with the condition that the newly approved charter school will assume the bond obligations of the former qualified charter school pursuant to section 22-30.5-407; or

(c) Any other alternative deemed feasible by the state treasurer, the commissioner of education, the Colorado educational and cultural facilities authority, the institute board, and the qualified charter school.

(4) Nothing in this section shall be construed to prevent the institute board from revoking or not renewing the charter of a qualified charter school pursuant to section 22-30.5-511.

**Source: L. 2011:** Entire section added, (SB 11-188), ch. 186, p. 715, § 7, effective July 1.

**22-30.5-511.5. Background investigation - prohibition against employing persons - institute charter school employees' information provided to department.** (1) An institute charter school shall conduct a background investigation, including a fingerprint-based criminal history record check, as described in sections 22-30.5-110.5 and 22-30.5-110.7, of an applicant to whom an offer of employment is extended by the institute charter school to determine whether the applicant is suitable to work in an environment with children. An applicant who applies for a position of employment with an institute charter school shall submit to a background investigation, including a fingerprint-based criminal history record check, and, as necessary, a name-based criminal history record check, as described in sections 22-30.5-110.5 and 22-30.5-110.7.

(2) When an institute charter school finds good cause to believe that a person employed by the institute charter school has been convicted of a felony or misdemeanor, other than a misdemeanor traffic offense or traffic infraction subsequent to such employment, the institute charter school shall require the person to submit to the institute charter school a complete set of his or her fingerprints for a fingerprint-based criminal history record check and, as necessary, a name-based criminal history record check, as described in section 22-30.5-110.7 (6).

(2.5) An employee or an applicant for employment with an institute charter school is disqualified from employment if the results of a fingerprint-based criminal history record check or a name-based criminal history record check completed on or after August 10, 2011, disclose a conviction for an offense described in section 22-32-109.8 (6.5). Nothing in this section or in section 22-32-109.8 creates for a person a property right in or entitlement to employment or continued employment with an institute charter school or impairs an institute charter school's right to terminate employment for a nondiscriminatory reason.

(3) Each institute charter school shall comply with the reporting requirements specified in section 22-30.5-110.5.

**Source: L. 2008:** Entire section added, p. 1664, § 4, effective May 29. **L. 2011:** (2.5) added, (HB 11-1121), ch. 242, p. 1055, § 3, effective August 10. **L. 2019:** (1), (2), and (2.5) amended, (HB 19-1166), ch. 125, p. 547, § 24, effective April 18.

**Cross references:** In 2011, subsection (2.5) was added by the "Safer Schools Act of 2011". For the short title, see section 1 of chapter 242, Session Laws of Colorado 2011.

**22-30.5-512. Institute charter schools - employee retirement funds.** A local board of education shall determine by policy or by negotiated agreement, if one exists, the employment status of school district employees employed by an institute charter school who seek to return to employment with public schools in the school district. Employees of an institute charter school shall be members of the public employees' retirement association. The institute charter school and the employee shall contribute the appropriate respective amounts as required by the funds of such association.

**Source: L. 2004:** Entire part added, p. 1610, § 1, effective July 1.

**22-30.5-513. Institute charter schools - funding - at-risk supplemental aid - legislative declaration - definitions - repeal.** (1) As used in this section, unless the context otherwise requires:

(a) "Accounting district" means the school district within whose geographic boundaries an institute charter school is physically located.

(b) (I) "Accounting district's adjusted per pupil revenues" means the greater of:

(A) The accounting district's per pupil funding plus the accounting district's at-risk per pupil funding; or

(B) Minimum per pupil funding as calculated pursuant to section 22-54-104 (3.5)(d).

(II) Notwithstanding any provision of subparagraph (I) of this paragraph (b) to the contrary, in a budget year in which an accounting district receives minimum per pupil funding as calculated pursuant to section 22-54-104 (3.5)(d), "accounting district's adjusted per pupil revenues" means minimum per pupil funding as calculated pursuant to section 22-54-104 (3.5)(d).

(c) "Accounting district's at-risk funding" means the amount of funding for at-risk pupils in the accounting district determined in accordance with the formulas described in section 22-54-104 (4).

(d) "Accounting district's at-risk per pupil funding" means the amount of funding determined in accordance with the following formula:

(The accounting district's at-risk funding divided by the accounting district's funded pupil count) x (the institute charter school's percentage of at-risk pupils divided by the accounting district's percentage of at-risk pupils).

(e) "Accounting district's funded pupil count" shall have the same meaning as the term "district funded pupil count" defined in section 22-54-103 (7).

(f) "Accounting district's per pupil funding" means the per pupil funding calculated for the accounting district pursuant to the formula described in section 22-54-104 (3).

(g) "Accounting district's per pupil online funding" means online funding, as specified in section 22-54-104 (4.5), for any budget year divided by the online pupil enrollment.

(h) "Administrative overhead costs" means all actual and reasonable costs incurred by the institute as a result of its performance of its obligations pursuant to this part 5.

"Administrative overhead costs" shall not include any costs incurred in order to deliver services that an institute charter school may purchase at its discretion.

(i) "At-risk pupils" shall have the same meaning as provided in section 22-54-103 (1.5).

(j) "Online pupil enrollment" means:

(I) Repealed.

(II) For the 2008-09 budget year, and for budget years thereafter, the number of pupils, on the pupil enrollment count day within the applicable budget year, enrolled in, attending, and actively participating in a multi-district online school, as defined in section 22-30.7-102 (6), created pursuant to article 30.7 of this title by the institute charter school.

(k) "Pupil enrollment" shall have the same meaning as provided in section 22-54-103 (10).

(l) "Qualified charter school" shall have the same meaning as provided in section 22-54-124 (1)(f.6).

(2) (a) As part of the charter contract, the institute charter school and the institute shall agree on funding and any services to be provided by the institute or by other parties to the institute charter school.

(b) For budget year 2004-05 and budget years thereafter, each institute charter school and the institute shall negotiate funding under the charter contract at a minimum of ninety-five percent of the institute charter school's accounting district's adjusted per pupil revenues for each pupil enrolled in the institute charter school who is not an online pupil and ninety-five percent of the institute charter school's accounting district's per pupil online funding for each online pupil enrolled in the institute charter school. The institute may retain three percent of the accounting district's adjusted per pupil revenues for each pupil, who is not an online pupil, enrolled in the institute charter school and three percent of the accounting district's per pupil online funding for each online pupil enrolled in the institute charter school.

(b.5) For purposes of calculating an institute charter school's funding pursuant to this subsection (2):

(A) If the institute charter school operates a full-day kindergarten educational program, the pupils enrolled in the program are counted as full-day pupils; except that a student enrolled as less than a full-time pupil is counted in accordance with rules promulgated by the state board; and

(B) If the institute charter school operates a half-day kindergarten educational program, the pupils enrolled in the program are counted as half-day pupils and the number of pupils enrolled in the institute charter school must include the supplemental kindergarten enrollment as defined in section 22-54-103 (15).

(c) Each institute charter school shall pay an amount equal to the per pupil cost incurred by the institute in providing federally required educational services, multiplied by the number of students enrolled in the institute charter school. At either party's request, the institute charter school and the institute may negotiate and include in the charter contract alternate arrangements for the provision of and payment for federally required educational services, including, but not necessarily limited to, a reasonable reserve not to exceed five percent of the institute's total budget for providing federally required educational services. The reserve shall only be used by the institute to offset excess costs of providing services to students with disabilities enrolled in any institute charter school.

(d) (I) Within ninety days after the end of each fiscal year, the institute shall provide to each institute charter school an itemized accounting of all the institute's administrative overhead costs.

(II) Within ninety days after the end of each fiscal year, the institute shall provide to each institute charter school an itemized accounting of all the actual costs of any additional services the institute charter school chose at its discretion to purchase as provided in paragraph (b) of subsection (4) of this section. Any difference between the amount initially charged to the institute charter school and the actual cost shall be reconciled and paid to the owed party.

(e) (I) An institute charter school shall not charge the parent of a child enrolled in a kindergarten educational program tuition to attend any portion of the program and shall not charge the parent fees for the child to attend the program other than fees that are routinely charged to the parents of students enrolled in other grades and are applicable to the kindergarten educational program.

(II) Notwithstanding the provisions of subsection (2)(e)(I) of this section to the contrary, if the general assembly amends the "Public School Finance Act of 1994", article 54 of this title 22, to count a student enrolled in kindergarten only as a half-day pupil, with or without the addition of supplemental kindergarten enrollment as defined in section 22-54-103 (15) for purposes of calculating the funded pupil count as defined in section 22-54-103 (7), an institute charter school may charge the student's parents tuition or a fee for the portion of the school day for which it does not receive funding for the student pursuant to the "Public School Finance Act of 1994"; except that the amount of tuition or fee charged shall not exceed the amount of tuition or fee that the institute charter school charged to attend a full-day kindergarten educational program for the 2018-19 budget year, adjusted for inflation and prorated by the percentage of the school day for which the student is no longer funded by the "Public School Finance Act of 1994". As used in this subsection (2)(e)(II), "inflation" means the annual percentage change in the United States department of labor bureau of labor statistics consumer price index for Denver-Aurora-Lakewood for all items paid by all urban consumers, or its applicable successor index.

(3) (a) On or before November 10 of each year, the institute shall certify to the state board each institute charter school's pupil enrollment and online pupil enrollment for that year. In certifying the pupil enrollment of each institute charter school to the state board, the institute shall specify the number of pupils enrolled in half-day kindergarten; the number of pupils enrolled in full-day kindergarten; the number of pupils enrolled in first grade through twelfth grade, specifying those who are enrolled as full-time students and those who are enrolled as less than full-time students; the number of expelled pupils receiving educational services pursuant to section 22-33-203; the number of pupils receiving educational programs under the "Exceptional Children's Educational Act", article 20 of this title; and the number of at-risk pupils. The institute shall also notify the department as to whether each institute charter school is a qualified charter school.

(b) For purposes of the "Public School Finance Act of 1994", article 54 of this title, the department shall add the pupils enrolled in an institute charter school to the funded pupil count and the online pupil enrollment of the institute charter school's accounting district.

(4) (a) (I) For each institute charter school, the department shall withhold from the state equalization payments of the institute charter school's accounting district an amount equal to one hundred percent of the accounting district's adjusted per pupil revenues multiplied by the number of pupils enrolled in the institute charter school who are not online pupils plus an amount equal

to one hundred percent of the accounting district's per pupil online funding multiplied by the number of online pupils enrolled in the institute charter school. The department shall forward to the institute the amount withheld minus an amount not to exceed one percent of the amount withheld that the department may retain as reimbursement for the reasonable and necessary costs to the department to implement the provisions of this part 5.

(I.5) The institute shall forward to each institute charter school an amount equal to the institute charter school's pupil enrollment multiplied by the accounting district's adjusted per pupil revenues of the institute charter school's accounting district, minus:

(A) The amount withheld not to exceed one percent retained by the department pursuant to subparagraph (I) of this paragraph (a);

(B) Repealed.

(C) Any amount agreed to by the institute and the institute charter school for repayment of a loan to the institute charter school from the institute charter school assistance fund created in section 22-30.5-515.5;

(D) Any amount withheld pursuant to section 22-30.5-406 for the direct payments made by the state treasurer of principal and interest due on bonds issued on behalf of the institute charter school by a governmental entity for the purpose of financing institute charter school capital construction;

(E) An amount equal to three percent of the amount calculated for the institute charter school pursuant to subparagraph (I) of this paragraph (a), which amount shall be credited to the account created pursuant to section 22-30.5-506 (4) and used to offset administrative overhead costs; and

(F) The amount agreed to in the institute charter contract for any additional services, as provided in paragraph (b) of this subsection (4).

(II) Repealed.

(b) As part of the institute charter school contract, the institute charter school and the institute board shall agree on the services, other than necessary administration, oversight, and management services, to be provided to the institute charter school by any third party with which the institute or institute charter school contracts and the costs of the services.

(c) For budget years 2004-05 through 2010-11, the amount of funding specified in paragraph (a) of this subsection (4) shall reflect the one-percent increase in the statewide base per pupil funding for state fiscal years 2001-02 through 2010-11 received by school districts as required by section 17 of article IX of the state constitution.

(d) Repealed.

(4.5) (a) For the 2012-13 budget year and each budget year thereafter, the general assembly shall appropriate to the charter school institute the amount calculated for at-risk supplemental aid pursuant to paragraph (b) of this subsection (4.5) for each institute charter school whose percentage of at-risk pupils is less than the percentage of at-risk pupils in the accounting district. At-risk supplemental aid is additional funding and does not supplant any other funding allocated pursuant to this section. The charter school institute shall pass through one hundred percent of an institute charter school's at-risk supplemental aid to the institute charter school.

(b) The institute charter school's at-risk supplemental aid is equal to one-half of the difference between one hundred percent of the accounting district's per pupil revenues and one hundred percent of the accounting district's adjusted per pupil revenues for each pupil enrolled in

the district charter school, not including online pupils or pupils enrolled in the ASCENT program.

(c) For purposes of this subsection (4.5), unless the context otherwise requires, "accounting district's per pupil revenues" has the same meaning as the term "district per pupil revenues" defined in section 22-30.5-112.

(d) If the appropriation to the charter school institute is insufficient to fund one hundred percent of the at-risk supplemental aid calculated pursuant to this subsection (4.5), the charter school institute shall reduce each institute charter school's at-risk supplemental aid proportionately.

(5) (Deleted by amendment, L. 2009, (SB 09-089), ch. 440, p. 2435, § 4, effective June 4, 2009.)

(5.5) (a) Notwithstanding any provision of this section to the contrary, if a district charter school converts to an institute charter school pursuant to section 22-30.5-510, the converted school's per pupil revenues or adjusted per pupil revenues, whichever is applicable, and at-risk supplemental aid continue to be calculated pursuant to section 22-30.5-112 or 22-30.5-112.1, whichever is applicable, and section 22-30.5-112.2, as the funding applied to the converted school before the conversion; except that this subsection (5.5) does not apply if the converted school was authorized by a small rural school district, as described in section 22-54-108 (3)(b)(IV), before the conversion.

(b) This subsection (5.5) is repealed, effective July 1, 2021.

(6) (a) The governing body of an institute charter school is authorized to accept gifts, donations, or grants of any kind made to the institute charter school and to expend or use said gifts, donations, or grants in accordance with the conditions prescribed by the donor; however, no gift, donation, or grant shall be accepted by the governing body if subject to any condition contrary to law or contrary to the terms of the charter contract between the institute charter school and the institute.

(b) Moneys received by an institute charter school from any source and remaining in the institute charter school's accounts at the end of a budget year shall remain in the institute charter school's accounts for use by the institute charter school during subsequent budget years and shall not revert to the state. Moneys remaining in the institute charter school's accounts upon revocation or nonrenewal of the charter contract shall revert to the institute; except that any gifts shall be disposed of in accordance with any conditions prescribed by the donor that are not contrary to law.

(7) and (8) Repealed.

(9) (a) For the 2004-05 budget year, and for each budget year thereafter, the proportionate share of moneys generated under federal or state categorical aid programs shall be directed to institute charter schools serving students eligible for such aid.

(b) Each institute charter school that receives federal or state categorical aid shall comply with all applicable federal and state reporting requirements to receive such aid.

(10) (a) On or before December 1, 2009, and on or before December 1 each year thereafter, a representative from the governing board of each institute charter school and the institute board shall meet to review the level of funding received by the institute as a result of the moneys withheld by the institute for the amount of actual costs incurred by the institute in providing necessary administration, oversight, and management services to the institute charter schools. The institute charter school representatives and the institute board shall, at a minimum,

review, for each budget year beginning with the 2004-05 budget year, the amount of moneys annually appropriated to the institute, the amount of costs incurred by the institute, and the services provided by the institute.

(b) Notwithstanding section 24-1-136 (11)(a)(I), on or before January 15, 2010, and on or before January 15 each year thereafter, the institute board shall submit to the education committees of the senate and the house of representatives, or any successor committees, the findings of the review described in subsection (10)(a) of this section and any recommendations for legislative changes regarding the operations of the institute.

(c) The provisions of this subsection (10) shall not be interpreted as limiting the authority of the institute or the institute board in making decisions concerning operations of the institute or the use of institute moneys.

**Source: L. 2004:** Entire part added, p. 1611, § 1, effective July 1. **L. 2006:** (1) R&RE, (2)(b) and (4)(a) amended, and (7) and (8) repealed, pp. 572, 573, 574, §§ 1, 3, 4, effective April 24. **L. 2007:** (1)(g) amended, p. 744, § 25, effective May 9; (1)(g) and (1)(j) amended, pp. 1091, 1086, §§ 21, 9, effective July 1. **L. 2009:** (4)(a) and (5) amended and (10) added, (SB 09-089), ch. 440, p. 2435, § 4, effective June 4; (1)(j)(I) repealed, (SB 09-292), ch. 369, p. 1962, § 59, effective August 5. **L. 2010:** (4)(a)(I.5)(B) and (4)(a)(I.5)(C) amended and (4)(d) added, (SB 10-111), ch. 170, pp. 602, 604, §§ 7, 14, effective August 11. **L. 2012:** (1)(j)(II) amended, (HB 12-1090), ch. 44, p. 151, § 9, effective March 22; (2)(b), (2)(d)(I), and (4)(a)(I.5)(E) amended, (SB 12-121), ch. 177, p. 640, § 9, effective May 11; (4.5) added, (HB 12-1345), ch. 188, p. 723, § 9, effective May 19; (1)(j)(II) amended and (2)(b.5) added, (HB 12-1240), ch. 258, pp. 1317, 1311, §§ 32, 12, effective June 4. **L. 2013:** (4)(a)(I.5)(B) and (4)(d) repealed, (SB 13-143), ch. 71, p. 228, § 2, effective March 22. **L. 2014:** (1)(b) amended, (HB 14-1298), ch. 244, p. 925, § 11, effective May 21. **L. 2016:** (5.5) added, (SB 16-208), ch. 271, p. 1126, § 6, effective August 10. **L. 2017:** (10)(b) amended, (HB 17-1267), ch. 242, p. 996, § 12, effective August 9. **L. 2019:** (2)(b.5) amended and (2)(e) added, (HB 19-1262), ch. 245, p. 2398, § 7, effective May 21.

**Editor's note:** (1) Amendments to subsection (1)(g) by Senate Bill 07-199 and Senate Bill 07-215 were harmonized.

(2) Subsection (4)(a)(II)(B) provided for the repeal of subsection (4)(a)(II), effective July 1, 2008. (See L. 2006, p. 573.)

(3) Amendments to (1)(j)(II) by House Bill 12-1090 and House Bill 12-1240 were harmonized.

**22-30.5-513.1. Mill levy equalization - fund created - legislative declaration.** (1) The general assembly finds that school districts receive significant operating revenue from mill levies that are in addition to the school districts' total program mill levy. This additional revenue helps school districts offset the effects of the budget adjustment imposed by section 22-54-104 (5)(g). The general assembly further finds that institute charter schools do not have access to additional revenue from a local property tax mill levy. The general assembly finds, therefore, that it is appropriate to consider additional state equalization funding for institute charter schools.

(2) (a) The mill levy equalization fund, referred to in this section as the "fund", is hereby created in the state treasury. The fund consists of any amount that the general assembly may

appropriate or transfer to the fund. The state treasurer shall credit to the fund all interest and income derived from the deposit and investment of money in the fund.

(b) Subject to annual appropriation by the general assembly, the institute shall annually distribute the money appropriated or transferred to the fund to the institute charter schools on an equal per-pupil basis; except that, in any budget year, an institute charter school shall not receive a per pupil amount that is greater than the total amount of additional mill levy revenue, as defined in section 22-32-108.5, that the accounting district for the institute charter school is authorized to collect, divided by the funded pupil count, as defined in section 22-54-103, of the accounting district for the applicable budget year. The money distributed pursuant to this section is in addition to money distributed to institute charter schools pursuant to section 22-30.5-513.

**Source: L. 2017:** Entire section added, (HB 17-1375), ch. 287, p. 1598, § 9, effective June 2.

**22-30.5-514. Institute charter school - capital reserve, risk management, and instructional purposes.** (1) For the 2004-05 budget year through the 2008-09 budget year, each institute charter school shall annually allocate the minimum per pupil dollar amount specified in section 22-54-105 (2)(b), multiplied by the number of students enrolled in the institute charter school who are not students enrolled in an online program or online school, as defined in sections 22-30.7-102 (9) and 22-30.7-102 (9.5), to a fund created by the institute charter school for capital reserve purposes, as set forth in section 22-45-103 (1)(c) and (1)(e), or solely for the management of risk-related activities, as identified in section 24-10-115, C.R.S., and article 13 of title 29, C.R.S., or among such allowable funds. Said moneys shall be used for the purposes set forth in section 22-45-103 (1)(c) and (1)(e) and may not be expended by the institute charter school for any other purpose. Any moneys remaining in the fund that have not been expended prior to the 2009-10 budget year shall be budgeted for the purposes set forth in section 22-45-103 (1)(c) and (1)(e) in the 2009-10 budget year or any budget year thereafter.

(2) For the 2004-05 budget year through the 2008-09 budget year, each institute charter school shall annually allocate the minimum per pupil dollar amount specified in section 22-54-105 (1)(b), multiplied by the number of students enrolled in the institute charter school who are not students enrolled in an online program or online school, as defined in sections 22-30.7-102 (9) and 22-30.7-102 (9.5), to accounts created by the institute charter school for instructional supplies and materials, instructional capital outlays, or other instructional purposes, as set forth in section 22-45-103 (1)(a)(II), or among such accounts. Moneys may be transferred among the three accounts. The moneys in the accounts shall be used for the purposes set forth in section 22-45-103 (1)(a)(II) and may not be expended by the institute charter school for any other purpose. Any moneys in the accounts that are not projected to be expended during a budget year shall be budgeted for the purposes set forth in section 22-45-103 (1)(a)(II) in the next budget year. Nothing in this subsection (2) shall be construed to require that interest on moneys in the accounts be specifically allocated to the accounts. Any moneys remaining in the accounts that have not been expended prior to the 2009-10 budget year shall be budgeted for the purposes set forth in section 22-45-103 (1)(a)(II) in the 2009-10 budget year or any budget year thereafter.

**Source: L. 2004:** Entire part added, p. 1616, § 1, effective July 1. **L. 2007:** (1) and (2) amended, p. 1091, § 22, effective July 1. **L. 2009:** Entire section amended, (SB 09-256), ch. 294,

p. 1556, § 15, effective May 21. **L. 2012:** Entire section amended, (HB 12-1240), ch. 258, p. 1318, § 33, effective June 4.

**22-30.5-515. Institute charter school - additional aid.** (1) (a) For the 2004-05 budget year and each budget year thereafter, a qualified charter school, as that term is defined in section 22-54-124, that is an institute charter school shall receive state education fund moneys from the department in an amount equal to the percentage of the total qualified charter school pupil enrollment that is attributable to pupils expected to be enrolled in the institute charter school multiplied by the total amount of state education fund moneys distributed for the same budget year pursuant to section 22-54-124 (3).

(b) As used in this subsection (1), "pupils" means pupils other than pupils enrolled in an online program or online school, as defined in sections 22-30.7-102 (9) and 22-30.7-102 (9.5), who are enrolled in a qualified charter school.

(2) Funding received pursuant to subsection (1) of this section shall be in addition to any funding provided pursuant to section 22-30.5-513.

(3) The department shall provide funding to each qualified charter school that is an institute charter school by making a monthly payment to the institute as soon as possible after the department receives a monthly payment of state education fund moneys pursuant to section 22-54-124. The institute shall promptly remit the appropriate amount to each eligible institute charter school and shall not withhold any portion of the amount.

(4) An institute charter school shall use moneys it receives pursuant to subsection (1) of this section solely for capital construction, as defined in section 22-54-124 (1)(a).

**Source: L. 2004:** Entire part added, p. 1617, § 1, effective July 1. **L. 2007:** (1)(b) amended, p. 1091, § 23, effective July 1. **L. 2010:** (3) amended, (HB 10-1013), ch. 399, p. 1896, § 2, effective June 10. **L. 2012:** (1)(b) amended, (HB 12-1240), ch. 258, p. 1318, § 34, effective June 4.

**22-30.5-515.5. Institute charter school assistance fund - created - grants - loans - rules.** (1) (a) There is created in the state treasury the institute charter school assistance fund, referred to in this section as the "fund", that consists of the moneys transferred to the fund from the state charter school institute fund pursuant to section 22-30.5-506 (4). The moneys in the fund are subject to annual appropriation by the general assembly to the institute for the direct and indirect costs associated with awarding grants and interest-free loans pursuant to this section to assist institute charter schools:

(I) To meet capital construction needs, including but not limited to obtaining financial assistance for capital construction through the "Building Excellent Schools Today Act", article 43.7 of this title, or repaying bonds issued by the Colorado educational and cultural facilities authority, created in section 23-15-104, C.R.S., for construction of institute charter school buildings; or

(II) To address reasonable funding emergencies, as defined by rule of the institute board.

(b) The state treasurer may invest, as provided by law, any moneys in the fund not expended for the purpose of this section. The state treasurer shall credit to the fund all interest and income derived from the investment and deposit of moneys in the fund.

(c) Except as otherwise provided in paragraph (d) of this subsection (1), the balance of unexpended and unencumbered moneys in the fund at the end of a budget year must not exceed seven hundred fifty thousand dollars. Any amount of unexpended and unencumbered moneys remaining in the fund at the end of a budget year that exceeds seven hundred fifty thousand dollars or the limit set pursuant to paragraph (d) of this subsection (1) is continuously appropriated to the institute, and the institute shall allocate the excess amount to the institute charter schools on a per-pupil basis by dividing the excess amount by the total pupil enrollment of the institute charter schools for the applicable budget year. The state treasurer shall ensure that any unexpended and unencumbered moneys that are in the fund at the end of a budget year up to seven hundred fifty thousand dollars or the limit set pursuant to paragraph (d) of this subsection (1) remain in the fund and are not credited or transferred to the general fund or another fund.

(d) The institute board may adopt a formula to annually adjust the limit on the fund balance specified in paragraph (c) of this subsection (1) by multiplying the total pupil enrollment for institute charter schools in the preceding budget year by a per-pupil dollar amount set annually by the institute board in collaboration with a council of institute charter schools.

(2) An institute charter school that seeks a grant or an interest-free loan pursuant to this section must submit to the state charter school institute, in accordance with the timelines and procedures adopted by rule of the institute board, an application that includes, at a minimum:

(a) For an institute charter school that seeks a grant or an interest-free loan to use as matching moneys to obtain financial assistance for capital construction through the "Building Excellent Schools Today Act", article 43.7 of this title:

(I) Evidence that the institute charter school meets the definition of a "charter school" specified in section 22-43.7-103 (7);

(II) A copy of the application that the institute charter school has submitted or is preparing to submit to the public school capital construction assistance board pursuant to section 22-43.7-109;

(III) An estimate of the amount of matching moneys, as defined in section 22-43.7-103 (11), that the public school capital construction assistance board will require, if known; and

(IV) Information concerning any other sources of funding available to the institute charter school;

(b) For an institute charter school that seeks a grant or an interest-free loan to use in repaying bonds or notes issued on the institute charter school's behalf by the Colorado educational and cultural facilities authority pursuant to article 15 of title 23, C.R.S.:

(I) Copies of the documents the institute charter school has submitted or will submit to the Colorado educational and cultural facilities authority to request issuance of the bonds or notes;

(II) The amount of bonds or notes issued or to be issued and the total amount the institute charter school is required to repay; and

(III) Information concerning any other source of funding available to the institute charter school;

(c) For an institute charter school that seeks a grant or an interest-free loan to assist in meeting other capital construction costs:

(I) A description of the institute charter school's capital construction needs;

(II) A description of the capital construction project the institute charter school has undertaken or will undertake to meet its needs, including the estimated cost to complete the project; and

(III) Information concerning any other source of funding available to the institute charter school; and

(d) For an institute charter school that seeks a grant or an interest-free loan to address a reasonable funding emergency:

(I) A description of the institute charter school's emergency and how it qualifies as a reasonable funding emergency under rules adopted by the institute board; and

(II) and (III) (Deleted by amendment, L. 2013.)

(IV) A description of when the funding is needed.

(3) The state charter school institute shall review each application received pursuant to subsection (2) of this section and shall recommend to the institute board those institute charter schools that should receive moneys pursuant to this section, whether the moneys should be awarded in the form of grants or interest-free loans, and the amounts of the grants or interest-free loans. In making its recommendations, the institute shall apply criteria adopted by rule of the institute board, which criteria shall prioritize applications based on the applicant's level of economic need and the viability and merit of the capital construction project.

(4) (a) The institute board shall consider the state charter school institute's recommendations and award grants and interest-free loans pursuant to this section to assist institute charter schools based on the level of economic need demonstrated by an applicant and the viability and merit of the capital construction project proposed in the application.

(b) If the institute board awards an interest-free loan to an institute charter school pursuant to this section, it shall set the terms of repayment with the institute charter school.

(c) The state charter school institute shall not pay a grant or an interest-free loan awarded pursuant to this section for use as matching moneys to obtain financial assistance for capital construction through the "Building Excellent Schools Today Act", article 43.7 of this title, until the recipient institute charter school provides proof that the public school capital construction assistance board has selected it to receive financial assistance pursuant to article 43.7 of this title.

(d) The state charter school institute shall not pay a grant or an interest-free loan awarded pursuant to this section for use in repaying bonds or notes issued by the Colorado educational and cultural facilities authority until the recipient institute charter school provides proof that the bonds or notes have been issued on the institute charter school's behalf.

(5) The institute board shall promulgate rules pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., for the implementation of this section, including but not limited to rules that define a reasonable funding emergency and rules that specify any information to be included in an application in addition to the information specified in subsection (2) of this section.

(6) Nothing in this section shall be interpreted as creating an entitlement in an institute charter school for receipt of a grant or an interest-free loan from the fund, but awards of grants and interest-free loans shall be at the sole discretion of the institute board.

**Source: L. 2009:** Entire section added, (SB 09-089), ch. 440, p. 2437, § 5, effective June 4. **L. 2010:** (1)(a), (2)(b)(III), and (2)(c)(III) amended and (2)(d) added, (SB 10-111), ch. 170, p.

601, § 5, effective August 11. **L. 2013:** (1), IP(2), (2)(d), and (5) amended, (SB 13-143), ch. 71, p. 228, § 3, effective March 22. **L. 2014:** (1)(c) amended, (HB 14-1298), ch. 244, p. 937, § 24, effective May 21.

**22-30.5-516. Notice of precollegiate admission guidelines - report to Colorado commission on higher education.** (1) The state charter school institute board shall adopt a policy on or before October 1, 2005, to:

(a) Provide on or before December 31 of each school year the names and mailing addresses of students enrolled in the eighth grade in institute charter schools to the Colorado commission on higher education for use in mailing the notice of postsecondary educational opportunities and higher education admission guidelines as required in section 23-1-119.1, C.R.S.

(b) Include a provision in any contract entered into by an institute charter school with a college preparation program that the college preparation program shall provide to the Colorado commission on higher education, on or before December 31 of each school year, a report specifying each student, by unique identifying number, to the extent permissible by federal law, who was enrolled in the program during the previous school year; who completed the program during the previous school year; and who enrolled in an institution of higher education within six months after completing the program. The provisions of this paragraph (b) shall apply to contracts entered into or renewed on or after August 10, 2005.

**Source: L. 2005:** Entire section added, p. 446, § 3, effective August 8.

**22-30.5-517. Institute charter school nutritional beverage policy.** (1) On or before July 1, 2009, the state charter school institute shall adopt and implement a policy that prohibits, except as described in subsection (2) of this section, an institute charter school from permitting the sale of beverages to students from any source, including but not limited to:

(a) School cafeterias;

(b) Vending machines;

(c) School stores; and

(d) Fund-raising activities conducted on school campuses.

(2) (a) On or before November 15, 2008, the institute board shall promulgate rules describing beverages that institute charter schools may permit to be sold to students. Each beverage described by the rules shall satisfy minimum nutritional standards for beverages, which standards are science-based and established by a national organization that:

(I) Establishes and promotes minimum nutritional standards for beverages served to students in schools; and

(II) Has set forth a memorandum of understanding between various interested entities, including representatives of the beverage industry, which memorandum of understanding sets forth guidelines for policies concerning beverages that school districts and schools may permit to be sold to students.

(b) On or before November 15, 2008, the institute board shall promulgate rules describing specific events occurring outside of the regular and extended school day, including but not limited to extracurricular competitions and performances, at which an institute charter

school may permit to be sold to students beverages other than the beverages described by the rules promulgated by the institute board pursuant to paragraph (a) of this subsection (2).

(3) (a) The policy adopted by the state charter school institute pursuant to subsection (1) of this section shall apply to all beverages sold on institute charter school campuses during regular and extended school days.

(b) For the purposes of this subsection (3), "extended school day" means the regular hours of operation for an institute charter school plus any time spent by students after such regular hours of operation for any purpose, including but not limited to participation in extracurricular activities or childcare programs.

(4) The provisions of this section shall apply to contracts entered into or renewed by the state charter school institute or an institute charter school on or after July 1, 2009.

**Source: L. 2008:** Entire section added, p. 643, § 6, effective August 5.

**Cross references:** For the legislative declaration contained in the 2008 act enacting this section, see section 1 of chapter 185, Session Laws of Colorado 2008.

**22-30.5-518. Institute charter school food allergy and anaphylaxis management policy required.** (1) On or before July 1, 2010, the state charter school institute shall adopt and implement a policy for the management of food allergies and anaphylaxis among students enrolled in institute charter schools. The policy shall include, at a minimum, measures that satisfy the rules promulgated by the state board pursuant to section 22-2-135.

(2) (a) The policy adopted by the state charter school institute pursuant to subsection (1) of this section shall ensure that, prior to the beginning of each school year, each institute charter school provide notice to a parent or legal guardian of each student enrolled in the institute charter school of the policy. The notice shall include the standard form developed by the department of public health and environment pursuant to section 25-1.5-109, C.R.S., to allow the parent or legal guardian of a student with a known food allergy to provide to the institute charter school's administration the information that is described in section 22-2-135 (3)(b).

(b) The notice required by paragraph (a) of this subsection (2) shall include language that encourages parents and legal guardians of students for whom medication has been prescribed for treatment of a food allergy or anaphylaxis to give to the school nurse or other administrator of the student's school a supply of the medication.

**Source: L. 2009:** Entire section added, (SB 09-226), ch. 245, p. 1105, § 4, effective August 5. **L. 2011:** (2)(b) amended, (SB 11-012), ch. 62, p. 163, § 4, effective March 25.

**Cross references:** For the legislative declaration contained in the 2009 act adding this section, see section 1 of chapter 245, Session Laws of Colorado 2009.

**22-30.5-519. Institute charter school standardized immunization information policy.** On or before July 1, 2011, the state charter school institute shall annually provide to the parent or legal guardian of each student enrolled in the institute charter school the standardized immunization document developed by the department of public health and environment pursuant to section 25-4-902 (4), C.R.S. For purposes of this section, an institute charter school shall have

the discretion to determine the method of distribution of the standardized immunization document, including but not limited to providing a copy to parents and legal guardians, providing the standardized immunization document in a newsletter or handbook, or providing to parents and legal guardians an electronic copy of the standardized immunization document. For purposes of this section, solely posting a copy of the standardized immunization document on a website or in a central area of the school is not sufficient to satisfy the notice requirements of this section; however, the institute is encouraged to post a copy of the standardized immunization document on its website.

**Source: L. 2010:** Entire section added, (SB 10-056), ch. 50, p. 191, § 2, effective August 11.

**22-30.5-520. Parent engagement - policy - communications - incentives.** (1) (a) The state charter school institute board shall adopt a policy for increasing and supporting parent engagement in institute charter schools. In adopting the policy, the institute board may take into account, but need not be limited to, the best practices and strategies identified pursuant to section 22-7-304 by the Colorado state advisory council for parent involvement in education and the national standards for family-school partnerships, as defined in section 22-7-302 (5).

(b) As part of the institute's parent engagement policy, the institute is encouraged to provide training concerning best practices and skills for institute and school personnel in working with parents.

(c) The institute shall identify an employee to act as the point of contact for parent engagement training and resources. The identified person shall also serve as the liaison between the institute, the Colorado state advisory council for parent involvement in education, and the department of education and shall facilitate the institute's efforts to increase parent involvement within institute charter schools. The institute shall submit to the department the name of the identified employee.

(2) (a) If the state board of education, pursuant to section 22-11-210, determines that an institute charter school is required to adopt and implement a school priority improvement plan as described in section 22-11-405 or a school turnaround plan as described in section 22-11-406, the institute charter school, within thirty days after receiving the initial notice of the determination or, if the determination is appealed, the final notice of the determination, shall notify the parents of the students enrolled in the school of the required plan and the issues identified by the department of education as giving rise to the need for the required plan. The notice shall also include the timeline for developing and adopting the required plan and the dates, times, and locations of the public meeting described in paragraph (b) of this subsection (2) and the public hearing described in paragraph (c) of this subsection (2).

(b) The school accountability committee shall hold a public meeting to solicit input from parents concerning the contents of the required plan before the plan is written. At the school accountability committee's public meeting, the school principal shall review the institute charter school's progress in implementing its plan for the preceding year and in improving its performance.

(c) The institute charter school shall hold a public hearing after the plan is written to review the required plan before final adoption. The institute charter school shall hold the public hearing within the geographic boundaries of the school district in which the institute charter

school is located. The date of the public hearing must be at least thirty days after the date on which the institute charter school provides the written notice. A member of the school accountability committee is encouraged to attend the public hearing.

(d) The institute shall ensure that the institute charter school complies with the requirements of this subsection (2).

(3) The institute board may solicit, accept, and expend public or private gifts, grants, or donations to implement all or a portion of the parent involvement programs implemented under a policy adopted pursuant to this section.

**Source: L. 2011:** Entire section added, (HB 11-1126), ch. 118, p. 369, § 2, effective August 10. **L. 2013:** (1) and (2) amended, (SB 13-193), ch. 355, p. 2076, § 9, effective May 28. **L. 2015:** (2)(c) amended and (2)(d) added, (SB 15-281), ch. 299, p. 1229, § 1, effective August 5.

**22-30.5-521. Institute charter schools - school bullying policies required.** On or before October 1, 2011, each institute charter school shall implement the policy of the institute concerning bullying prevention and education, which policy is adopted by the institute pursuant to section 22-30.5-505 (19).

**Source: L. 2011:** Entire section added, (HB 11-1254), ch. 173, p. 654, § 6, effective May 13.

**22-30.5-522. Restorative justice practices.** The state charter school institute is encouraged to develop and utilize restorative justice practices, as defined in section 22-32-144 (3), that are part of the disciplinary program of each institute charter school.

**Source: L. 2011:** Entire section added, (HB 11-1032), ch. 296, p. 1408, § 18, effective August 10.

**22-30.5-523. Intervention strategies - students at risk of dropping out.** (1) Each institute charter school that includes any of grades six through nine shall consider adopting procedures to review the relevant data for students in those grades and identify students who are demonstrating behaviors that indicate the student is at greater risk of dropping out of school. The behaviors may include, but need not be limited to, low academic achievement, truancy, insubordinate behavior, and disengagement.

(2) The procedures may specify that, after an institute charter school identifies a student as being at increased risk of dropping out of school, the school shall provide appropriate interventions that are designed to assist the student in improving his or her academic performance and behavior and in increasing his or her overall level of engagement in school. Interventions may include, but need not be limited to, counseling, tutoring, parent engagement, and developmental education services.

(3) If an institute charter school adopts procedures pursuant to this section, the institute charter school shall notify a student's parents as soon as possible after the institute charter school identifies the student as being at greater risk of dropping out of school. The institute charter school shall provide to the student's parents a description of the interventions that the institute

charter school intends to implement for the student, if any. The parent may approve or reject the described interventions. If the parent rejects the interventions, the institute charter school shall not implement the interventions. The parent may terminate the interventions at any time after the institute charter school begins providing the interventions.

(4) A parent may contact the institute charter school in which his or her student is enrolled to request interventions pursuant to this section if the parent determines that the student is at greater risk of dropping out of school.

**Source: L. 2012:** Entire section added, (HB 12-1013), ch. 23, p. 60, § 2, effective August 8.

**22-30.5-524. Institute charter schools - children's nutrition - no trans fats in school foods - definitions - rules.** (1) As used in this section, unless the context otherwise requires:

(a) "Extended school day" means the school day, plus any additional time that a student spends on school grounds before or after the school day for the purpose of participating in a school-sanctioned extracurricular activity or child care program.

(b) "Industrially produced trans fat" means vegetable shortening, margarine, or any type of partially hydrogenated vegetable oil that contains more than zero grams of trans fat per serving.

(c) "School day" has the same meaning as set forth in section 22-32-136.

(2) On and after September 1, 2013, neither the state charter school institute nor any institute charter school shall:

(a) Make available to a student any food that contains any amount of industrially produced trans fat; or

(b) Use a food that contains any amount of industrially produced trans fat in the preparation of a food item that is intended for consumption by a student.

(3) The prohibition described in subsection (2) of this section applies to all food and beverages made available to a student on school grounds during each school day and extended school day, including but not limited to any food or beverage item made available to a student in a school cafeteria, school store, vending machine, or other food service entity existing upon school grounds.

(4) The prohibition described in subsection (2) of this section does not apply to:

(a) Any food or beverage that is made available to a student as part of a meal program of the United States department of agriculture;

(b) Any food or beverage that is made available to a student as part of a fundraising effort conducted by one or more students, teachers, or parents; or

(c) Any food or beverage that is donated to the school to be given to a student for consumption off of school premises and not during the school day.

(5) The state charter school institute may promulgate such rules as are necessary for the administration of this section.

**Source: L. 2012:** Entire section added, (SB 12-068), ch. 256, p. 1303, § 3, effective August 8.

**Cross references:** For the legislative declaration in the 2012 act adding this section, see section 1 of chapter 256, Session Laws of Colorado 2012.

**22-30.5-525. Individual career and academic plans.** (1) Each institute charter school shall assist each student and his or her parent or legal guardian to develop and maintain the student's individual career and academic plan, referred to in this section as an "ICAP", no later than the beginning of ninth grade but may assist the student and his or her parent or legal guardian to develop and maintain the student's ICAP in any grade prior to ninth grade. In assisting a student and his or her parent or legal guardian in creating and maintaining the ICAP, the institute charter school shall, at a minimum, discuss with the student and parent or legal guardian the various career pathways created pursuant to section 24-46.3-104 and the types of certificates and jobs to which each pathway leads and discuss the skills and educational opportunities available through military enlistment. In discussing military enlistment with a student and his or her parent, each institute charter school is encouraged to provide to the student information concerning the military enlistment test. Each student's ICAP must comply with the requirements specified in section 22-2-136 and the rules promulgated by the state board of education pursuant to said section.

(2) Each institute charter school shall assist each student who is enrolled in the school and has an ICAP to use the plan effectively to direct the student's course selections and performance expectations in at least grades nine through twelve; to assist the student in meeting his or her academic and career goals as described in the ICAP; and to enable the student to demonstrate postsecondary and workforce readiness prior to or upon graduation from high school at a level that allows the student to progress toward his or her postsecondary education goals, if any, without requiring remedial educational services or courses.

**Source: L. 2012:** Entire section added, (HB 12-1345), ch. 188, p. 727, § 15, effective May 19. **L. 2017:** (1) amended, (HB 17-1041), ch. 51, p. 161, § 1, effective August 9.

**Cross references:** For the legislative declaration in the 2012 act adding this section, see section 11 of chapter 188, Session Laws of Colorado 2012.

**22-30.5-526. Developmental education placement or assessment tests - intervention plans.** (1) Each institute charter school that includes any of grades nine through twelve may administer to students enrolled in those grades the developmental education placement or assessment tests that are administered to matriculated first-time freshman students pursuant to section 23-1-113. The institute charter school may administer the tests to a student at any time and as often as it deems necessary while the student is enrolled in any of grades nine through twelve, but the department of education shall allocate money to each institute charter school to offset the costs incurred in administering each of the test units only once per student while he or she is enrolled in those grades.

(2) If an institute charter school chooses to administer the developmental education placement or assessment tests, each student's individual career and academic plan must include the scores achieved by the student on the developmental education placement or assessment tests and, based on an analysis of the scores, the student's level of postsecondary and workforce readiness at the time he or she takes the tests. If a student's scores indicate that he or she is at risk

of being unable to demonstrate postsecondary and workforce readiness prior to or upon graduating from high school, school personnel shall work with the student and the student's parent or legal guardian to create an intervention plan that identifies the necessary courses and education support services the student requires to be able to achieve postsecondary and workforce readiness prior to or upon graduating from high school and to be prepared to continue into the postsecondary education option, if any, selected by the student in his or her individual career and academic plan without need for remedial educational services. If appropriate, the school, the student, and the student's parent or legal guardian may choose to enroll the student in gateway courses in English or mathematics, as defined in section 23-1-113 (11)(b.5), with additional supports through supplemental academic instruction, as defined in section 23-1-113 (11)(e), at an institution of higher education through the "Concurrent Enrollment Programs Act", article 35 of this title 22.

**Source: L. 2012:** Entire section added, (HB 12-1345), ch. 188, p. 727, § 15, effective May 19. **L. 2019:** Entire section amended, (HB 19-1206), ch. 133, p. 600, § 9, effective April 25.

**Cross references:** For the legislative declaration in the 2012 act adding this section, see section 11 of chapter 188, Session Laws of Colorado 2012. For the legislative declaration in HB 19-1206, see section 1 of chapter 133, Session Laws of Colorado 2019.

**22-30.5-527. Institute charter schools - child sexual abuse and assault prevention plan.** (1) Each institute charter school is encouraged to adopt a child sexual abuse and assault prevention plan. Each institute charter school is encouraged to include in the plan delivery of a comprehensive, age-appropriate curricula for each grade level that the institute charter school serves regarding child sexual abuse and assault awareness and prevention. The curricula may address, but need not be limited to:

(a) The skills to recognize:

(I) Child sexual abuse and assault;

(II) Boundary violations and unwanted forms of touching and contact; and

(III) Behaviors that an offender uses to groom or desensitize a victim; and

(b) Strategies to:

(I) Promote disclosure;

(II) Reduce self-blame; and

(III) Mobilize bystanders.

(2) Each institute charter school is encouraged to include in the child sexual abuse and assault prevention plan professional development for school personnel and parents in preventing, identifying, and responding to child sexual abuse and assault. Professional development may include providing training in preventing, identifying, and responding to child sexual abuse and assault, including using the child abuse reporting hotline system created pursuant to section 26-5-111, C.R.S., and distributing resources to raise the awareness of school personnel and parents regarding child sexual abuse and assault and preventing child sexual abuse and assault.

(3) An institute charter school is encouraged to use curricula and professional development materials, training, and other resources available from the school safety resource center pursuant to section 24-33.5-1809, C.R.S.

(4) As used in this section, "school personnel" includes teachers, administrators, school resource officers, and other employees of an institute charter school.

**Source: L. 2015:** Entire section added, (SB 15-020), ch. 277, p. 1135, § 5, effective June 5.

**22-30.5-528. Institute charter schools - use of restraints on students - certain restraints prohibited - reports and review process - definitions - rules.** (1) As used in this section, unless the context otherwise requires:

(a) "Chemical restraint" has the same meaning as set forth in section 26-20-102 (2).

(b) "Mechanical restraint" has the same meaning as set forth in section 26-20-102 (4).

(c) "Prone position" means a face-down position.

(d) "Prone restraint" means a restraint in which the individual being restrained is secured in a prone position.

(e) "Restraint" has the same meaning as set forth in section 26-20-102 (6).

(2) Pursuant to section 26-20-111, the use of a chemical, mechanical, or prone restraint upon a student in an institute charter school is prohibited.

(3) (a) On and after August 9, 2017, each school district shall require any school employee or volunteer who uses any type of restraint on a student of the school district to submit a written report of the incident to the administration of the school not later than one school day after the incident occurred.

(b) On and after August 9, 2017, each school district shall establish a review process, conduct the review process at least annually, and document the results of each review process in writing. Each annual review process must include a review of each incident in which restraint was used on a student during the preceding year. The purpose of each annual review process is to ensure that the school district is properly administering restraint, identifying additional training needs, minimizing and preventing the use of restraint by increasing the use of positive behavior interventions, and reducing the incidence of injury to students and staff. Each annual review process must include but is not limited to:

(I) Analysis of incident reports, including consideration of procedures used during the restraint, preventative or alternative techniques attempted, documentation, and follow-up;

(II) Training needs of staff;

(III) Staff-to-student ratios; and

(IV) Environmental considerations, including physical space, student seating arrangements, and noise levels.

(c) Not more than five calendar days after the use of restraint on a student, the school administration shall mail, fax, or e-mail a written report of the incident to the parent or legal guardian of the student. The written report must be placed in the student's confidential file and include:

(I) The antecedent of the student's behavior, if known;

(II) A description of the incident;

(III) Any efforts made to de-escalate the situation;

(IV) Any alternatives to the use of restraints that were attempted;

(V) The type and duration of the restraint used;

(VI) Any injuries that occurred; and

(VII) The staff members who were present and staff members who were involved in administering the restraint.

(4) On or before November 1, 2017, the state board shall promulgate rules establishing a process by which a student or a parent or legal guardian of a student may formally complain about the use of restraint or seclusion by any employee or volunteer of any institute charter school. To the extent practicable, the process must reflect the complaint process for filing a state complaint under the federal "Individuals with Disabilities Education Act", 20 U.S.C. sec. 1400 et seq., as amended.

**Source: L. 2017:** Entire section added, (HB 17-1276), ch. 270, p. 1490, § 5, effective August 9.

**Cross references:** For the legislative declaration in HB 17-1276, see section 1 of chapter 270, Session Laws of Colorado 2017.

PART 6

CHARTER SCHOOL COLLABORATIVES

**22-30.5-601. Short title.** This part 6 shall be known and may be cited as the "Charter School Collaborative Act".

**Source: L. 2010:** Entire part added, (SB 10-161), ch. 250, p. 1117, § 7, effective August 11.

**22-30.5-602. Definitions.** As used in this part 6, unless the context otherwise requires:

(1) "Authorizer" means a school district board of education that authorizes a district charter school pursuant to part 1 of this article or the state charter school institute board created in section 22-30.5-505.

(2) "Charter school" means a district charter school authorized pursuant to part 1 of this article or an institute charter school authorized pursuant to part 5 of this article.

**Source: L. 2010:** Entire part added, (SB 10-161), ch. 250, p. 1117, § 7, effective August 11.

**22-30.5-603. Charter school collaborative - creation - public status - structure.** (1) Two or more charter schools may contract with one another to form a charter school collaborative that is a legal entity separate from the contracting charter schools and is authorized to provide any function, service, or facility that is lawfully authorized for each of the contracting charter schools. A charter school need not obtain the approval of its authorizer to create or participate in a charter school collaborative.

(2) A charter school collaborative created pursuant to this section shall be a public entity that exists separately from the individual charter schools that are participating in the collaborative. The charter school collaborative shall hold and may exercise the duties, privileges, immunities, rights, liabilities, and disabilities of a public entity, including but not limited to the

power to contract, to sue or be sued, and to hold title to property; except that a charter school collaborative may hold title to real property only for the use of the participating charter schools. The charter school collaborative shall be solely responsible for its debts, liabilities, and obligations, and said debts, liabilities, or obligations shall not be the responsibility of the participating charter schools or their authorizers.

(3) A charter school collaborative created pursuant to this section shall be deemed a local public body for purposes of the open meeting requirements of section 24-6-402, C.R.S. Except as otherwise specifically authorized in this section, a charter school collaborative shall be subject to all state statutes regulating charter schools as public entities as if the charter school collaborative were authorized by a school district board of education.

(3.5) A charter school collaborative may act as a school food authority pursuant to the provisions of the federal "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq.

(4) (a) A charter school collaborative, as a separate legal entity, shall exercise administrative control or direction in providing or operating specified functions, services, or facilities for the participating charter schools. The contract creating a charter school collaborative shall set forth fully the purposes, powers, rights, obligations, and responsibilities, financial and otherwise, of the charter school collaborative and of the contracting charter schools. The participating charter schools shall delegate to the charter school collaborative the powers necessary to enable the charter school collaborative to provide or operate the functions, services, or facilities specified in the contract.

(b) In addition to any duty required to be performed by law or by the contract creating a charter school collaborative, the collaborative shall have and perform the following duties:

(I) To act consistently with the provisions of this article;

(II) To abide by the contract that creates and organizes the charter school collaborative; and

(III) To act consistently with the charter contract and mission of each charter school that participates in the charter school collaborative.

(5) A contract to establish a charter school collaborative shall, at a minimum, specify:

(a) The name and purpose of the charter school collaborative and the functions, services, or facilities that the charter school collaborative shall provide or operate;

(b) The establishment and organization of a board of directors of the charter school collaborative, including but not limited to:

(I) The number of directors, the manner of appointment, the terms of office, the amount of compensation, if any, and the procedures for filling vacancies;

(II) The officers of the charter school collaborative, the manner of their selection, and their duties;

(III) The voting requirements for action by the board of directors; except that, unless specifically provided otherwise in the contract, a majority of directors shall constitute a quorum and a majority of a quorum shall be necessary to authorize any action taken by the board of directors;

(c) Provisions for the disposition, division, or distribution of any property or assets of the charter school collaborative, including but not limited to distribution upon dissolution of the charter school collaborative of the equity in any real property that the charter school collaborative may hold;

(d) The term of the contract, which may be continued for a definite term or until rescinded or terminated, and the method, if any, by which it may be rescinded or terminated; except that the contract may not be rescinded or terminated so long as the charter school collaborative has obligations outstanding, unless provisions for full payment of the obligations, by escrow or otherwise, are made pursuant to the terms of the obligations; and

(e) The terms, if any, under which a charter school that is not initially a participant in the charter school collaborative may join the collaborative and under which a charter school participant may withdraw from the charter school collaborative.

**Source: L. 2010:** Entire part added, (SB 10-161), ch. 250, p. 1117, § 7, effective August 11. **L. 2011:** (3.5) added, (HB 11-1277), ch. 306, p. 1505, § 35, effective August 10.

**22-30.5-604. Charter school collaborative - nonexclusive.** Nothing in this part 6 shall prohibit a charter school from participating as a member in an organization formed for the purpose of mutual support, contracting for services, participating in intergovernmental agreements otherwise authorized by law, or participating in any other form of organization authorized by law and appropriate to Colorado public or nonprofit organizations.

**Source: L. 2010:** Entire part added, (SB 10-161), ch. 250, p. 1119, § 7, effective August 11.

**22-30.5-605. Administration fee.** The state board of education, by rule, may establish a fee to be paid by each charter school collaborative to offset any direct costs that the department of education may incur in collecting data from or regulating the charter school collaborative. The amount of the fee shall not exceed the amount of said direct costs. Any amount in fees received by the department of education pursuant to this section is continuously appropriated to the department for said direct costs.

**Source: L. 2010:** Entire part added, (SB 10-161), ch. 250, p. 1119, § 7, effective August 11.

## PART 7

## EMERGENCY POWERS

**22-30.5-701. Short title.** This part 7 shall be known and may be cited as the "Charter School Emergency Powers Act".

**Source: L. 2010:** Entire part added, (HB 10-1345), ch. 245, p. 1087, § 2, effective May 21.

**22-30.5-702. Definitions.** As used in this part 7, unless the context otherwise requires:

(1) "Authorizer" means a school district board of education that authorizes a charter school pursuant to part 1 of this article or the state charter school institute established pursuant to section 22-30.5-503.

(2) "Charter management organization" means the Colorado operations of a for-profit or nonprofit entity, as determined under section 501 (c)(3) of the federal "Internal Revenue Code of 1986", that operates one or more charter schools.

(3) "Charter respondent" means a charter school or charter management organization that is the subject of a request for or an order granting emergency powers pursuant to this part 7.

(4) "Charter school" means a charter school as defined in section 22-30.5-103 (2) or an institute charter school as defined in section 22-30.5-502 (6).

(5) "Commissioner" means the office of the commissioner of education created and existing pursuant to section 1 of article IX of the state constitution.

(6) "Emergency" means a situation that:

(a) Presents a significant threat, as determined by the commissioner, to the health or safety of the students, staff, or other individuals involved with a charter school;

(b) Presents a significant threat, as determined by the commissioner, to substantial property rights of an authorizer or a significant risk, as determined by the commissioner, to a charter respondent's solvency;

(c) Indicates a substantial diversion, as determined by the commissioner, of charter school moneys through one or more excess benefit transactions; or

(d) Is defined by rule of the state board as one that justifies action pursuant to this part 7.

(7) "Excess benefit" means a financial benefit arising directly or indirectly from a transaction with a charter school that would be considered an excess benefit under section 4958 (c)(1) of the federal "Internal Revenue Code of 1986", as amended, and regulations adopted thereunder; except that the definition of excess benefit shall extend to all charter schools regardless of whether they have applied for or received nonprofit status under section 501 (c)(3) of the federal "Internal Revenue Code of 1986", as amended. The salaries of administrators in comparable positions at other Colorado charter schools, charter management organizations, boards of cooperative services, and school districts serving a reasonably comparable number of students shall serve as the comparison for determining whether the salaries of charter school or charter management organization administrators are reasonable or excessive for the purposes of this part 7.

(8) "Fiduciary" means a person who meets the requirements of the "Uniform Fiduciaries Law", part 1 of article 1 of title 15, C.R.S., and any other applicable law or rule.

(9) "Organic documents" means the articles of incorporation, articles of organization, constitution, bylaws, or other documents, however denominated, that define the basic governance structure for a charter school and the body or bodies that have governing authority for a charter school.

(10) "State board" means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

**Source: L. 2010:** Entire part added, (HB 10-1345), ch. 245, p. 1087, § 2, effective May 21.

**22-30.5-703. Emergency powers - request - orders - process - rules.** (1) An authorizer may request that the commissioner permit external control over certain functions of a charter school or charter management organization by submitting to the commissioner and the charter school or charter management organization a concise written statement identifying the

emergency that justifies external control and the form or forms of external control requested. The authorizer shall state clearly if it is requesting an order of reorganization. The commissioner may authorize external control over a charter school or charter management organization by issuing a temporary order as provided in subsection (2) of this section or a preliminary order as provided in subsection (3) of this section.

(2) The commissioner may issue a temporary order in the event that immediate and irreparable injury, loss, or damage will result from the identified emergency before the charter respondent is able to state its opposition and before the authorizer certifies in writing or in person to the commissioner the efforts that have been made to give notice to the charter respondent. A temporary order issued pursuant to this subsection (2) shall state the date and hour of issuance, define the injury, state why the injury is irreparable, and state why the temporary order was given without notice. A temporary order issued under this subsection (2) shall be valid for ten days and may be extended for up to an additional ten days for good cause shown. The authorizer shall immediately provide the charter respondent with a copy of any temporary order issued pursuant to this subsection (2). A charter respondent shall provide an authorizer two business days' notice prior to requesting that the commissioner dissolve a temporary order issued pursuant to this subsection (2).

(3) The commissioner shall issue a preliminary order only if:

(a) The charter respondent received two business days' written notice that the authorizer has requested external control over certain functions of the charter respondent and the basis for the request;

(b) In the case of a charter respondent that is a charter management organization, authorizers of each of the affected charter schools have received two business days' written notice of the request for external control;

(c) The authorizer requesting external control and all parties that received notice have had the opportunity to meet with the commissioner to present such evidence and argument as the commissioner finds appropriate under the circumstances. In any meeting held before issuing a preliminary order pursuant to this subsection (3), the commissioner may accept evidence and arguments from the parties involved as he or she deems appropriate, but neither a formal adversarial hearing nor application of the rules of evidence shall be required.

(d) Following a meeting held pursuant to paragraph (c) of this subsection (3), the commissioner finds and determines that the authorizer has demonstrated an emergency and the risk of irreparable injury resulting from the emergency justifies an intrusion on the internal operations of the charter respondent.

(4) The commissioner may demand production of information from the charter respondent that may be necessary to conduct an investigation pursuant to this section, may issue subpoenas as otherwise provided for in section 24-4-105 (5), C.R.S., and may draw appropriate inferences from failure of any party to promptly comply with such requests.

(5) A preliminary order issued pursuant to subsection (3) of this section shall be valid for one hundred twenty days and may be extended for up to an additional one hundred twenty days, upon good cause shown.

(6) (a) A temporary or preliminary order may appoint the authorizer or another entity or person to act as a fiduciary; except that, if more than one authorizer is a party to the proceeding or if the authorizer is requesting an order of reorganization, the commissioner shall appoint a separate person or entity that is not a party to the proceeding to act as a fiduciary. The fiduciary

may exercise, subject to the limitations set forth in paragraph (b) of this subsection (6), the powers over and for the charter respondent that are ordinarily exercised by the charter respondent's board of directors and may take action respecting excess benefits as authorized pursuant to section 22-30.5-704.

(b) A temporary or preliminary order shall not authorize, nor be construed to permit, a fiduciary to:

(I) Conclude, dissolve, relinquish, or surrender the charter contract;

(II) Effect nonrenewal or revocation of the charter contract;

(III) Negotiate, renegotiate, or amend the charter contract;

(IV) Exercise the legal standing of the charter respondent in any administrative or court proceeding other than one brought pursuant to this section; except that the fiduciary may seek recovery of unpaid moneys due to the charter respondent from an authorizer;

(V) Transfer into a trust the assets of the charter respondent;

(VI) Repeal, alter, amend, restate, or in any fashion modify the charter respondent's organic documents;

(VII) Remove, recall, or appoint any member of the charter respondent's governing board or officers;

(VIII) Take any action that is reserved for the membership of a charter respondent that is organized as a membership organization; or

(IX) Take any action that is not within the power of the charter respondent's governing board.

(7) The commissioner may require a fiduciary to provide evidence of appropriate insurance coverage, including but not limited to appropriate certificates of insurance. The insurance coverage shall be reasonably adequate to protect against risks of liability for any actions taken under an order granted pursuant to this section.

(8) (a) If an authorizer has requested an order of reorganization and the commissioner, after appropriate proceedings pursuant to this section, has appointed a fiduciary other than the authorizer to exercise certain powers, the fiduciary shall independently determine whether to continue to request the order of reorganization. An order of reorganization shall be authorized only if it is issued in compliance with the processes, standards, and purposes set forth in this section.

(b) A fiduciary other than an authorizer may request an order of reorganization at any time while a preliminary order or an extension of a preliminary order is pending, so long as the fiduciary provides at least ten days' notice to the charter respondent, the authorizer, and the commissioner. The fiduciary shall specifically state in the notice the powers of reorganization he or she is requesting and the reasons justifying the request. Notwithstanding the limitations placed on the powers of a fiduciary acting under a temporary or preliminary order, as set forth in subsection (6) of this section, the powers of reorganization shall only include one or more of the following powers:

(I) To fill one or more board vacancies, notwithstanding the charter respondent's organic documents;

(II) To remove one or more board directors or officers, notwithstanding the charter respondent's organic documents; or

(III) To make specific, stated modifications to the charter respondent's organic documents, notwithstanding the process for amendment or restatement otherwise prescribed in those documents.

(c) The commissioner may issue an order of reorganization only after giving the authorizer and the charter respondent a reasonable opportunity to be heard, and then only if the commissioner finds that the risks created by the emergency to the charter respondent and the authorizer cannot be resolved by any less restrictive means. In any meeting held before issuing an order of reorganization, the commissioner may accept evidence and argument from the parties involved as he or she deems appropriate, but neither a formal adversarial hearing nor application of the rules of evidence shall be required.

(d) An order of reorganization shall be valid for the balance of the term of any pending preliminary order or for sixty days, whichever is greater, and may be renewed for an additional thirty days upon good cause shown. An order of reorganization shall be valid for no more than ninety days.

(9) The fiduciary shall submit appropriate financial information to the commissioner and the director of public school finance within the department of education and provide copies to the charter respondent and authorizer. The charter respondent and authorizer may submit additional information to the director of public school finance. After receipt of all pertinent financial information, the director of public school finance shall make a written recommendation to the commissioner.

(10) A temporary or preliminary order or an order for reorganization granted pursuant to this section shall state the reasons for issuance; be specific in its terms; and describe in reasonable detail, without reference to the request or other documents, the act or acts authorized. An order granted pursuant to this section is binding only upon the charter school and its employees. An order appointing a fiduciary may specify or limit the fiduciary's powers and may direct the fiduciary to act only upon particular issues or only to exercise certain powers.

(11) Expenses incurred by an authorizer in pursuing a proceeding pursuant to this section shall be borne by the authorizer, and expenses incurred by a charter respondent in defending any proceeding pursuant to this section shall be borne by the charter respondent. Expenses incurred by the department shall be borne equally by the authorizer and the charter respondent. Expenses incurred by a fiduciary shall be submitted to the charter respondent and commissioner for approval and, after the commissioner resolves any disputed charges, shall be borne by the charter respondent.

(12) Notwithstanding any other provision of Colorado law, including but not limited to the "Colorado Revised Nonprofit Corporation Act", articles 121 to 137 of title 7, C.R.S., or any provision of a charter contract to the contrary, the powers granted pursuant to this part 7 shall be effective and valid as a matter of law.

(13) Nothing in this part 7 shall limit the authority of an authorizer to exercise any contractual rights, including any remedies, emergency or otherwise, for breach of a charter contract. A charter contract provision that purports to grant authority to an authorizer to exercise emergency powers as described in this part 7 shall be construed, if possible, to be consistent with this part 7. A provision construed to be inconsistent with this part 7 shall be deemed contrary to public policy, void, unenforceable, and of no legal effect. The burden shall be on the party asserting an inconsistency to demonstrate that such a provision is inconsistent with this part 7.

(14) An order issued pursuant to this section shall be final and binding and not subject to appeal. A charter respondent may seek judicial review of an order issued pursuant to this section under rule 106 (a)(4) of the Colorado rules of civil procedure; except that a temporary order shall not be subject to judicial review. A charter respondent may file an action for judicial review in the district court for the city and county of Denver or the district court in the county in which the charter respondent is located.

(15) An order issued pursuant to this section shall not be deemed to be an appointment of a trustee or receiver under the terms of any financing of a charter school facility or other instrument.

(16) The commissioner may fill any vacancy created by the death or inability of a fiduciary or, for good cause shown, may remove a fiduciary that is exercising powers pursuant to a preliminary order or order of reorganization and appoint a new fiduciary.

(17) A meeting conducted by the commissioner pursuant to this section shall be open to all parties to the proceeding. An order of the commissioner issued pursuant to this section and all requests for orders, by any party, shall be considered public documents.

(18) The state board is authorized to adopt rules, pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., for the implementation of this section.

**Source: L. 2010:** Entire part added, (HB 10-1345), ch. 245, p. 1089, § 2, effective May 21.

**22-30.5-704. Excess benefits - cancellation of contracts - civil action and penalty.** (1) If a fiduciary other than an authorizer, operating under the authority of a preliminary order or an order for reorganization, determines that a charter respondent has engaged in an excess benefit transaction, the fiduciary may:

(a) Cancel in writing and without penalty any contract entered into by the charter school that awards the excess benefit to an individual or another entity and cancel any further compensation to the party that received the excess benefit. The fiduciary may demand the return, within ten business days, to the charter respondent of all excess benefits paid within the preceding three years or, if the excessive payment has been concealed from the charter respondent's full governing board, the preceding six years.

(b) If payment is not made as demanded pursuant to paragraph (a) of this subsection (1), file in the name of the charter respondent, a civil action for recovery of the excess benefit and imposition of a civil penalty. If the court finds that the charter respondent paid the excess benefit and the person receiving the excess benefit did not repay the amount within ten business days following the demand for repayment, the court shall deem the excess benefit an unauthorized payment of charter school moneys and award the charter respondent, through the fiduciary, an amount fixed in the court's discretion and based on all the circumstances. However, the amount shall not be less than the excess benefit paid and shall not be more than double the excess benefit paid plus all reasonable attorney fees and costs. If the court finds that the fiduciary did not have a reasonable basis in law and fact for claiming an excess benefit and filing the action, it may award the party defending the action attorney fees and costs.

**Source: L. 2010:** Entire part added, (HB 10-1345), ch. 245, p. 1093, § 2, effective May 21.

## ARTICLE 30.7

Online Education Programs

**22-30.7-101. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) Online education represents a twenty-first century approach to teaching and learning that is appropriate for today's students;

(b) Technological advances, particularly in the development and dissemination of resources through the internet, can provide alternatives for the provision of educational services that can be customized to serve the diverse needs of today's student population;

(c) Technology and online education, including both full-time and supplemental programs, are important tools to enhance educational opportunities and improve educational outcomes;

(d) The growth of online education is challenging existing educational policy, administration, and oversight;

(e) Online programs and online schools must be accountable to students and parents and to the institutions that accredit online programs and online schools;

(f) The state has a role in ensuring quality oversight of online programs and online schools, but the state should not replace a school district or an authorizing entity in directly administering online programs and online schools;

(g) Local control of schools is a fundamental Colorado value;

(h) It is the role of families and students to choose their schools and models of education; and

(i) A student's access to educational opportunities should not be limited by where the student lives or by the financial, social, or other resources that are available or unavailable to the student.

(2) The general assembly further finds that:

(a) In response to a report of the state auditor released December 11, 2006, concerning a performance audit of online education in Colorado, the Donell-Kay foundation created the Trujillo commission consisting of a small group of online education stakeholders and professionals;

(b) The Trujillo commission held public meetings and solicited input from online education professionals and participants throughout the state concerning recommendations for the oversight and operation of online education in Colorado, and, based on the information and ideas collected, produced a final report released February 15, 2007.

(3) The general assembly finds, therefore, that the state should:

(a) Avail itself of enhanced technological services, which are available as a result of technological advances, to serve the educational needs of the citizens of the state more appropriately; and

(b) Take immediate action to ensure quality and accountability in the online educational programs offered within the state.

**Source: L. 2007:** Entire article added, p. 1066, § 1, effective July 1. **L. 2012:** (1)(e) and (1)(f) amended, (HB 12-1240), ch. 258, p. 1319, § 35, effective June 4.

**22-30.7-102. Definitions.** As used in this article, unless the context otherwise requires:

(1) Repealed.

(2) "Authorizer" means an entity that authorizes an online program or online school. "Authorizer" shall include a school district, any group of two or more school districts, a board of cooperative services created pursuant to section 22-5-104, or the state charter school institute established pursuant to section 22-30.5-503.

(3) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(4) "Learning center" means a facility in which a consistent group of students meets more often than once per week under the supervision of a teacher or mentor for a significant portion of a school day for the purpose of participating in an online program. A group of parents and students meeting repeatedly, occasionally, and informally, even if facilitated by a school, shall not constitute a "learning center", and a private home shall not be considered a "learning center" under any circumstances.

(5) "Mentor" means an individual who is responsible for providing supervision at a learning center. A "mentor" shall not be required to be a licensed teacher but shall, at a minimum, satisfy the requirements specified for a paraprofessional as such requirements are described in the federal "No Child Left Behind Act of 2001", 20 U.S.C. sec. 6301 et seq.

(6) "Multi-district online school" means an online school that serves a student population drawn from two or more school districts.

(7) "Online division" means the division of online learning created in the department of education pursuant to section 22-30.7-103.

(8) "Online learning expert" means a person with special knowledge of and experience in the teaching or administration of single-district online programs and online schools, multi-district online schools, or supplemental programs for students in kindergarten through twelfth grade.

(9) "Online program" means a full-time education program authorized pursuant to this article that delivers a sequential program of synchronous or asynchronous instruction, directed by a teacher, primarily through online digital learning strategies that provide students choice over time, place, and path, and teacher-guided modality, of learning. "Online program" does not include a supplemental program. Accountability for each student in an online program is attributed to a designated school that houses the online program. Notwithstanding any other provision of this subsection (9) to the contrary, an online program with one hundred or more students is an online school and not an online program.

(9.5) "Online school" means a full-time education school authorized pursuant to this article that delivers a sequential program of synchronous or asynchronous instruction, directed by a teacher, primarily through online digital learning strategies that provide students choice over time, place, and path, and teacher-guided modality, of learning. An online school has an assigned school code and operates with its own administrator, a separate budget, and a complete instructional program. An online school is responsible for fulfilling all reporting requirements and is held to state and federally mandated accountability processes.

(10) "Online pupil enrollment" shall have the same meaning as provided in section 22-54-103 (8.5).

(11) "Parent" means a biological parent, adoptive parent, or legal guardian.

(12) "Pupil enrollment" shall have the same meaning as provided in section 22-54-103 (10).

(12.5) "Pupil enrollment count day" has the same meaning as set forth in section 22-54-103 (10.5).

(13) "Single-district online program" or "single-district online school" means an online program or online school that serves only students who reside within a single school district.

(14) "Standard MOU form" means the standard memorandum of understanding form adopted by the state board pursuant to section 22-30.7-111 (5).

(15) "State board" means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

(16) "Supplemental program" means a program that offers one or more online courses to students to augment an educational program provided by a school district, charter school, or board of cooperative services.

**Source: L. 2007:** Entire article added, p. 1067, § 1, effective July 1. **L. 2009:** (1) repealed, (SB 09-112), ch. 122, p. 504, § 2, effective April 16. **L. 2012:** (12.5) added, (HB 12-1090), ch. 44, p. 151, § 10, effective March 22; (2), (6), (8), (9), and (13) amended and (9.5) added, (HB 12-1240), ch. 258, pp. 1319, 1311, §§ 36, 14, effective June 4; (13) amended, (HB 12-1212), ch. 66, p. 230, § 1, effective July 1. **L. 2014:** (9) and (9.5) amended, (HB 14-1382), ch. 332, p. 1478, § 1, effective June 5.

**Editor's note:** Amendments to subsection (13) by House Bill 12-1212 and House Bill 12-1240 were harmonized.

**22-30.7-103. Division of online learning - created - duties - report.** (1) **Creation.** (a) There is hereby created within the department the division of online learning. The head of the division shall be the director of online learning and shall be appointed by the commissioner of education in accordance with section 13 of article XII of the state constitution.

(b) The division of online learning and the office of the director shall exercise their powers and perform their duties and functions under the department, the commissioner of education, and the state board of education as if the same were transferred to the department by a **type 2** transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

(2) **Purposes.** The purposes of the online division are:

(a) To support online programs and online schools, students, parents, authorizers, and other entities related to online learning by providing information and access to available data; and

(b) To facilitate the certification of multi-district online schools in accordance with rules promulgated by the state board pursuant to section 22-30.7-106.

(3) **Duties.** The online division has 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;

(b) To evaluate applications for certification of multi-district online schools 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) (Deleted by amendment, L. 2011, (HB 11-1277), ch. 306, p. 1500, § 24, effective August 10, 2011.)

(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 online schools 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 (g) (Deleted by amendment, L. 2011, (HB 11-1277), ch. 306, p. 1500, § 24, effective August 10, 2011.)

(h) Notwithstanding section 24-1-136 (11)(a)(I), to prepare a summary report to be submitted on or before 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;

(h.5) Repealed.

(i) To establish a process and timeline for documenting and tracking complaints concerning online programs and online schools;

(j) To collect resources to support the implementation of quality online programs and online schools and make the resources available to online programs and online schools upon request;

(k) To use the final report of the Trujillo commission on online 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 online program and online school. The information may be the same information submitted by online charter schools pursuant to section 22-30.5-109 (1).

(m) If the online division has reason to believe that an online program or online school is not in substantial compliance with one or more of the statutory or regulatory requirements applicable to online programs and online schools, to provide notice to the online program or online school, and its authorizer, and require that the online program or online school, 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).

(n) To prepare an annual report of information received from online schools and the authorizers of online schools concerning students who withdraw from enrollment after the pupil enrollment count day. The report must, at a minimum, include the date on which the student withdrew from enrollment; the grade level at which the student was enrolled at the beginning of the school year and the grade level at which the student was enrolled when the student transferred; and, to the extent known, whether the student during the same school year enrolled in another public school, a private school, or a nonpublic home-based educational program as defined in section 22-33-104.5 or graduated from or completed high school. The online division shall submit the report to the state board and the education committees of the senate and the house of representatives, or any successor committees. Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the requirement to submit the report described in this subsection (3)(n) continues indefinitely.

**Source: L. 2007:** Entire article added, p. 1069, § 1, effective July 1. **L. 2010:** (3)(h) amended, (HB 10-1013), ch. 399, p. 1911, § 33, effective June 10. **L. 2011:** (3) amended, (HB 11-1277), ch. 306, p. 1500, § 24, effective August 10. **L. 2012:** (2), (3)(b), (3)(d), (3)(i), (3)(j), (3)(l), and (3)(m) amended, (HB 12-1240), ch. 258, p. 1319, § 37, effective June 4. **L. 2013:** (3)(h.5) added, (SB 13-139), ch. 128, p. 430, § 2, effective August 7. **L. 2017:** (3)(h) and (3)(h.5) amended, (HB 17-1267), ch. 242, p. 996, § 13, effective August 9. **L. 2019:** IP(3) amended and (3)(n) added, (SB 19-129), ch. 89, p. 331, § 1, effective April 10.

**Editor's note:** Subsection (3)(h.5)(II) provided for the repeal of subsection (3)(h.5), effective June 2, 2018. (See L. 2013, p. 430.)

**22-30.7-104. On-line learning advisory board - created - reports - repeal. (Repealed)**

**Source: L. 2007:** Entire article added, p. 1070, § 1, effective July 1. **L. 2009:** Entire section repealed, (SB 09-112), ch. 122, p. 504, § 3, effective April 16.

**22-30.7-105. Program criteria - guidelines - quality standards - records - rules.** (1) (a) A school district and the state charter school institute established pursuant to section 22-30.5-503 are hereby authorized to create or oversee single-district online programs or single-district online schools.

(b) A school district, a group of two or more school districts, a board of cooperative services created pursuant to section 22-5-104, and the state charter school institute established pursuant to section 22-30.5-503 are hereby authorized to create or oversee multi-district online schools, subject to the requirement that the authorizer apply to the online division for certification of the multi-district online school as described in section 22-30.7-106. If a school district, a group of two or more school districts, a board of cooperative services, or the state charter school institute agrees to become the authorizer for an operating multi-district online school that was previously authorized by another authorizer and certified pursuant to section 22-30.7-106, the new authorizer must apply to the online division for a new certification of the multi-district online school as described in section 22-30.7-106.

(c) Nothing in this article shall be construed to prohibit an online program or online school from providing supplemental online courses.

(2) The following guidelines apply to each online program or online school created or overseen pursuant to the provisions of this article 30.7:

(a) A student who is participating in an online program or online school is subject to compulsory school attendance as provided in article 33 of this title and is deemed to comply with the compulsory attendance requirements through participation in the online program or online school. Each online program and online school must document a student's compliance with compulsory attendance requirements by documenting the student's attendance and participation in educational activities that the online program's or online school's authorizer deems appropriate to support student learning, which activities may include, but need not be limited to, assessment, orientation, and induction activities; in-person educational instruction; and synchronous and asynchronous internet-based educational activities.

(b) Each student participating in an online program or online school is subject to the state assessments administered pursuant to section 22-7-1006.3.

(c) The provisions of article 36 of this title concerning schools of choice shall apply to an online program or online school implemented pursuant to this article.

(d) The provisions of the "Education Accountability Act of 2009", article 11 of this title 22, apply to an online program or online school implemented pursuant to this article 30.7 in the same manner as said provisions apply to the other public schools operating in this state. If an online school is on performance watch, as defined in section 22-11-103, and changes authorizers in its original form or as a successor school, as determined by the department pursuant to section 22-30.7-106 (9), or remains with the same authorizer but is created as a successor school, as determined by the department pursuant to section 22-30.7-106 (9), to the online school that is on performance watch, the online school or the successor school remains on performance watch under the new authorizer as if the authorizer had not changed. If an online school is closed as a result of actions taken pursuant to section 22-11-210 (5), the online school must reapply for certification before it may again operate in its original form or as a successor school, regardless of whether the online school or successor school is authorized by the same or a different authorizer.

(3) (a) An online program or online school that is administered pursuant to the provisions of this article shall satisfy the quality standards established by rules promulgated by the state board pursuant to paragraph (b) of this subsection (3).

(b) On or before January 1, 2008, the state board, in consultation with the online division, shall promulgate rules establishing quality standards for online programs and online schools administered pursuant to the provisions of this article. The rules shall include, but need not be limited to, the establishment of quality standards in the following areas:

(I) An online program's or online school's governance, vision, and organization;

(II) Standards-based curricula and data-driven instructional practices;

(III) Technological capacity and support;

(IV) Internet safety;

(V) Sound financial and accounting practices and resources;

(VI) Student academic performance and improvement;

(VII) Monitoring and assessment of student academic performance and improvement;

(VIII) Course completion measurements;

(IX) Attendance tracking procedures;

(X) Data analysis, management, and reporting;

(XI) Guidance counseling;

(XII) Engagement of parents and communities in online programs and online schools;

(XIII) Provisions for students with special needs, including gifted and talented students and English language learners; and

(XIV) Program evaluation and improvement.

(c) Repealed.

(4) (a) The records of each student participating in a multi-district online school shall be maintained on a permanent basis by the authorizer of the multi-district online school; except that, if a charter school provides the multi-district online school, only the charter school and not the authorizer shall be required to maintain the records. The records shall include, but need not be limited to:

(I) Attendance data;

(II) Test, evaluation, and statewide assessment results;

(III) Immunization records, as required by sections 25-4-902 and 25-4-903, C.R.S.; and

(IV) Such other records as are required under law concerning enrolled students, including but not limited to records required by state or federal statutes concerning the education of students with disabilities.

(b) (I) If a student enrolled in a school of a school district transfers to an online program or online school, the school district shall transmit, using secure electronic means if available, to the receiving online program or online school the student's complete records, including all performance, attendance, and assessment data, within fourteen days after the school district receives notice from the online program or online school that the student has enrolled in the online program or online school.

(II) If a student who is enrolled in an online program or online school transfers to a school of a school district or to an institute charter school, the online program or online school shall transmit, using secure electronic means if available, to the receiving school the student's complete records, including all performance, attendance, and assessment data, within fourteen days after the online program or online school receives notice from the school district that the student has enrolled in the school.

(5) Each student participating in an online program or online school shall be a resident of this state and shall demonstrate that he or she possesses the appropriate electronic equipment and resources to participate in the program or school; except that an online program or online school may provide such equipment and resources to a student to enable the student to participate in the online program or online school.

**Source: L. 2007:** Entire article added, p. 1072, § 1, effective July 1. **L. 2009:** IP(3)(b) amended, (SB 09-112), ch. 122, p. 504, § 4, effective April 16; (2)(d) added and (3)(c) repealed, (SB 09-163), ch. 293, p. 1541, §§ 38, 39, effective May 21. **L. 2012:** Entire section amended, (HB 12-1240), ch. 258, p. 1320, § 38, effective June 4; (1)(a) amended, (HB 12-1212), ch. 66, p. 230, § 2, effective July 1. **L. 2014:** IP(2), (2)(a), and (4)(b) amended, (HB 14-1382), ch. 332, p. 1479, § 2, effective June 5. **L. 2015:** IP(2) and (2)(b) amended, (HB 15-1323), ch. 204, p. 724, § 32, effective May 20. **L. 2019:** (1)(b), IP(2), and (2)(d) amended, (SB 19-129), ch. 89, p. 331, § 2, effective April 10.

**Editor's note:** Amendments to subsection (1)(a) by House Bill 12-1212 and House Bill 12-1240 were harmonized.

**22-30.7-106. Certification of multi-district online schools - criteria - rules.** (1) If a school district, a group of two or more school districts, a board of cooperative services created pursuant to section 22-5-104, or the state charter school institute established pursuant to section 22-30.5-503 chooses to authorize a multi-district online school, the school district, group of two or more school districts, board of cooperative services, or state charter school institute shall, prior to authorizing the multi-district online school, apply to the online division for certification of the multi-district online school.

(2) Notwithstanding the provisions of subsection (1) of this section, the state board may, in its discretion, waive the requirement that an authorizer that chooses to authorize a multi-

district online school apply to the online division for certification of the school if the multi-district online school that the authorizer seeks to authorize has ten or fewer students from outside the school district enrolled in the school.

(3) Notwithstanding the provisions of subsection (1) of this section, an authorizer of a single-district online program or online school that becomes a multi-district online school shall not be required to apply to the online division for certification of the multi-district online school in the event that ten or fewer students from outside the school district in which the single-district online program or online school is operating enroll in the multi-district online school.

(4) The state board shall promulgate rules specifying criteria to be used by the online division in certifying multi-district online schools. The criteria shall include, but need not be limited to, the following:

(a) Whether the authorizer of the multi-district online school possesses adequate resources and the capacity to oversee the multi-district online school, including but not limited to oversight of the following components of the multi-district online school:

(I) Curriculum and instruction;

(II) Use of software applications and technology;

(III) Data gathering, analysis, and reporting;

(IV) Human resources management;

(V) Financial management, facilities management, and risk management; and

(VI) Other relevant public education administration functions;

(b) Whether the plan for operating and monitoring the multi-district online school agreed to by the authorizer of the multi-district online school and the principal, director, or other chief administrator of the multi-district online school adequately addresses, at a minimum, consideration of the following elements:

(I) The multi-district online school's vision, mission, and goals;

(II) The multi-district online school's organizational structure and governance, including governing board and school policies and procedures;

(III) Equitable access for all students;

(IV) Guidance counseling for all students enrolled in the multi-district online school;

(V) Student academic credit policies;

(VI) Student achievement and attendance policies, including but not limited to monitoring graduation and dropout rates;

(VII) Student records policies and procedures;

(VIII) Student admission and placement policies and procedures;

(IX) Staff development plans;

(X) Student services, including counseling and tutorial support;

(XI) Staff, student, and parent handbooks;

(XII) Employment and contractor policies and procedures;

(XIII) Annual budgeting and finance practices;

(XIV) Facility plans, including any contemplated physical sites;

(XV) Risk management;

(XVI) Data development, analysis, and reporting; and

(XVII) Policies and procedures for facilitating communication between the multi-district online school, parents, and school districts in which students who are enrolled in the multi-district online school reside; and

(c) The degree to which the multi-district online school will satisfy the quality standards for online programs and online schools described in section 22-30.7-105.

(5) On or before January 1, 2008, the state board shall promulgate rules establishing processes and timelines by which a prospective authorizer may apply to the online division for certification of a multi-district online school pursuant to this section.

(6) On or before January 1, 2008, the state board shall create an expedited procedure for the approval or denial of certification for multi-district online schools that were operating as of January 1, 2007.

(7) Notwithstanding any provision of this section to the contrary, an authorizer of a multi-district online school that was operating as of January 1, 2007, may continue to operate until August 1, 2008, without receiving certification of the school by the online division pursuant to this section.

(8) The state board shall not approve the certification of a multi-district online school until the state board has promulgated rules for such certification pursuant to this section.

(9) The department shall determine whether a newly authorized multi-district online school is actually a new multi-district online school or a successor to a previously authorized multi-district online school by applying criteria adopted by the department. If the department determines that a newly authorized multi-district online school is a successor school, the authorizer for the multi-district online school may, within thirty days after receiving notice of the decision, appeal the decision to the state board pursuant to the state board's administrative policies.

**Source: L. 2007:** Entire article added, p. 1074, § 1, effective July 1. **L. 2012:** Entire section amended, (HB 12-1240), ch. 258, p. 1323, § 39, effective June 4. **L. 2019:** (9) added, (SB 19-129), ch. 89, p. 332, § 3, effective April 10.

**22-30.7-107. Funding.**

(1) Repealed.

(2) For the 2008-09 budget year, and for each budget year thereafter, for purposes of determining total program funding pursuant to article 54 of this title:

(a) (I) A school district that is providing a single-district online program or online school, or a school district in which a district charter school is providing a single-district online program or online school, shall include each student who is enrolled in the single-district online program or online school as of the pupil enrollment count day of the applicable budget year in the school district's pupil enrollment for the applicable budget year and shall receive the school district's per-pupil funding for each student enrolled in the single-district online program or online school.

(II) An institute charter school that is providing a single-district online program or online school shall include each student who is enrolled in the single-district online program or online school as of the pupil enrollment count day of the applicable budget year in the institute charter school's pupil enrollment for the applicable budget year and shall receive the per-pupil funding of the institute charter school's accounting district for each student enrolled in the single-district online program or online school.

(b) (I) A school district that is providing a multi-district online school, or a school district in which a district charter school is providing a multi-district online school, shall include

each student who is enrolled in the multi-district online school as of the pupil enrollment count day of the applicable budget year in the school district's online pupil enrollment for the applicable budget year and shall receive online funding, as specified in section 22-54-104 (4.5).

(II) An institute charter school that is providing a multi-district online school shall include each student who is enrolled in the multi-district online school as of the pupil enrollment count day of the applicable budget year in the institute charter school's online enrollment for the applicable budget year and shall receive online funding, as specified in section 22-54-104 (4.5).

(3) and (4) Repealed.

(5) The general assembly hereby finds and declares that, for purposes of section 17 of article IX of the state constitution, providing funding to the online division for online education is a permissible use of the moneys in the state education fund because the moneys are being used for accountable education reform, for accountable programs to meet state academic standards, for class-size reduction, for expanding technology education, and for accountability reporting as authorized by section 17 (4)(b) of article IX of the state constitution.

**Source: L. 2007:** Entire article added, p. 1076, § 1, effective July 1. **L. 2009:** (4)(d) and (5) added, (HB 09-1182), ch. 97, p. 364, §§ 1, 2, effective April 3. **L. 2012:** (2)(a) and (2)(b) amended, (HB 12-1090), ch. 44, p. 151, § 11, effective March 22; (2) amended and (3) repealed, (HB 12-1240), ch. 258, pp. 1325,1311, §§ 40, 13, effective June 4.

**Editor's note:** (1) Subsection (1)(d) provided for the repeal of subsection (1), effective July 1, 2008. (See L. 2007, p. 1076.)

(2) Subsection (4)(d)(I) provided for the repeal of subsection (4), effective July 1, 2010. (See L. 2009, p. 364.)

(3) Amendments to subsections (2)(a) and (2)(b) by House Bill 12-1090 and House Bill 12-1240 were harmonized.

**22-30.7-108. Extracurricular and interscholastic activities.** (1) A student who is participating in an online program or an online school, other than a student who is participating in the online program or online school after having been expelled from a public school, may participate on an equal basis in any extracurricular or interscholastic activity offered by a public school or offered by a private school, at the private school's discretion, as provided in section 22-32-116.5.

(2) As used in this section, "extracurricular or interscholastic activity" shall have the same meaning as "activity" as set forth in section 22-32-116.5 (10)(a).

**Source: L. 2007:** Entire article added, p. 1078, § 1, effective July 1. **L. 2012:** (1) amended, (HB 12-1240), ch. 258, p. 1326, § 41, effective June 4.

**22-30.7-109. On-line programs - reports - rules. (Repealed)**

**Source: L. 2007:** Entire article added, p. 1079, § 1, effective July 1. **L. 2008:** IP(1)(a) amended, p. 1899, § 75, effective August 5. **L. 2011:** Entire section repealed, (HB 11-1277), ch. 306, p. 1501, § 25, effective August 10.

**22-30.7-109.5. Online programs and online schools - report to authorizer and department.** Each online program and online school 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 online school shall notify its authorizer and the department of any intent to amend the program's or school's application for certification to expand grade levels served by the program or school. If the department concludes that the online program or online school should not be permitted to amend its application for certification to expand grade levels served by the program or school 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 online program or online school of its decision within thirty days after receiving the notification from the program or school. 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.

**Source: L. 2011:** Entire section added, (HB 11-1277), ch. 306, p. 1502, § 26, effective August 10. **L. 2012:** Entire section amended, (HB 12-1240), ch. 258, p. 1326, § 42, effective June 4. **L. 2016:** Entire section amended, (HB 16-1222), ch. 334, p. 1364, § 2, effective June 10.

**22-30.7-110. Reviews of multi-district programs - rules. (Repealed)**

**Source: L. 2007:** Entire article added, p. 1080, § 1, effective July 1. **L. 2011:** Entire section repealed, (HB 11-1277), ch. 306, p. 1502, § 27, effective August 10.

**22-30.7-111. Learning centers - memoranda of understanding - rules - appeal process.** (1) (a) A multi-district online school that intends to provide instruction to students within one or more learning centers shall, before providing such instruction, seek to enter into a memorandum of understanding with each school district in which the multi-district online school intends to provide instruction within a learning center.

(b) A multi-district online school that intends to provide instruction to students within a learning center shall notify the school district in which the proposed learning center is located of the multi-district online school's intention in writing at least ninety days before the multi-district online school intends to commence providing such instruction. The notice must include the standard MOU form that addresses, at a minimum, the following information as it applies to each learning center to be located within the school district:

(I) A description of any curricula that will be offered by the multi-district online school at the learning center;

(II) The proposed location of the learning center;

(III) The grade levels to be served at the learning center;

(IV) The number of students projected to attend the multi-district online school at the learning center;

(V) Any building permits or certifications of building safety that may be required by law;

(VI) A list of all staff positions at the learning center, including a description of duties for each position;

(VII) Measures to ensure compliance with state and federal laws concerning educator licensing, fingerprint-based criminal history record checks, and name-based criminal history record checks;

(VIII) The name of and contact information for the multi-district online school and the names of and contact information for all learning center administrators; and

(IX) The plans for one or more public meetings to be held prior to the opening of a learning center.

(c) Within forty-five days after receiving the notice and standard MOU form from a multi-district online school pursuant to paragraph (b) of this subsection (1), the school district and the multi-district online school shall meet to discuss the terms of the memorandum of understanding, based on the standard MOU form provided with the notice. The school district and the multi-district online school may mutually agree to change the information in the standard MOU form provided with the notice or to include information in the memorandum of understanding in addition to that included in the standard MOU form.

(d) Within forty-five days after receiving the notice and the standard MOU form pursuant to paragraph (b) of this subsection (1), the school district and the multi-district online school shall hold at least one public meeting at which they shall receive public input concerning location of one or more learning centers within the school district.

(e) No later than forty-five days after the school district receives the notice and standard MOU form pursuant to paragraph (b) of this subsection (1), the school district shall notify the multi-district online school, the online division, and the state board in writing of the school district's decision whether to enter into a memorandum of understanding with the multi-district online school for operation of a learning center within the school district. If the school district does not provide notice of its decision within forty-five days, the standard MOU form provided by the multi-district online school with the notice shall become effective on the forty-sixth day following the school district's receipt of the notice and standard MOU form, and the multi-district online school may proceed under the terms of the standard MOU form as provided to the school district.

(f) A school district may refuse to enter into a memorandum of understanding with a multi-district online school for the operation of a learning center within the school district only if:

(I) The standard MOU form provided by the multi-district online school fails to satisfy the requirements described in paragraph (b) of this subsection (1); or

(II) The school district reasonably determines that the multi-district online school is contrary to the best interests of the pupils, parents, community, or school district.

(g) If a school district refuses to enter into a memorandum of understanding with a multi-district online school for operation of a learning center, the multi-district online school may appeal the school district's decision to the state board pursuant to the provisions of subsection (6) of this section.

(h) Notwithstanding any provision of this section to the contrary, a multi-district online school that seeks to operate a learning center within a school district shall not be required to enter into a memorandum of understanding with the school district if the school district is the authorizer of the multi-district online school.

(i) Notwithstanding any provision of this section to the contrary, a school district and a multi-district online school may mutually agree in writing to decline to enter into a memorandum of understanding.

(j) To ensure that all students have a reasonable opportunity to benefit from online education, a school district and a multi-district online school shall make good faith efforts to craft and enter into a memorandum of understanding pursuant to the provisions of this section.

(2) A memorandum of understanding entered into by a school district and a multi-district online school pursuant to the provisions of this section shall be effective for three years. A school district and a multi-district online school may enter into an unlimited number of successive memoranda of understanding.

(3) If a school district and a multi-district online school enter into a memorandum of understanding pursuant to the provisions of this section, the memorandum of understanding shall include consideration of all learning centers that the multi-district online school proposes, at the time the memorandum of understanding is crafted, to operate within the school district, and the memorandum of understanding shall supersede any memorandum of understanding previously entered into by the school district and the multi-district online school.

(4) (a) If a multi-district online school is operating a learning center within a school district under the terms of a memorandum of understanding, and the multi-district online school seeks to operate an additional learning center within the school district, which additional learning center is not contemplated in an existing memorandum of understanding, the multi-district online school shall provide notice to the school district of the multi-district online school's intention to operate an additional learning center. The notice shall include the standard MOU form.

(b) Upon receiving notice from a multi-district online school as described in paragraph (a) of this subsection (4), the school district shall decide whether to seek to craft a new memorandum of understanding with the multi-district online school, and the school district shall notify the multi-district online school of the school district's decision within thirty days after receiving the notice described in paragraph (a) of this subsection (4).

(c) (I) If the multi-district online school receives notice within thirty days that the school district has decided to seek to craft a new memorandum of understanding, the multi-district online school and the school district shall seek to craft a new memorandum of understanding pursuant to the provisions of this section.

(II) If the multi-district online school does not receive notice within thirty days after the school district's decision, or the multi-district online school receives notice that the school district has decided not to seek to craft a new memorandum of understanding, the multi-district online school may begin to operate the additional learning center.

(5) On or before October 1, 2007, the state board shall approve the standard MOU form, which shall, at a minimum, include the information specified in paragraph (b) of subsection (1) of this section. The standard MOU form approved by the state board shall be based on the standard MOU form recommended by the online division pursuant to section 22-30.7-103 (3)(d).

(6) (a) On or before January 1, 2008, the state board shall promulgate rules establishing procedures and timelines by which a multi-district online school may appeal to the state board a decision by a school district to refuse to enter into a memorandum of understanding with the multi-district online school for the operation of a learning center within the school district.

(b) If the state board determines that a school district's decision to refuse to enter into a memorandum of understanding was contrary to the best interests of the pupils, parents, community, or school district, the state board shall issue an order directing the school district to enter into a final memorandum of understanding with the multi-district online school regarding the placement of one or more learning centers within the school district and to use the standard MOU form provided with the notice pursuant to paragraph (b) of subsection (1) of this section as the basis for the final memorandum of understanding.

(c) Upon receiving notice from a multi-district online school that the multi-district online school is appealing a decision by a school district to refuse to enter into a memorandum of understanding with the multi-district online school, the state board shall resolve the dispute within forty-five days by either affirming the school district's decision or issuing an order directing the school district to enter into a memorandum of understanding with the multi-district online school, as described in paragraph (b) of this subsection (6).

(7) Notwithstanding any provision of this section to the contrary, a multi-district online school that operates one or more learning centers within a school district as of January 1, 2007, may continue to operate learning centers within the school district until August 1, 2008, without entering into a memorandum of understanding with the school district. A multi-district online school that operates one or more learning centers within a school district as of January 1, 2007, shall provide notification to the school district on or before September 1, 2007, of any learning centers being operated by the multi-district online school within the school district. The notice shall include the information described in subparagraphs (I) through (VIII) of paragraph (b) of subsection (1) of this section.

**Source: L. 2007:** Entire article added, p. 1080, § 1, effective July 1. **L. 2008:** (6)(b) amended, p. 1899, § 76, effective August 5. **L. 2012:** Entire section amended, (HB 12-1240), ch. 258, p. 1326, § 43, effective June 4. **L. 2019:** IP(1)(b) and (1)(b)(VII) amended, (HB 19-1166), ch. 125, p. 547, § 25, effective April 18.

**22-30.7-112. Certification of authorizers of multi-district on-line schools - quality standards - implementation recommendations - pilot program design - task force - legislative declaration - repeal. (Repealed)**

**Source: L. 2014:** Entire section added, (HB 14-1382), ch. 332, p. 1479, § 3, effective June 5.

**Editor's note:** Subsection (6) provided for the repeal of this section, effective July 1, 2015. (See L. 2014, p. 1479.)

**22-30.7-113. Online pilot programs - interim reports - legislative declaration.** (1) The general assembly finds that:

(a) Several challenges exist in providing online programs, online schools, and supplemental programs that effectively and successfully meet the educational needs of students and their families;

(b) Colorado's elementary and secondary education community is in a unique position to operate pilot programs to try to meet these challenges by implementing innovative strategies to

provide online education, including strategies for enhancing and measuring student academic growth and success; and

(c) Authorizing and supporting pilot programs will help foster partnerships among education providers and result in data to support replication and the scaling of unique education policies that are successfully implemented through the pilot programs.

(2) (a) The department shall work with the task force created in section 22-30.7-112 to establish the parameters for, duration of, and methods for evaluating pilot programs as described in this section and to issue to authorizers requests for proposals for the pilot programs. The department shall issue the requests for proposals no later than October 15, 2014. The pilot programs must begin operation no later than the 2015-16 school year.

(b) The pilot programs may include, but need not be limited to:

(I) A pilot program to use objective, verifiable, and multiple measures of student achievement as indicators of school quality, which measures align with the Colorado academic standards adopted pursuant to section 22-7-1005;

(II) A pilot program to use a student-count process that is based on course completion and student competency rather than enrollment;

(III) A pilot program to examine methods of using tiered interventions in online education to support individual students through a well-integrated system that is matched to students' academic, social-emotional, and behavioral needs; and

(IV) A pilot program to identify and explain the requirements students must meet and the responsibilities that students must accept to succeed in online education.

(c) An authorizer that participates in a pilot program pursuant to this section must continue to meet statutory and regulatory requirements, including but not limited to the requirements related to funding and accountability, while participating in the pilot program.

(3) An authorizer that participates in a pilot program pursuant to this section shall submit to the department the data requested by the department to evaluate the success of the policies implemented through the pilot program. Beginning with the first school year in which a pilot program operates, the department shall prepare an annual written summary of each pilot program, which must, at a minimum, include a description of the pilot program, an evaluation of the effectiveness of the policies implemented through the pilot program, and an evaluation of whether the policies are scalable to other authorizers. The department shall submit the annual summary to the state board of education, the governor's office, and the education committees of the senate and the house of representatives, or any successor committees.

(4) The department may accept and expend public and private gifts, grants, and donations to offset the costs incurred by the department and by participating authorizers in implementing pilot programs pursuant to this section. Notwithstanding any provision of this section to the contrary, the department must implement the provisions of this section only if the department receives appropriations or public or private gifts, grants, or donations in an amount it deems sufficient to offset the costs incurred in implementing pilot programs pursuant to this section.

**Source: L. 2014:** Entire section added, (HB 14-1382), ch. 332, p. 1482, § 3, effective June 5.

**Editor's note:** Although § 22-30.7-112 repealed on July 1, 2015, the reference to § 22-30.7-112 is left in this section for historical purposes.

## ARTICLE 31

School District Directors - Election

**22-31-101. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Eligible elector" means a person who is registered to vote in accordance with articles 1 to 13 of title 1, C.R.S., and is a resident of the school district in which the elector intends to vote.

(1.5) "Electronic vote-tabulating equipment" or "electronic vote-counting equipment" includes any apparatus necessary to automatically examine and count votes as designated on ballot cards and tabulate the result.

(1.7) "Electronic voting equipment" or a "punch card electronic voting system" means a method in which votes are recorded on ballot cards by means of marking or punching, and such votes are subsequently counted and tabulated by electronic vote-tabulating equipment at one or more counting centers.

(2) "Pollbook" means the list of eligible electors to whom ballots are delivered or who are permitted to enter a voting machine booth for the purpose of casting their votes at a school election called under this article.

(3) "Registered elector" means an elector who has complied with the registration provisions of article 2 of title 1, C.R.S., and who resides within the jurisdiction of the school district calling the election.

(4) "Registration list" means the computer list of registered electors of each school election precinct prepared by the county clerk and recorder from the county registration books in accordance with section 1-5-303, C.R.S.

(5) "Regular biennial school election" means the election in a school district held at the time specified in section 22-31-104.

(6) "School enrollment" means the end-of-year enrollment reported by the secretary of the board of education to the department of education for the school year preceding the school year in which the election is held.

(7) "Special school election" means any school election provided for by law and held at a time other than the regular biennial school election.

(7.5) and (8) (Deleted by amendment, L. 92, p. 811, § 31, effective January 1, 1993.)

**Source: L. 64:** p. 592, § 1. **C.R.S. 1963:** § 123-31-1. **L. 70:** p. 178, § 25. **L. 71:** pp. 563, 564, 1151, §§ 46, 50, 9. **L. 73:** p. 594, § 57. **L. 74:** (5) R&RE, p. 369, § 1, effective March 21. **L. 75:** (9) to (11) added, p. 686, § 3, effective July 1. **L. 87:** (1) and (3) amended, p. 310, § 36, effective July 1. **L. 90:** (5) amended, p. 1050, § 1, effective April 12. **L. 92:** Entire article amended, p. 811, § 31, effective January 1, 1993. **L. 2014:** (1) amended, (HB 14-1164), ch. 2, p. 57, § 7, effective February 18.

**Cross references:** For the legislative declaration in HB 14-1164, see section 1 of chapter 2, Session Laws of Colorado 2014.

**22-31-101.5. Acts and elections conducted pursuant to provisions which refer to qualified electors.** Any acts and elections carried out under this article, which were conducted prior to July 1, 1987, pursuant to provisions which refer to a qualified elector rather than a registered elector and which were valid when conducted, shall be deemed and held to be legal and valid in all respects.

**Source: L. 87:** Entire section added, p. 311, § 37, effective July 1. **L. 92:** Entire article amended, p. 812, § 31, effective January 1, 1993.

**22-31-102. Computation of time. (Deleted by amendment)**

**Source: L. 64:** p. 593, § 2. **C.R.S. 1963:** § 123-31-2. **L. 92:** Entire article amended, p. 813, § 31, effective January 1, 1993.

**22-31-103. Board of education to govern conduct of school elections - contract with county clerk and recorder.** (1) Except as otherwise provided in this article, the board of education of each school district shall govern the conduct of all school elections in the district, shall designate an election official who shall be responsible for conducting the election, and shall render all interpretations and make all initial decisions as to controversies or other matters arising in the conduct of such elections. All elections authorized in this article shall be conducted pursuant to the provisions of articles 1 to 13 of title 1, C.R.S.

(2) The board of education of any school district may contract with the county clerk and recorder for the administration of any of the duties of the board, its secretary, or the designated election official relating to the conduct of any school election. The election shall be conducted by the county clerk and recorder if the county clerk and recorder is conducting a coordinated election pursuant to section 1-7-116, C.R.S.

**Source: L. 64:** p. 594, § 3. **C.R.S. 1963:** § 123-31-3. **L. 92:** Entire article amended, p. 813, § 31, effective January 1, 1993. **L. 94:** (2) amended, p. 1180, § 75, effective July 1.

**22-31-104. Regular biennial school election.** (1) Except as provided in section 22-31-131, pertaining to districts whose boundaries are coterminous with a city and county, the regular biennial school election in each school district shall be held the first Tuesday in November of each odd-numbered year.

(2) (Deleted by amendment, L. 2006, p. 1021, § 1, effective May 25, 2006.)

(3) School district directors elected shall serve until their successors are elected and qualified. A director shall take office no later than fifteen days following the date on which the school district receives the official abstract of votes pursuant to section 1-10-102, C.R.S.

**Source: L. 64:** p. 594, § 4. **C.R.S. 1963:** § 123-31-4. **L. 73:** p. 594, § 58. **L. 74:** Entire section R&RE, p. 369, § 2, effective March 21. **L. 75:** Entire section R&RE, p. 686, § 4, effective July 1. **L. 90:** Entire section amended, p. 1050, § 2, effective April 12. **L. 91:** Entire section amended, p. 520, § 1, effective April 19. **L. 92:** Entire article amended, p. 813, § 31, effective January 1, 1993. **L. 93:** (2)(b) amended, p. 67, § 1, effective March 22; (3) amended, p. 1781, § 45, effective June 6. **L. 94:** (1) and (3) amended, p. 1180, § 76, effective July 1. **L. 2006:**

(2) and (3) amended, p. 1021, § 1, effective May 25. **L. 2007:** (3) amended, p. 1984, § 38, effective August 3.

**22-31-105. School directors - number - election - term - plan of representation.** (1) (a) Except as otherwise provided in paragraph (b) of this subsection (1), in each school district, regardless of when the school district was organized, five, six, or seven school directors shall be elected, the number having been established as required by law. The school directors shall be elected at regular biennial school elections, each for a term of four years and until a successor has been elected and qualified; except that any school district that elects directors for terms of six years as of July 1, 1999, may continue electing directors for terms of six years until such time as the term length may be changed as provided in subsection (3) of this section.

(b) In each school district coterminous with a city and county, there shall be elected a seven-member board of education with one eligible elector elected from each of five director districts and two eligible electors elected from the district at large. School directors shall be elected at the respective regular biennial school elections, each for a term of four years and until a successor has been elected and qualified. Elections shall be held in accordance with the procedures established in section 22-31-131.

(2) Except as otherwise provided in section 22-31-131 (1.5)(b)(I) and subsection (6.5) of this section, all school directors shall be voted on at large by the eligible electors of the entire school district, regardless of the school district's plan of representation.

(3) (a) The board of education of any school district in which the directors serve six-year terms may, by resolution passed by a majority of the whole board, submit to the eligible electors of the school district, at the next regular biennial school election, a proposal to change the terms of office of the directors of the district from six years to four years. The proposed plan shall be adopted by resolution of the board at least one hundred ten days prior to the election.

(b) Upon receipt of a written petition that meets the requirements specified in this paragraph (b), the board of education of any school district in which the directors serve six-year terms shall submit to the eligible electors of the school district, at the next regular biennial school election, a proposal to change the terms of office of the directors of the district from six years to four years. The petition shall be signed by at least five percent of the eligible electors of the district, and the proposed plan, specifying terms of office and establishing the procedure for making the transitions, shall be attached thereto. The petition, together with the proposed plan, shall be submitted to the secretary of the board of education at least one hundred ten days prior to the election.

(c) No proposal to change the terms of office of the directors of the district shall be submitted within four years after a previous proposal to change the terms of office has been submitted to the eligible electors of the district.

(d) The secretary of the board of education shall cause notice to be given pursuant to section 1-5-205, C.R.S., that at the next biennial election for school directors a plan revising the terms of office of school directors will be submitted to the eligible electors of the district. The notice shall state that the plan is on file in the administration offices of the school district for public inspection during reasonable business hours; and the notice may be combined with the notice otherwise required for the election of school directors at the regular biennial school election.

(e) The ballot shall contain the words "For a four-year term of office for school directors" and "Against a four-year term of office for school directors". Otherwise, the ballots and election procedures shall be the same as prescribed for the regular biennial school election.

(f) If a majority of the votes cast at the election are "For a four-year term of office for school directors", the plan shall become effective upon the survey of election returns. If a majority of the votes cast are "Against a four-year term of office for school directors", the school directors of the district shall continue to be elected or appointed as prescribed in this section.

(4) (a) The board of education of a school district may, by resolution passed by a majority of the whole board, submit to the eligible electors of the school district, at the next regular biennial school election, a proposal to change the number of directors; except that the school district shall not elect fewer than five nor more than seven directors. The proposal shall be adopted by resolution of the board at least one hundred ten days prior to the election. As provided in subsection (7) of this section, the board of education may simultaneously adopt a resolution to submit a proposal to change the school district plan of representation; except that, if the existing school directors are elected pursuant to a director district plan of representation, the board of education shall simultaneously adopt a resolution to submit a proposal to either change the boundaries of the director districts to reflect the change in the number of directors or change the school district plan of representation to adopt an at-large plan of representation or a combined director district and at-large plan of representation.

(b) Upon receipt of a written petition that meets the requirements specified in this paragraph (b), the board of education of a school district shall submit to the eligible electors of the school district, at the next regular biennial school election, a proposal to change the number of directors; except that the school district shall not elect fewer than five nor more than seven directors. As provided in subsection (7) of this section, the persons submitting the petition may simultaneously submit a petition to change the school district plan of representation. If the existing school directors are elected pursuant to a director district plan of representation and no change to the school district plan of representation is submitted by petition, the board of education shall adopt a resolution to submit a proposal to either change the boundaries of the director districts to reflect the change in the number of directors or change the school district plan of representation to adopt an at-large plan of representation or a combined director district and at-large plan of representation. Any petition submitted pursuant to this paragraph (b) shall be signed by at least five percent of the eligible electors of the district and shall be submitted to the secretary of the board of education at least one hundred ten days prior to the election.

(c) The secretary of the board of education shall cause notice to be given pursuant to section 1-5-205, C.R.S., that at the next regular biennial election for school directors a proposal to change the number of directors and the school district plan of representation, if submitted or adopted pursuant to paragraph (a) or (b) of this subsection (4), will be submitted to the eligible electors of the district.

(d) The ballot shall contain the words "For changing the number of school directors from ___ to ____ (and for the proposed change to the director district plan of representation)" and "Against changing the number of school directors from ___ to ____ (and against the proposed change to the director district plan of representation)". Otherwise the ballots and election procedures shall be the same as prescribed for the regular biennial school election.

(e) If a majority of the votes cast on the question are "For changing the number of school directors from ___ to ____ (and for the proposed change to the director district plan of

representation)", the plan shall become effective for the election of school directors at subsequent regular biennial school elections. If a majority of the votes cast are "Against changing the number of school directors from ___ to ____ (and against the proposed change to the director district plan of representation)", there shall continue to be the same number of school directors operating under the same plan of representation in such district as existed prior to the election.

(5) (a) In any school district in which the terms of office of the directors expire on a schedule that does not create as close to the same number of offices to be filled at each regular biennial school election as possible, the board of education may, by resolution passed by a majority of all members of the board of education, extend or reduce for two years one or more terms of directors to be elected at the next regular biennial school election as necessary to achieve thereafter as close to the same number of offices to be filled at each regular biennial school election as possible. The extension or reduction of terms of office shall occur only once; thereafter, all terms of the members of the board of directors shall be equal.

(b) In determining which term or terms to extend or reduce, the board of education shall select, first, the term or terms for which an early election is scheduled at the next regular biennial school election due to the occurrence of a vacancy in the office of school director and, second, the term or terms regularly expiring at the next succeeding regular biennial school election. In the event it is necessary for the board of education to select between two or more terms of equal priority for extension or reduction under this subsection (5), the determination shall be by lot.

(c) The resolution extending or reducing the terms of office shall be adopted not less than one hundred ten days prior to the next regular biennial school election. A candidate shall run for and, if elected, shall serve the term as is appropriate for the director district in which the candidate resides; however, if the school district has an at-large plan of representation or a combined director district and at-large plan of representation, each candidate shall run for and, if elected, shall serve for the designated term as provided for in section 1-4-803 (3), C.R.S.

(6) (a) The board of education of any school district that desires to propose a change in its plan of representation may submit a plan to implement such change to the eligible electors of the school district at any regular biennial school election or at a special school election called by the board for that purpose. A change in the plan of representation may consist of the adoption of a director district plan of representation, the elimination of a director district plan of representation and replacement with an at-large plan of representation, or the adoption of a plan of representation that combines director districts with an at-large plan of representation. The plan shall be adopted by the board of education at least one hundred ten days prior to the election.

(b) The eligible electors of any school district who desire to propose the adoption of any change to the school district plan of representation specified in paragraph (a) of this subsection (6) may petition the board of education of the school district to submit a plan to implement the change to the eligible electors of the district at any regular biennial school election. The petition shall be signed by at least five percent of the eligible electors of the school district, and the proposed plan of representation shall be attached thereto. The petition, together with the proposed plan, shall be submitted to the secretary of the board of education of the school district at least one hundred ten days prior to the election. If the plan meets statutory requirements, the board of education shall submit the plan to the eligible electors of the school district at the next regular biennial school election.

(c) A director district plan of representation developed pursuant to paragraph (a) or (b) of this subsection (6) shall be subject to the specifications prescribed in section 22-31-109.

(d) The secretary of the board of education shall cause notice to be given on the question of whether the existing plan of representation shall be replaced by the plan of representation proposed in the manner provided in paragraph (a) or (b) of this subsection (6), pursuant to section 1-5-205, C.R.S., which shall include that the plan of representation is available at the administration offices of the school district for public inspection during reasonable business hours.

(e) The ballot shall contain the words "For the proposed director district plan of representation" and "Against the proposed director district plan of representation", or "For the proposed at-large plan of representation" and "Against the proposed at-large plan of representation", or "For the proposed combined director district and at-large plan of representation" and "Against the proposed combined director district and at-large plan of representation", as the case may be. Otherwise, the ballots and election procedures shall be, as nearly as practicable, as prescribed for a regular biennial school election.

(f) If a majority of the votes cast at the election are for the proposed plan of representation, the plan shall become effective upon the survey of election returns; but no plan of representation shall terminate the office of any school director elected at or prior to the election at which the plan is submitted. The plan shall be effective after the election for subsequent vacancies and the election of school directors at any subsequent regular biennial school election. In the event that, as a result of the adoption of a plan of representation, two or more members of the board of education reside in the same new director district and the office of any one of the members thereafter becomes vacant, the vacancy shall be filled by the appointment of an eligible elector residing in a director district that does not then have a representative on the board of education. If the majority of the votes cast at the election are against the proposed plan of representation, the school directors of the district shall continue to be elected or appointed as provided under the existing plan of representation, except as otherwise provided in section 22-31-110.

(6.5) (a) The board of education of any school district that desires to have all or some members of the board of education elected by the vote of eligible electors within a director district rather than at-large may submit a plan to implement such change to the eligible electors of the school district at any regular biennial school election or at a special school election called by the board for that purpose. A change in the method for electing members of the board of education may consist of the adoption of a director district plan of representation or the adoption of a plan of representation that combines director districts with an at-large plan of representation. The plan shall be adopted by the board of education at least one hundred ten days prior to the election.

(b) The eligible electors of any school district who desire to propose the adoption of any change in the manner of the election of members of the board of education specified in paragraph (a) of this subsection (6.5) may petition the board of education of the school district to submit a plan to implement the change to the eligible electors of the district at any regular biennial school election. The petition shall be signed by at least five percent of the eligible electors of the school district, and the proposed plan of election shall be attached thereto. The petition, together with the proposed plan, shall be submitted to the secretary of the board of education of the school district at least one hundred ten days prior to the election. If the plan

meets statutory requirements, the board of education shall submit the plan to the eligible electors of the school district at the next regular biennial school election.

(c) A plan of election developed pursuant to paragraph (a) or (b) of this subsection (6.5) shall be subject to the specifications prescribed in section 22-31-109.

(d) The secretary of the board of education shall cause notice to be given on the question of whether the existing plan of representation shall be replaced by the plan of representation proposed in the manner provided in paragraph (a) or (b) of this subsection (6.5), pursuant to section 1-5-205, C.R.S., which shall include notice that the plan of election is available at the administration offices of the school district for public inspection during reasonable business hours.

(e) The ballot shall contain the words "For the proposed election of directors by the electors of a director district" and "Against the proposed election of directors by the electors of a director district". Otherwise, the ballots and election procedures shall be, as nearly as practicable, as prescribed for a regular biennial school election.

(f) If a majority of the votes cast at the election are for the proposed plan of election, the plan shall become effective upon the survey of election returns; but no plan of election shall terminate the office of any school director elected at or prior to the election at which the plan is submitted. The plan shall be effective after the election for subsequent vacancies and the election of school directors at any subsequent regular biennial school election. In the event that, as a result of the adoption of a plan of representation, two or more members of the board of education reside in the same new director district and the office of any one of the members thereafter becomes vacant, the vacancy shall be filled by the appointment of an eligible elector residing in a director district that does not at that time have a representative on the board of education. If the majority of the votes cast at the election are against the proposed plan of election, the school directors of the district shall continue to be elected or appointed as provided under the existing plan of election, except as otherwise provided in section 22-31-110.

(7) (a) A resolution by a board of education of a school district or a petition of the eligible electors of a school district may propose any of the issues specified in subsections (3) to (6.5) of this section for consideration in one election.

(b) Any plan to change the number of director districts adopted pursuant to this section shall provide, if necessary, that the term of office of one or more directors to be elected at a subsequent regular biennial school election may be less than otherwise prescribed by law, in order to preserve the election of approximately the same number of directors at each regular biennial school election.

**Source: L. 64:** p. 594, § 5. **C.R.S. 1963:** § 123-31-5. **L. 67:** p. 788, §§ 1-3. **L. 75:** (9) added, p. 696, § 1, effective March 17. **L. 87:** (7)(a) to (7)(c) amended, p. 311, § 38, effective July 1. **L. 91:** (7)(a) and (7)(b) amended, p. 522, § 2, effective April 19. **L. 92:** (7.5) added and (8)(a) and (8)(b) amended, p. 515, § 2, effective June 1; (4.5) added and (7)(a)(II) amended, p. 478, § 1, effective June 4; entire article amended, p. 814, § 31, effective January 1, 1993. **L. 93:** (4.5), (7)(a)(II), and (9)(c) amended, p. 1781, § 46, effective June 6. **L. 99:** Entire section R&RE, p. 468, § 2, effective April 30. **L. 2004:** (2) and (7)(a) amended and (6.5) added, p. 534, § 1, effective August 4.

**Editor's note:** Amendments to subsection (7) in Senate Bill 92-175 and House Bill 92-1333 were harmonized. Amendments to subsections (7.5), (8)(a), and (8)(b) in House Bill 92-1003 and House Bill 92-1333 were harmonized.

**22-31-106. Persons entitled to vote at regular biennial and special school elections - registration required.** (1) No person shall be permitted to vote at any regular biennial school election or special school election without first having been registered in the manner required by the provisions of article 2 of title 1, C.R.S.

(2) to (5) (Deleted by amendment, L. 92, p. 819, § 31, effective January 1, 1993.)

(6) and (7) Repealed.

**Source: L. 64:** p. 597, § 6. **C.R.S. 1963:** § 123-31-6. **L. 70:** pp. 179, 181, §§ 26, 2. **L. 74:** (2) and (5) amended and (6) and (7) added, pp. 373, 374, §§ 1, 2, effective March 21. **L. 75:** (5) amended and (6) and (7) repealed, pp. 686, 694, §§ 5, 18, effective July 1. **L. 80:** (4) and (5) amended, p. 408, § 4, effective January 1, 1981. **L. 87:** (1) and (3) to (5) amended, p. 311, § 39, effective July 1. **L. 92:** Entire article amended, p. 819, § 31, effective January 1, 1993.

**22-31-107. Candidates for school director - call - qualification - nomination.** (1) Any candidate for the office of school director of a school district shall have been a registered elector of the district for at least twelve consecutive months prior to the election. If the school district has a director district plan of representation or a combined director district and at-large plan of representation, the candidate shall be a resident of the director district that will be represented, unless the candidate will serve as an at-large director or has been elected at the time of or prior to the adoption of a director district plan of representation or a combined director district and at-large plan of representation by the eligible electors of the district.

(1.5) Not less than seventy-five days nor more than ninety days before the election date, the designated election official shall provide notice by publication of a call for nominations for school director candidates in the upcoming election. The call shall state the school director offices to be voted upon at the election, where a nomination petition may be obtained, the number of signatures necessary for the nomination petition, and the deadline for submitting the nomination petition.

(2) Any person who desires to be a candidate for the office of school director shall file a written notice of intention, no later than sixty-seven days before the election date, with the secretary of the board of education of the school district in which the person resides together with a nomination petition according to the provisions of section 1-4-803 and part 9 of article 4 of title 1, C.R.S. A person who desires to be a candidate for the office of school director may not circulate the nomination petition for signatures prior to ninety days before the election.

(2.5) (a) (I) Prior to each election for school district director, a school district in which at least one thousand pupils are enrolled shall post, in a prominent area on the school district's official website:

(A) An image of the written notice of intention submitted pursuant to subsection (2) of this section by each candidate for school district director; and

(B) Each school district director candidate's contact information, including his or her name; residential address; mailing address, if different than the residential address; telephone number; e-mail address, if any; and website, if any. In order to post this information as

inexpensively and efficiently as possible, the school district may provide hyperlinks to the area of the secretary of state's official website, if any, containing this information.

(II) A school district subject to this paragraph (a) shall make the required postings as soon as practicable, but no later than sixty days prior to the election. The information must be organized in alphabetical order by candidate surname.

(b) Nothing in this subsection (2.5) precludes any school district from posting on its official website, or developing other methods to provide, information or resources that increase the electorate's opportunities to learn more about school district director candidates.

(c) Any information posted online pursuant to paragraphs (a) and (b) of this subsection (2.5) shall be accomplished, to the maximum extent possible, within existing fiscal resources.

(3) and (4) (Deleted by amendment, L. 92, p. 819, § 31, effective January 1, 1993.)

(5) (a) Any person who has been convicted of commission of a sexual offense against a child shall not be eligible for the office of school director of a school district. If a person becomes ineligible pursuant to the terms of this subsection (5) while serving as a school director, a vacancy shall be deemed to exist that shall be filled as provided in section 22-31-129.

(b) For purposes of this subsection (5), "sexual offense against a child" means any of the offenses described in sections 18-3-305, 18-3-405, 18-3-405.3, 18-3-504 (2), 18-6-301, 18-6-302, 18-6-403, 18-6-404, and 18-7-402 to 18-7-406, C.R.S., and any of the offenses described in sections 18-3-402 to 18-3-404 and 18-7-302, C.R.S., where the victim is less than eighteen years of age. "Sexual offense against a child" also means attempt, solicitation, or conspiracy to commit any of the offenses specified in this paragraph (b).

(c) For purposes of this subsection (5), "convicted" includes having pleaded guilty or nolo contendere or having received a deferred judgment and sentence; except that a person shall not be deemed to have been convicted if the person has successfully completed a deferred sentence.

**Source: L. 64:** p. 598, § 7. **C.R.S. 1963:** § 123-31-7. **L. 71:** p. 563, § 47. **L. 73:** pp. 594, 1285, §§ 59, 60, 1. **L. 74:** Entire section R&RE, p. 369, § 3, effective March 21. **L. 75:** (1) and (2) amended, p. 687, § 6, effective July 1. **L. 92:** Entire article amended, p. 819, § 31, effective January 1, 1993. **L. 94:** (2) amended, p. 1181, § 77, effective July 1. **L. 98:** (1) amended and (5) added, p. 290, § 1, effective July 1. **L. 99:** (1) amended, p. 473, § 3, effective April 30. **L. 2006:** (1) and (2) amended and (1.5) added, p. 1022, § 2, effective May 25. **L. 2010:** (5)(b) amended, (SB 10-140), ch. 156, p. 540, § 11, effective April 21. **L. 2014:** (5)(b) amended, (HB 14-1273), ch. 282, p. 1157, § 22, effective July 1. **L. 2016:** (2.5) added, (HB 16-1225), ch. 335, p. 1365, § 2, effective August 10.

**Cross references:** For the legislative declaration in HB 16-1225, see section 1 of chapter 335, Session Laws of Colorado 2016.

**22-31-108. Adoption, modification, or elimination of director district plan of representation. (Repealed)**

**Source: L. 64:** p. 598, § 8. **C.R.S. 1963:** § 123-31-8. **L. 69:** p. 1034, § 1. **L. 71:** p. 1164, § 1. **L. 87:** (6) amended, p. 312, § 40, effective July 1. **L. 92:** Entire article amended, p. 820, § 31, effective January 1, 1993. **L. 99:** Entire section repealed, p. 474, § 4, effective April 30.

**22-31-109. Specifications for director districts.** (1) Except for director districts established pursuant to section 22-31-131, in school districts having a director district plan of representation or a combined director district and at-large plan of representation where all members of the board of education are voted on by the eligible electors of the entire school district:

(a) At least one member of the board of education of the school district shall be elected from each of the director districts;

(b) Director districts shall be contiguous, compact, and as nearly equal in population as possible;

(c) Director districts shall be not less than five nor more than seven in number.

(2) In school districts having a director district plan of representation or a combined director district and at-large plan of representation where some or all of the members of the board of education are voted on by the eligible electors of a director district:

(a) At least one member of the board of education of the school district shall be elected from each of the director districts;

(b) Director districts shall be contiguous, compact, and composed of whole precincts as established, pursuant to section 1-5-101, C.R.S., by the clerk of the county in which the precinct is located;

(c) Director districts shall be as nearly equal in population as possible, based upon the most recent federal census of the United States, minus the number of persons serving a sentence of detention or confinement in any correctional facility located in a director district, as indicated in the statistical report of the department of corrections for the most recent fiscal year;

(d) Director districts shall be not less than five nor more than seven in number.

**Source: L. 64:** p. 600, § 9. **C.R.S. 1963:** § 123-31-9. **L. 69:** p. 1035, § 2. **L. 71:** p. 1165, § 2. **L. 87:** Entire section amended, p. 313, § 41, effective July 1. **L. 92:** Entire article amended, p. 821, § 31, effective January 1, 1993. **L. 99:** Entire section amended, p. 474, § 5, effective April 30. **L. 2004:** Entire section amended, p. 536, § 2, effective August 4.

**22-31-110. Changes in director districts.** (1) (a) Except as otherwise provided in paragraph (b) of this subsection (1), not later than December 31, 1972, and not later than December 31 of every fourth year thereafter, the board of education of each school district having a director district plan of representation or a combined director district and at-large plan of representation shall determine the population in each of the director districts and, if each director district does not contain substantially the same number of persons as each of the other director districts, it shall be the duty of the board, by resolution, to revise the director district boundaries and redesignate the director districts to comply with the specifications prescribed in section 22-31-109 without changing the number of director districts.

(b) (I) The provisions of this section shall not apply to any school district coterminous with a city and county. The director districts for any such school district shall be established as provided in section 22-31-131.

(II) Notwithstanding the other provisions of this section, for school districts in which members of the board of education are voted on by eligible electors of a director district, not later than March 1 of the year following the year in which the election is conducted pursuant to section 22-31-105 (6.5), not later than March 1, 2012, and not later than March 1 every tenth

year thereafter, the board of education of each such school district shall determine the population in each of the director districts and, if each director district does not contain substantially the same number of persons as each of the other director districts, it shall be the duty of the board, by resolution, to revise the director district boundaries and redesignate the director districts to comply with the specifications prescribed in section 22-31-109 (2) without changing the number of director districts.

(2) The revision of director district boundaries and redesignation of the director districts shall become effective immediately upon adoption of the resolution by the board of education, but the revision and redesignation shall not operate to terminate the office of any school director holding office at the time of adoption of the resolution. The revision and redesignation shall be, thereafter, effective for filling of vacancies and the election of any school directors at any subsequent regular biennial school election. In the event that, as a result of a revision and redesignation, two or more members of the board of education reside in the same new director district, and the office of any one of the members thereafter becomes vacant, the vacancy shall be filled by the appointment of an eligible elector residing in a director district which does not then have a representative on the board of education.

(3) If the board of education has not revised the director district boundaries and redesignated the director districts as required by subsection (1) of this section, any eligible elector of the district may file, not later than January 15 next following the December 31 by which such revision and redesignation was to be accomplished, an action in the district court of the judicial district in which the principal administrative headquarters of the school district are located to require the board of education to revise the director district boundaries and redesignate the director districts no later than February 28 next following.

(4) Director district boundaries shall not be subject to alteration more often than twice every four years.

**Source: L. 64:** p. 600, § 10. **C.R.S. 1963:** § 123-31-10. **L. 69:** p. 1035, § 3. **L. 71:** p. 1166, § 3. **L. 80:** (4) amended, p. 424, § 3, effective January 1, 1981. **L. 87:** (2) and (3) amended, p. 313, § 42, effective July 1. **L. 92:** Entire article amended, p. 822, § 31, effective January 1, 1993. **L. 99:** (1) amended, p. 474, § 6, effective April 30. **L. 2004:** (1)(b) amended, p. 536, § 3, effective August 4.

**22-31-111. Precincts and polling places. (Deleted by amendment)**

**Source: L. 64:** p. 600, § 11. **C.R.S. 1963:** § 123-31-11. **L. 73:** pp. 595, 1285, §§ 61, 2. **L. 74:** Entire section R&RE, p. 370, § 4, effective March 21. **L. 75:** (1) R&RE, p. 687, § 7, effective July 1. **L. 92:** Entire article amended, p. 822, § 31, effective January 1, 1993.

**22-31-112. Judges. (Deleted by amendment)**

**Source: L. 64:** p. 601, § 12. **C.R.S. 1963:** § 123-31-12. **L. 73:** p. 595, § 62. **L. 74:** (1) and (4) R&RE, p. 370, § 5, effective March 21. **L. 84:** (4)(a) and (4)(b) amended, p. 593, § 1, effective March 26. **L. 87:** (1) amended, p. 313, § 43, effective July 1. **L. 92:** Entire article amended, p. 823, § 31, effective January 1, 1993.

**22-31-113. Notice of school election. (Deleted by amendment)**

**Source: L. 64:** p. 602, § 13. **C.R.S. 1963:** § 123-31-13. **L. 75:** Entire section amended, p. 688, § 8, effective July 1. **L. 92:** Entire article amended, p. 824, § 31, effective January 1, 1993.

**22-31-113.5. Election may be cancelled - when. (Deleted by amendment)**

**Source: L. 87:** Entire section added, p. 313, § 44, effective July 1. **L. 92:** Entire article amended, p. 824, § 31, effective January 1, 1993.

**22-31-114. Ballots, ballot boxes, voting machines, and electronic voting equipment. (Deleted by amendment)**

**Source: L. 64:** p. 602, § 14. **C.R.S. 1963:** § 123-31-14. **L. 74:** (3) added, p. 371, § 6, effective March 21. **L. 75:** (1) amended and (4) added, p. 688, § 9, effective July 1. **L. 80:** (4) amended, p. 408, § 5, effective January 1, 1981. **L. 81:** (4) amended, p. 2026, § 21, effective July 1. **L. 92:** Entire article amended, p. 824, § 31, effective January 1, 1993.

**22-31-115. Pollbooks - certificate of return. (Deleted by amendment)**

**Source: L. 64:** p. 603, § 15. **C.R.S. 1963:** § 123-31-15. **L. 92:** Entire article amended, p. 825, § 31, effective January 1, 1993.

**22-31-116. Hours of voting. (Deleted by amendment)**

**Source: L. 64:** p. 604, § 16. **C.R.S. 1963:** § 123-31-16. **L. 92:** Entire article amended, p. 826, § 31, effective January 1, 1993.

**22-31-117. Voting at school elections. (Deleted by amendment)**

**Source: L. 64:** p. 604, § 17. **C.R.S. 1963:** § 123-31-17. **L. 74:** (1) amended, p. 375, § 3, effective March 21. **L. 87:** (1) amended, p. 314, § 45, effective July 1. **L. 92:** Entire article amended, p. 826, § 31, effective January 1, 1993.

**22-31-118. Watchers. (Deleted by amendment)**

**Source: L. 64:** p. 605, § 18. **C.R.S. 1963:** § 123-31-18. **L. 92:** Entire article amended, p. 827, § 31, effective January 1, 1993.

**22-31-119. Absentee voting. (Deleted by amendment)**

**Source: L. 64:** p. 605, § 19. **C.R.S. 1963:** § 123-31-19. **L. 73:** p. 1287, § 1. **L. 74:** (6) added, p. 375, § 4, effective March 21. **L. 75:** (3) amended, p. 689, § 10, effective July 1. **L. 77:** (3) amended, p. 233, § 6, effective June 19. **L. 80:** (1) and (2) amended, p. 408, § 6, effective January 1, 1981. **L. 92:** Entire article amended, p. 827, § 31, effective January 1, 1993.

**22-31-120. Registration list omissions - challenges - oaths - rejection. (Deleted by amendment)**

**Source: L. 64:** p. 606, § 20. **C.R.S. 1963:** § 123-31-20. **L. 70:** p. 179, § 27. **L. 71:** pp. 563, 1149, §§ 48, 5. **L. 72:** pp. 316, 567, §§ 45, 45. **L. 74:** (1) amended, p. 375, § 5, effective March 21; (5)(a) amended, p. 419, § 68, effective April 11. **L. 80:** (4) amended, p. 409, § 7, effective January 1, 1981. **L. 87:** (2) amended, p. 314, § 46, effective July 1. **L. 92:** Entire article amended, p. 827, § 31, effective January 1, 1993.

**22-31-121. Count and certification of votes. (Deleted by amendment)**

**Source: L. 64:** p. 607, § 21. **C.R.S. 1963:** § 123-31-21. **L. 92:** Entire article amended, p. 828, § 31, effective January 1, 1993.

**22-31-122. Return of ballot box, pollbook, and registration list. (Deleted by amendment)**

**Source: L. 64:** p. 607, § 22. **C.R.S. 1963:** § 123-31-22. **L. 92:** Entire article amended, p. 829, § 31, effective January 1, 1993.

**22-31-123. Tie votes. (Deleted by amendment)**

**Source: L. 64:** p. 608, § 23. **C.R.S. 1963:** § 123-31-23. **L. 92:** Entire article amended, p. 829, § 31, effective January 1, 1993.

**22-31-124. Canvass of votes - certificate of election. (Deleted by amendment)**

**Source: L. 64:** p. 608, § 24. **C.R.S. 1963:** § 123-31-24. **L. 73:** p. 1288, § 1. **L. 92:** Entire article amended, p. 829, § 31, effective January 1, 1993.

**22-31-125. Oath of directors.** Each director shall, no later than ten days after he or she receives the certificate of election pursuant to section 1-11-103, C.R.S., or appointment pursuant to section 22-31-129 (2), appear before some officer authorized to administer oaths or before the president of the board of education and take an oath that the director will faithfully perform the duties of the office as required by law and will support the constitution of the United States, the constitution of the state of Colorado, and the laws made pursuant thereto. The oath shall be filed with the designated election official for the school district. In case a director fails to take the oath within the period, the office shall be deemed vacant, and the vacancy thus created shall be filled in the same manner as other vacancies in the office of director.

**Source: L. 64:** p. 608, § 25. **C.R.S. 1963:** § 123-31-25. **L. 75:** Entire section amended, p. 689, § 11, effective July 1. **L. 92:** Entire article amended, p. 830, § 31, effective January 1, 1993. **L. 94:** Entire section amended, p. 1181, § 78, effective July 1. **L. 2006:** Entire section amended, p. 1023, § 3, effective May 25.

**22-31-126. Preservation of ballots. (Deleted by amendment)**

**Source: L. 64:** p. 608, § 26. **C.R.S. 1963:** § 123-31-26. **L. 75:** Entire section amended, p. 689, § 12, effective July 1. **L. 92:** Entire article amended, p. 930, § 31, effective January 1, 1993.

**22-31-127. Contests. (Deleted by amendment)**

**Source: L. 64:** p. 609, § 27. **C.R.S. 1963:** § 123-31-27. **L. 75:** Entire section amended, p. 689, § 13, effective July 1. **L. 87:** Entire section amended, p. 314, § 47, effective July 1. **L. 92:** Entire article amended, p. 830, § 31, effective January 1, 1993.

**22-31-128. Recall of school directors. (Deleted by amendment)**

**Source: L. 64:** p. 609, § 28. **C.R.S. 1963:** § 123-31-28. **L. 73:** pp. 1290, 1416, §§ 1, 91. **L. 74:** (1)(b) amended, p. 371, § 7, effective March 21. **L. 75:** (1)(a) to (1)(c), (1)(d)(I), (1)(d)(II), (2), and (4)(a) amended, p. 690, § 14, effective July 1. **L. 77:** (1)(e) amended, p. 1047, § 1, effective April 24. **L. 81:** (1)(e) and (2)(a) amended, p. 1062, § 1, effective May 22. **L. 82:** (1)(c)(II) amended, p. 624, § 20, effective April 2. **L. 83:** (1) (b), (1)(c)(II) to (1)(c)(V), and (1)(d)(I) amended, p. 746, § 1, effective May 23. **L. 87:** (1)(d)(I), (2)(a)(I), and (4) amended, p. 314, § 48, effective July 1. **L. 88:** (2.5) added, p. 295, § 7, effective May 29. **L. 92:** Entire article amended, p. 830, § 31, effective January 1, 1993.

**22-31-129. Vacancies.** (1) A school director office shall be deemed to be vacant upon the occurrence of any one of the following events prior to the expiration of the term of office:

(a) If for any reason a school director is not elected to a school director office by the eligible electors as may be required at a regular biennial school election;

(b) If the person who was duly elected or appointed fails, neglects, or refuses to subscribe to an oath of office as provided in section 22-31-125;

(c) If the person who was duly elected or appointed submits a written resignation to the board of education and such resignation has been duly accepted by the board of education;

(d) If the person who was duly elected or appointed is or becomes during the term of office a nonresident of the school district in which the person was elected or, in the event the district has a director district plan of representation or a combined director district and at-large plan of representation, if the director is or becomes during the term of office a nonresident of the director district which the director represents unless the director has been elected at the time of or prior to the adoption of a director district plan of representation or a combined director district and at-large plan of representation by the electors or prior to a revision and redesignation of director district boundaries;

(e) If the person who was duly elected or appointed is found guilty of a felony;

(f) If a court of competent jurisdiction voids the officer's election or appointment or removes the person duly elected or appointed for any cause whatsoever, but only after his right to appeal has been waived or otherwise exhausted;

(g) If a court of competent jurisdiction determines that the person duly elected or appointed is insane or otherwise mentally incompetent, but only after the right to appeal has been waived or otherwise exhausted, and a court enters, pursuant to part 3 or part 4 of article 14

of title 15 or section 27-65-109 (4) or 27-65-127, C.R.S., an order specifically finding that the insanity or mental incompetency is of such a degree that the person is incapable of serving as a school director;

(h) If the person who was duly elected or appointed does not attend three consecutive regular meetings of the board of education, unless the board by resolution shall approve any additional absences or unless the absences are due to a temporary mental or physical disability or illness;

(i) If the person who was duly elected or appointed dies during the term of office.

(2) At the next board of education meeting immediately following the occurrence of any condition specified in subsection (1) of this section, the board of education of the district shall adopt a resolution declaring a vacancy in the school director office, and the board of education of the school district in which the vacancy occurs shall appoint a person to fill the vacancy within sixty days after the vacancy has occurred. If the appointment is not made by the board within the sixty-day period, the president of the board shall forthwith appoint a person to fill the vacancy. The appointment shall be evidenced by an appropriate entry in the minutes of the meeting and the board shall cause a certificate of appointment to be delivered to the person so appointed. A duplicate of each certificate of appointment shall be forwarded to the department of education.

(3) If the vacancy occurs more than ninety days prior to the next regular biennial school election and the unexpired term is for more than two years, an appointee to the office of school director shall serve until the next regular biennial school election when the successor for the remainder of the term is elected and has qualified. If the vacancy occurs within the ninety-day period prior to a regular biennial school election and the unexpired term is for more than two years, an appointee to the office of school director shall serve until the next succeeding regular biennial school election when a successor for the remainder of the term is elected and has qualified. Except as otherwise provided in this subsection (3), an appointee to the office of school director shall serve for the remainder of the unexpired term.

(4) Whenever the filling of a vacancy, as provided in subsection (3) of this section, causes terms of different duration to be open at the time of the regular election in a school district which has an at-large plan of representation or a combined director district and at-large plan of representation, candidates running at large shall designate the term for which they are running in accordance with section 1-4-803 (3), C.R.S.

**Source: L. 64:** p. 611, § 29. **C.R.S. 1963:** § 123-31-29. **L. 71:** p. 1167, § 1. **L. 73:** p. 1285, § 3. **L. 75:** (1)(g) amended, p. 928, § 35, effective July 1; (1)(h) amended, p. 692, § 15, effective July 1. **L. 77:** (3) amended, p. 1048, § 1, effective July 1. **L. 92:** Entire article amended, p. 834, § 31, effective January 1, 1993. **L. 93:** (4) amended, p. 1782, § 47, effective June 6. **L. 95:** (1)(g) amended, p. 1100, § 26, effective May 31. **L. 96:** (3) amended, p. 1766, § 57, effective July 1. **L. 99:** (1)(d) and (4) amended, p. 474, § 7, effective April 30. **L. 2006:** (1)(b) amended, p. 1023, § 4, effective May 25. **L. 2010:** (1)(g) amended, (SB 10-175), ch. 188, p. 793, § 47, effective April 29.

**22-31-130. School election offenses. (Deleted by amendment)**

**Source: L. 64:** p. 613, § 30. **C.R.S. 1963:** § 123-31-30. **L. 74:** Entire section amended, p. 371, § 8, effective March 21. **L. 77:** Entire section amended, p. 280, § 26, effective June 29. **L.**

**80:** Entire section amended, p. 439, § 4, effective January 1, 1981. **L. 92:** Entire article amended, p. 835, § 31, effective January 1, 1993.

**22-31-131. Election procedures in districts composed of a city and county.** (1) The regular biennial school election in each school district coterminous with a city and county shall be held on the first Tuesday in November of each odd-numbered year, shall be conducted and supervised by the election commission of the city and county, and shall be governed by the provisions of articles 1 to 13 of title 1, C.R.S.

(1.5) (a) The general assembly hereby finds and declares that:

(I) In enacting section 7 of article XX of the state constitution, the people of the state of Colorado recognized the uniqueness of the city and county of Denver and provided for the city and county of Denver to constitute a single school district, district number 1;

(II) Section 7 of article XX of the state constitution, provides that the conduct, affairs, and business of district number 1 for the city and county of Denver be in the hands of a board of education consisting of such numbers and elected in such manner as the general school laws of the state shall provide;

(III) The principle of shared decision-making by the board of education, the individual school, and the parents of children enrolled in the individual school is being stressed in district number 1;

(IV) All communities of district number 1, especially the parents of pupils enrolled in the district, should be represented on the board of education and the views of such communities will be better represented if five of the seven members of the board of education are elected under a director district plan of representation;

(V) Such a director district plan of representation for district number 1 would promote accountability of members of the board of education of district number 1 to the needs of their constituents.

(b) (I) On and after January 1, 1993, each school district coterminous with a city and county shall elect a seven-member board of education with one eligible elector elected from each of five director districts and two eligible electors elected from the district at large. Directors elected from each of the five director districts shall be voted on by the eligible electors residing within the director district only, but the two directors elected at large shall be voted on by the electors of the entire district. Directors shall be elected for four-year terms.

(II) (Deleted by amendment, L. 2004, p. 195, § 14, effective August 4, 2004.)

(c) (I) (Deleted by amendment, L. 2004, p. 195, § 14, effective August 4, 2004.)

(II) The board of education for school district number 1 shall provide for the revision of the director district boundaries following each federal census.

(1.7) (Deleted by amendment, L. 2004, p. 195, § 14, effective August 4, 2004.)

(2) to (11) (Deleted by amendment, L. 92, p. 835, § 31, effective January 1, 1993.)

(12) (a) (Deleted by amendment, L. 2006, p. 606, § 23, effective August 7, 2006.)

(b) and (c) (Deleted by amendment, L. 2004, p. 195, § 14, effective August 4, 2004.)

**Source: L. 64:** p. 613, § 31. **C.R.S. 1963:** § 123-31-31. **L. 70:** p. 179, § 28. **L. 74:** (1) R&RE and (4) amended, p. 372, §§ 9, 10, effective March 21. **L. 75:** Entire section R&RE, p. 693, § 16, effective July 1. **L. 87:** (2) amended, p. 315, § 49, effective July 1. **L. 92:** (1.5) added and (3), (4), and (6) amended, p. 479, § 2, effective June 4; entire article amended, p. 835, § 31,

effective January 1, 1993. **L. 93:** (1.5)(b)(I) amended, p. 1782, § 48, effective June 6; (1.5)(c)(I)(D) and (1.5)(c)(I)(E) amended, p. 1460, § 5, effective June 6. **L. 94:** (1), (1.5)(c)(I)(A), (1.5)(c)(I)(C), (1.5)(c)(I)(D), and (1.5)(c)(I)(E) amended and (1.7) added, p. 1181, § 79, effective July 1. **L. 99:** (1.5)(c)(II) amended and (12) added, p. 475, § 8, effective April 30. **L. 2004:** (1), (1.5)(b)(II), (1.5)(c), (1.7), and (12) amended, p. 195, § 14, effective August 4. **L. 2006:** (1.5)(c)(II) and (12)(a) amended, p. 606, § 23, effective August 7.

**Editor's note:** (1) Amendments to subsection (1.5) by Senate Bill 92-175 and House Bill 92-1333 were harmonized.

(2) Subsections (3), (4), and (6) were amended by Senate Bill 92-175. Those amendments were superseded by the amendment of the entire article by House Bill 92-1333.

**22-31-132. Article not applicable to local district colleges.** This article shall not apply to local college districts, unless the local district college board of trustees elects to participate in the regular biennial school election, as provided in section 23-71-110 (5) and (7), C.R.S.

**Source: L. 64:** p. 616, § 35. **C.R.S. 1963:** § 123-31-32. **L. 67:** p. 192, § 2. **L. 75:** Entire section amended, p. 786, § 4, effective July 1. **L. 86:** Entire section amended, p. 844, § 1, effective July 1. **L. 92:** Entire article amended, p. 837, § 31, effective January 1, 1993. **L. 93:** Entire section amended, p. 1782, § 49, effective June 6.

**22-31-133. Present school directors not removed.** This article shall not be construed to remove any school director from office during the term for which the officer was elected or appointed, but shall apply to the election and appointment of directors after July 1, 1964.

**Source: L. 64:** p. 616, § 37. **C.R.S. 1963:** § 123-31-34. **L. 92:** Entire article amended, p. 837, § 31, effective January 1, 1993.

**22-31-134. Validation.** All school elections and all acts and proceedings had or taken, or purportedly had or taken, prior to June 2, 1971, by or on behalf of any school district, under law or under color of law, preliminary to and in the holding and survey of all school elections are hereby validated, ratified, approved, and confirmed, notwithstanding any lack of power, authority, or otherwise, and notwithstanding any defects or irregularities in such elections, acts, and proceedings.

**Source: L. 71:** p. 1151, § 10. **C.R.S. 1963:** § 123-31-35. **L. 92:** Entire article amended, p. 837, § 31, effective January 1, 1993.

## ARTICLE 32

School District Boards - Powers
and Duties

**Cross references:** For standards of conduct for directors, see article 18 of title 24; for authority for a school district to operate a system of public recreation and playgrounds and television relay translator facilities, see § 29-7-102.

**Law reviews:** For article, "Drug Testing of Student Athletes: Some Contract and Tort Implications", see 67 Den. U. L. Rev. 279 (1990).

**22-32-101. Corporate status of school districts.** Each regularly organized school district heretofore or hereafter formed is declared to be a body corporate with perpetual existence, and in its name it may hold property for any purpose authorized by law, sue and be sued, and be a party to contracts for any purpose authorized by law.

**Source: L. 64:** p. 573, § 1. **C.R.S. 1963:** § 123-30-1.

**22-32-102. Corporate status - when questioned.** Except when the corporate status of a school district has been dissolved as provided by law, each school district which has undisputedly exercised the prerogatives and privileges of a legally formed school district during a period of twelve consecutive months following the first election of its school directors shall be deemed to be a de jure school district, and the corporate status thereof shall not thereafter be questioned.

**Source: L. 64:** p. 573, § 2. **C.R.S. 1963:** § 123-30-2.

**22-32-103. Board of education - general powers and duties.** (1) Each school district shall be governed by a board of education consisting of the number of school directors prescribed by law. Such board of education shall possess all powers delegated to a board of education or to a school district by law, and shall perform all duties required by law.

(2) Each school director shall have access to all school records at all times.

**Source: L. 64:** p. 573, § 3. **C.R.S. 1963:** § 123-30-3.

**Cross references:** For district liability for tuition and limitations concerning same, see § 22-32-115.

**22-32-104. Organization of board of education.** (1) Within fifteen days after a school district receives the official abstract of votes pursuant to section 1-10-102, C.R.S., the incumbent secretary of the school district shall call a special meeting of the board of education of the district for the purpose of selecting officers of the board. At the meeting the incumbent president of the board shall preside until a successor has been elected and qualified.

(2) The officers of a board of education of a school district shall be a president, a vice-president, a secretary, and a treasurer, and, at the discretion of the board, an assistant secretary and an assistant treasurer. One person may simultaneously hold the offices of secretary and treasurer, or the offices of assistant secretary and assistant treasurer if there be such offices.

(3) The president and vice-president shall be members of the board, shall be elected by a majority of the board, and shall each hold office for a term of two years and until a successor has

been elected and qualified. Whenever a vacancy occurs in either office, the remaining members of the board shall elect a successor to fill the vacancy for the unexpired term. A vacancy shall occur in either office under the same conditions and in the same manner prescribed for a vacancy occurring in the office of a school director. Whenever a vacancy occurs in the office of a school director who is also president or vice-president of the board, nothing contained in this section shall be construed to mean that the person appointed to fill the vacant office of school director shall also be entitled to serve as such officer of the board.

(4) (a) The secretary and treasurer, and the assistant secretary and assistant treasurer if there be such offices, shall be appointed by the board. They may or may not be members of the board and shall hold their offices at the pleasure of the board.

(b) Except as provided in paragraph (d) of this subsection (4), no person shall enter upon the office of secretary or treasurer, or assistant secretary or assistant treasurer if there are such offices, until he or she has given a surety bond, in form satisfactory to the board, in the amount of five thousand dollars, conditioned upon the faithful performance of his or her duties as required by law and prescribed by the bylaws of the board of education. In addition, except as provided in paragraph (d) of this subsection (4), the treasurer, and the assistant treasurer if there be such office, shall give bond in such further amount, in such form, and for such purposes as the board may require.

(c) The board may also appoint and authorize any other person to act as custodian of moneys belonging to the district. Except as provided in paragraph (d) of this subsection (4), such person shall give surety bonds, in such amount and form and for such purposes as the board may require.

(d) In lieu of the bonds required by paragraphs (b) and (c) of this subsection (4), a school district may purchase crime insurance coverage on behalf of the officers and employees to protect the school district from any malfeasance on the part of the officer while in office or employees.

(5) The secretary, assistant secretary, treasurer, and assistant treasurer may be compensated for their services in such capacities in an amount determined by the board of education, but the president and vice-president shall receive no compensation for their services in such capacities. All officers shall be reimbursed for necessary expenses incurred in the performance of their duties in an official capacity.

**Source: L. 64:** p. 574, § 4. **C.R.S. 1963:** § 123-30-4. **L. 77:** (4)(c) added, p. 575, § 4, effective June 10. **L. 94:** (1) amended, p. 1187, § 80, effective July 1. **L. 2006:** (1) amended, p. 1024, § 5, effective May 25. **L. 2007:** (1) amended, p. 1984, § 39, effective August 3. **L. 2016:** (4)(b) and (4)(c) amended and (4)(d) added, (HB 16-1013), ch. 28, p. 64, § 1, effective March 18.

**22-32-105. Duties - president and vice-president.** (1) The president of the board shall preside at all meetings of the board. He shall sign any written contract to which the school district may be a party when such contract has been authorized by the board, and he shall sign all official reports of the district except when otherwise provided by law.

(2) In the absence or inability of the president, the vice-president shall have and perform all of the powers and duties of the president.

**Source: L. 64:** p. 575, § 5. **C.R.S. 1963:** § 123-30-5.

**22-32-106. Duties - secretary.** (1) The secretary of the board shall cause written notice to be given to each member of the board of all special meetings of the board. He shall cause minutes of each meeting of the board to be kept and preserved. He shall cause all notices of election to be published and posted when so required by law. He shall be custodian of the seal of the district, shall attest any written contract to which the district may be a party when such contract has been authorized by the board, and shall affix the seal thereto. He shall perform such other duties as may be assigned to him by the board.

(2) In the absence or inability of the secretary, the assistant secretary, if any, or an officer of the board designated by the president if there is no assistant secretary, shall perform the duties of the secretary.

**Source: L. 64:** p. 575, § 6. **C.R.S. 1963:** § 123-30-6.

**22-32-107. Duties - treasurer.** (1) The treasurer of the board shall account for all moneys belonging to the district, or coming into its possession, and shall render a report thereof when so required by the board.

(2) In all cases where moneys belonging to a district remain in the custody of the county treasurer, all warrants or orders drawn on the county treasurer in payment of lawfully incurred and properly authorized obligations of the district shall bear the written or facsimile signature of the treasurer of the board and, if required by the board, the written countersignature of any other person designated by the board.

(3) In all cases where the moneys belonging to a district are withdrawn from the custody of the county treasurer, such withdrawn moneys and all other moneys belonging to the district shall be deposited by the treasurer of the board or such other custodians authorized and appointed by the board to the credit of the district in one or more depositories designated by the board. All checks in payment of lawfully incurred and properly authorized obligations of the district drawn on any such depository shall bear the written or facsimile signature of the treasurer or custodian and, if required by the board, the written countersignature of any other person designated by the board.

(4) The board, by appropriate resolution, may authorize the treasurer or any custodian employed by the district to deposit, or cause to be deposited, any moneys derived from food services or operation of a lunchroom or from other school activities or any other moneys received by the district, in such depository as it may designate, and may likewise authorize the treasurer or custodians employed by the district to sign checks drawn on any such depository in payment of lawfully incurred and properly approved expenditures.

(5) The treasurer shall perform such other duties as may be assigned to him by the board.

(6) In the absence or inability of the treasurer, the assistant treasurer, if any, or an officer of the board designated by the president, if there is no assistant treasurer or other custodians appointed by the board, shall perform the duties of the treasurer.

**Source: L. 64:** p. 575, § 7. **C.R.S. 1963:** § 123-30-7. **L. 77:** (3), (4), and (6) amended, p. 575, § 5, effective June 10.

**22-32-108. Meetings of the board of education - legislative intent.** (1) Regular meetings of the board of education of a school district shall be held at the time and place provided for in its bylaws. Special meetings may be called by the president at any time, and shall be called by him upon written request of a majority of the members of the board.

(2) (a) The secretary of the board shall cause written notice of any special meeting to be mailed or delivered to each member of the board stating the time, place, and purpose of the meeting; if the notice is delivered, it shall be in the hands of the member no later than twenty-four hours prior to the hour set for the meeting, and if it is mailed, it shall be mailed no later than seventy-two hours prior to the hour set for the meeting.

(b) Notwithstanding any provision of paragraph (a) of this subsection (2) to the contrary, if the department of education determines that a school district is rural, based on the geographic size of the school district and the distance of the school district from the nearest large, urbanized area, and the school district enrolls six thousand five hundred or fewer students in kindergarten through twelfth grade, the secretary of the board for the school district may comply with the provisions of paragraph (a) of this subsection (2) by delivering the written notice of a special meeting to each board member by electronic mail at least twenty-four hours before the hour set for the meeting.

(3) Any member may waive notice of the time, place, and purpose of a special meeting at any time before, during, or after such meeting, and attendance thereat shall be deemed to be a waiver.

(4) At any special meeting, no business other than that stated in the notice of said meeting shall be transacted, unless all members are present and shall consent to consider and transact other business.

(5) (a) All regular and special meetings of the board shall be open to the public, but the board may require any person who disturbs good order to leave. At any regular or special meeting the board may proceed in executive session in accordance with the requirements of this paragraph (a) and paragraph (d) of this subsection (5). Only those persons invited by the board may be present during executive session, and the board shall not make final policy decisions while in executive session. At the special meeting of the board called pursuant to section 22-32-104 (1), each board member shall sign an affidavit stating that the board member is aware of and will comply with the confidentiality requirements and restrictions applicable to executive sessions of the board, as described in section 24-6-402, C.R.S., regardless of whether the board member participates in the executive session in person or electronically in accordance with the board policy adopted pursuant to subsection (7) of this section. The school district shall keep and preserve the affidavits with the minutes of board meetings and other board documents.

(b) The board shall make a recording of each regular and special meeting of the board at which votes are taken and recorded and shall make the recording available to the public. The board, at its discretion, shall use appropriate technology that is available within the school district at the time the recording is made and shall, at a minimum, make an audio recording. An individual or entity may request a copy of a recording and shall pay the costs the board incurs in providing the copy, pursuant to section 24-72-205, C.R.S.

(c) The board shall institute a policy requiring, at a minimum, retaining recordings of board meetings made pursuant to this subsection (5) for a minimum of ninety days.

(d) In the case of a meeting of a board of education during which an executive session is held, the minutes of the meeting must indicate the topic of the discussion at the executive session

as well as the amount of time each topic was discussed while the board was meeting in executive session. The minutes along with the amount of time each topic was discussed must be posted on the website of the board not later than ten business days following the meeting at which the minutes are approved by the board. If the board does not maintain a website, the minutes must be published in the same manner as the board regularly provides public notice. The board shall comply with all other requirements pertaining to the holding of a meeting in executive session including, without limitation, those specified in section 24-6-402 (2)(d.5)(II)(A), C.R.S.

(e) Notwithstanding section 24-6-402 (2)(d.5)(II)(E), C.R.S., the record of an executive session of a board of education that is electronically recorded pursuant to section 24-6-402 (2)(d.5)(II)(A), C.R.S., including, without limitation, the actual electronic recording of the executive session, must be retained for at least ninety days after the date of the executive session.

(6) All voting at any meeting shall be by roll call. The names of the members shall be called alphabetically, and each member present shall orally vote "Aye" or "No" upon each question unless excused from voting by the board for good cause. Election of the president and vice-president may be by secret ballot.

(7) (a) The board may adopt a policy authorizing board members to attend and participate in regular or special meetings electronically. At a minimum, the policy must ensure that a meeting at which one or more board members participate electronically is open to the public and that the members who participate electronically are included in the recording made in accordance with paragraph (b) of subsection (5) of this section. A member who participates electronically in conformance with the policy is considered present for purposes of subsections (4) and (6) of this section.

(b) It is the intent of the general assembly that a board that adopts a policy authorized in subsection (7)(a) of this section to allow board members to attend and participate electronically in regular or special board meetings ensures that the policy:

(I) Requires a quorum of the board, including members physically present and members attending electronically, to convene a meeting;

(II) Allows members of the board to attend the meeting electronically only when there are extenuating circumstances, as described in the board's policy;

(III) Leaves discretion to the board to decide the maximum number of board meetings that a member may attend electronically before the member's position is declared to be vacant;

(IV) Requires the board to have technology in place that ensures that members of the public can hear the comments made by a board member who attends the meeting electronically and that the board member can hear comments made by the public;

(V) Clearly describes the methods by which a board member may attend a meeting electronically, which methods may include attendance via telephone, video conferencing, or other electronic means; and

(VI) Requires the board to have a procedure in place to ensure that a board member who attends the meeting electronically has real-time access to any materials that are presented and available to members who are physically present at the meeting.

**Source: L. 64:** p. 576, § 8. **C.R.S. 1963:** § 123-30-8. **L. 2009:** (5) amended, (HB 09-1082), ch. 67, p. 234, § 1, effective August 5. **L. 2013:** (5)(a) amended and (7) added, (SB 13-015), ch. 52, p. 175, § 1, effective August 7. **L. 2014:** (5)(a) amended and (5)(d) and (5)(e) added, (SB 14-182), ch. 393, p. 1985, § 1, effective June 6. **L. 2015:** (2) amended, (HB 15-

1321), ch. 217, p. 798, § 5, effective May 22. **L. 2020:** IP(7)(b), (7)(b)(I), (7)(b)(IV), and (7)(b)(V) amended and (7)(b)(VI) added, (HB 20-1301), ch. 25, p. 91, § 1, effective March 18.

**22-32-108.5. Board of education - distribution of additional mill levy revenue - definitions - legislative declaration.** (1) (a) The general assembly recognizes that section 15 of article IX of the state constitution grants to each school district board of education control of instruction in the schools of the school district. The power of local control of instruction applies to all of the schools of the school district and therefore imposes on the school district board of education the responsibility to ensure the equitable treatment of all of the students enrolled in all of the schools of the school district.

(b) The general assembly further finds that section 2 of article IX of the state constitution requires the general assembly to provide for the maintenance of a thorough and uniform system of free public schools throughout the state. Requiring each school district board of education to equitably use and distribute its resources to meet the needs of all students enrolled in all of the schools of the school district supports greater uniformity in providing public education services within each school district and throughout the state.

(c) The general assembly finds, therefore, that each school district board of education has the duty to ensure that the school district uses and allocates its resources in a manner that results in the equitable treatment of all students enrolled in the school district, according to their individual needs, regardless of the type of school of the school district in which each student is enrolled.

(2) As used in this section, unless the context otherwise requires:

(a) "Additional mill levy revenue" means the amount of property tax revenue that a school district collects from mills that are authorized by voters before, on, or after June 2, 2017, and that a school district levies in addition to the school district's total program mill levy established in section 22-54-106 (2) or (2.1), whichever is applicable, not including mills that a school district may levy for purposes of incurring or repaying bonded indebtedness or for paying amounts due pursuant to installment sales agreements or lease purchase agreements entered into as of June 2, 2017, for which additional mill levy revenue was contractually committed as of June 2, 2017.

(b) "Alternative education campus" means a public school that is designated by the state board of education as an alternative education campus pursuant to section 22-7-604.5.

(c) "Charter school" means a charter school authorized by a school district as provided in part 1 of article 30.5 of this title 22.

(d) "Innovation school" means a school in which a local school board implements an innovation plan as provided in section 22-32.5-104 or a school that is included in an innovation school zone, as defined in section 22-32.5-103.

(e) "Local school board" means the school district board of education of a participating school district.

(f) "Participating school district" means a school district that, on or after June 2, 2017:

(I) Collects additional mill levy revenue; and

(II) Is designated as a school district of innovation as provided in article 32.5 of this title 22 or authorizes at least one charter school as provided in part 1 of article 30.5 of this title 22.

(g) "Per pupil mill levy share" means an amount equal to the total amount of additional mill levy revenue that a participating school district collects for a budget year divided by the school district's funded pupil count, as defined in section 22-54-103, for that budget year.

(h) "Per pupil program share" means an amount equal to the amount of additional mill levy revenue allocated to a program in a participating school district's plan, divided by the total number of students enrolled in the schools of the participating school district who are eligible to participate in the program, multiplied by the number of eligible students enrolled in a charter school or school of innovation that chooses to receive the per pupil program share in lieu of participating in the program.

(i) "Plan" means the plan for using and distributing additional mill levy revenue as described in this section that is adopted by a local school board.

(j) "Type" means the status of a school of the school district as a traditional, charter, innovation, or magnet school or as operating under some other organizational or governance structure. "Type" does not include a school's status as an alternative education campus or other alternative high school or status based on the grade levels the school serves or the type of performance plan the school operates under as described in part 4 of article 11 of this title 22.

(3) For the 2019-20 budget year and for each budget year thereafter, the local school board of each participating school district shall either implement a plan for using and distributing the additional mill levy revenue that the participating school district collects for each budget year, as described in subsection (4) of this section, or distribute to each charter school and innovation school of the participating school district an amount equal to at least ninety-five percent of the participating school district's per pupil mill levy share for the applicable budget year multiplied by the number of students enrolled in the charter school or the innovation school for the applicable budget year, as described in subsection (5) of this section.

(4) (a) A local school board that chooses to adopt a plan must adopt the plan by July 1, 2018. Subject to statutory limits or requirements that apply to specific mill levy authorizations and any purposes specifically approved by voters in approving additional mill levy revenue, the plan must ensure that the additional mill levy revenue is distributed to, or otherwise used for programs that benefit, the schools of the participating school district based on meeting the needs of and equitably supporting the education of all of the students enrolled in all of the schools of the participating school district, regardless of the type of school in which each student is enrolled. For each program included in the plan, a charter school or innovation school may choose to receive the per pupil program share in lieu of participating in the program, in which case the participating school district shall distribute to the charter school or innovation school the per pupil program share. The charter school or innovation school shall use the per pupil program share to provide a program or services, as selected by the charter school or innovation school, to benefit the students for whom it received the per pupil program share. The local school board shall ensure that the determination of the amount of additional mill levy revenue that a school of the participating school district receives as a distribution or through participation in a program is not based on and does not take into account the school's type. The local school board shall ensure that equitable distribution of the additional mill levy revenue is fully implemented in the 2019-20 budget year and in each budget year thereafter.

(b) Through the plan, a local board of education may use the additional mill levy revenue to provide additional per pupil funding to students enrolled in alternative education campuses, students who qualify for free or reduced-price meals under the federal "Richard B.

Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq., students identified as English language learners pursuant to section 22-24-105, and students who have individualized education programs under part 1 of article 20 of this title 22, so long as the amount distributed for the benefit of each student is the same regardless of the type of school in which the student is enrolled.

(c) Each plan must require the local school board to equitably distribute all of the participating school district's additional mill levy revenue that is not distributed for specific programs or student populations, as provided in subsections (4)(a) and (4)(b) of this section, to the schools of the participating school district in direct proportion to the number of students enrolled in each school. The distribution must include all of the schools of the participating school district without regard to type of school.

(d) Each plan must:

(I) Identify the amount of additional mill levy revenue that the participating school district spends on administrative services or other district-level uses as specifically authorized in this subsection (4);

(II) Describe each of the administrative services or other district-level uses; and

(III) Specify how the administrative services or other district-level uses benefit all of the students enrolled in the schools of the participating school district.

(e) Each local school board that adopts a plan shall periodically review the plan and update it as necessary to ensure that the additional mill levy revenue that the participating school district collects is equitably distributed as provided in subsections (4)(a) to (4)(c) of this section to the schools of the participating school district to benefit all of the students enrolled in all of the schools of the participating school district.

(f) Notwithstanding any provision of this subsection (4) to the contrary, a local school board may, but is not required to, distribute a portion of the additional mill levy revenue to a multi-district online school of the participating school district.

(5) (a) Beginning in the 2019-20 budget year and in each budget year thereafter, the local school board of a participating school district that chooses not to adopt a plan shall distribute to each charter school and innovation school of the participating school district an amount equal to at least ninety-five percent of the participating school district's per pupil mill levy share for the applicable budget year multiplied by the number of students enrolled in the charter school or the innovation school for the applicable budget year. In counting the number of pupils enrolled in a charter school or innovation school, the school district shall count a pupil enrolled in kindergarten or in a preschool program as at least a half-day pupil and may, at the school district's discretion, count a pupil who is included in the school district's online pupil enrollment, as defined in section 22-54-103.

(b) If a local school board has in place or adopts a written policy that directs the participating school district to distribute any portion of its additional mill levy revenue to specifically benefit students enrolled in alternative education campuses, students who qualify for free or reduced-price meals under the federal "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq., students who are identified as English language learners under section 22-24-105, or students who have individualized education programs under part 1 of article 20 of this title 22, the participating school district may continue distributing the revenue for these purposes, so long as:

(I) The amount distributed for each student is the same regardless of the type of school in which the student is enrolled; and

(II) The participating school district distributes any amount of additional mill levy revenue that remains after distribution for these purposes in accordance with subsection (5)(a) of this section.

(6) If a local school board distributes a portion of the total additional mill levy revenue that it collects for the 2016-17 budget year to the charter schools or innovation schools of the participating school district by percentage, by distribution of a per pupil amount, or by a combination of percentage and per pupil amount, the local school board shall ensure that the percentage of the total additional mill levy revenue and the per pupil amount that is distributed to the charter schools and innovation schools of the participating school district is not reduced for the 2017-18 and 2018-19 budget years. An authorizing school district or the charter school may renegotiate contract provisions concerning services or fees for services as a material revision to the charter contract, subject to the provisions of section 22-30.5-105 (4), which renegotiation shall not include negotiations regarding reauthorization of the charter school.

(7) The amount of additional mill levy revenue that a charter school receives pursuant to this section is in addition to the amount of money that the charter school receives from the school district pursuant to part 1 of article 30.5 of this title 22. The amount of additional mill levy revenue that an innovation school receives pursuant to this section is in addition to any amount of money that the innovation school receives through the school's innovation plan as provided in article 32.5 of this title 22.

(8) Notwithstanding any provision of this section to the contrary, if a school district authorizes a charter school that is physically located within the geographic boundaries of another school district, the chartering school district is not required to include in the plan described in subsection (4) of this section or in the distribution described in subsection (5) of this section any amount of additional mill levy revenue for students who are enrolled in the charter school but do not reside within the boundaries of the school district.

(9) Beginning July 1, 2018, each participating school district shall:

(a) If the local school board chooses to adopt a plan, post a copy of the plan on the participating school district's website as provided in section 22-44-304 and annually update the plan as necessary; or

(b) If the local school board chooses not to adopt a plan, for the 2018-19 budget year, post a statement of intent to distribute the additional mill levy revenue as provided in subsection (5) of this section and, for the 2019-20 budget year and annually for each budget year thereafter, post the total amount of additional mill levy revenue collected by the participating school district for each property tax year, the amount distributed to support specific student populations as described in subsection (5)(b) of this section, and the total amount distributed to support said student populations and on a per-pupil basis to each charter school and innovation school, as a percentage and as a dollar amount.

(10) A charter school that receives any amount of additional mill levy revenue pursuant to this section shall ensure that the charter school admissions policy is in compliance with section 22-30.5-104 (3).

**Source: L. 2017:** Entire section added, (HB 17-1375), ch. 287, p. 1586, § 1, effective June 2. **L. 2020:** (2)(a) amended, (HB 20-1418), ch. 197, p. 953, § 35, effective June 30.

**Cross references:** For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

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

(a) To adopt written bylaws, not inconsistent with law, for its organization and operation;

(b) To adopt policies and prescribe rules and regulations necessary and proper for the efficient administration of the affairs of the district, including procedures for competitive bidding in the purchase of goods and services, except professional services, for the district;

(c) To cause a true and correct copy of all current bylaws, policies, and rules and regulations adopted or prescribed by the board to be made available for public inspection at the administrative office of the district during reasonable business hours;

(d) To cause to be filed with the department of education the name, address, and length of term of office of each school director; and the name, address, identification of office, and date of election or appointment of the president, vice-president, secretary, and treasurer, and of the assistant secretary and assistant treasurer if there are such offices;

(e) To cause minutes of all proceedings of the board, except those of an executive session, to be recorded in convenient form, which record shall be open for public inspection at the administrative office of the district during reasonable business hours;

(f) (I) To employ all personnel required to maintain the operations and carry out the educational program of the district and to fix and order paid their compensation. Prior to the employment of any person, the board shall make an inquiry to the department of education in accordance with the provisions of section 22-32-109.7 (1). A board of a district of innovation, as defined in section 22-32.5-103 (2), may delegate the duty specified in this paragraph (f) to an innovation school, as defined in section 22-32.5-103 (3), or to a school in an innovation school zone, as defined in section 22-32.5-103 (4).

(II) and (III) Repealed.

(g) To require any employee or other person who may receive into his custody moneys which properly belong to the district to deliver such moneys to the treasurer of the district, or to deposit such moneys in a depository designated by the board;

(h) To require each employee who is likely to have in his or her temporary custody at any one time an amount of school district moneys in excess of fifty dollars to be bonded in an amount at least sufficient to cover the amount of school district moneys which is likely to be in his or her temporary custody at any time, or to be bonded in such greater amount as the board may determine. A blanket form of surety bond may be utilized to cover more than one such employee. The district shall pay the costs for any such bonds. In lieu of the bonds required by this paragraph (h), the district may purchase crime insurance coverage to protect the district from any malfeasance on the part of such employee.

(i) To cause to be kept complete and accurate financial records of the school district by funds and accounts, maintained on the basis of generally recognized principles of governmental accounting;

(j) To cause to be kept the stubs of, or a register of, all warrants or orders drawn upon school district moneys in the various funds, showing the number of each warrant or order, the

date issued, the object or purpose for which drawn, the amount and to whom payable, or, in lieu thereof, similar records as normally provided in accounting procedures through the use of automatic processing;

(k) To cause a statement of the financial condition of the district to be published and posted as required by law, to cause all accounts to be audited as required by law, and to review from time to time during each fiscal year the financial position of the district;

(l) To cause all statements of account and all cancelled warrants and orders to be kept on file for six years;

(m) To cause such records as relate to the affairs or business of the district to be preserved and disposed of only in the manner provided by law;

(n) (I) To determine, prior to the end of a school year, the length of time which the schools of the district shall be in session during the next following school year, but in no event shall said schools be scheduled to have fewer than one thousand eighty hours of planned teacher-pupil instruction and teacher-pupil contact during the school year for secondary school pupils in high school, middle school, or junior high school or less than nine hundred ninety hours of such instruction and contact for elementary school pupils or fewer than four hundred fifty hours of such instruction for a half-day kindergarten program or fewer than nine hundred hours of such instruction for a full-day kindergarten program. In no case shall a school be in session for fewer than one hundred sixty days without the specific prior approval of the commissioner of education. In extraordinary circumstances, if it appears to the satisfaction of the commissioner that compliance with the provisions of this subparagraph (I) would require the scheduling of hours of instruction and contact at a time when pupil attendance will be low and the benefits to pupils of holding such hours of instruction will be minimal in relation to the cost thereof, the commissioner may waive the provisions of this subparagraph (I) upon application therefor by the board of education of the district.

(II) (A) The actual hours of teacher-pupil instruction and teacher-pupil contact specified in subparagraph (I) of this paragraph (n) may be reduced to no fewer than one thousand fifty-six hours for secondary school pupils, no fewer than nine hundred sixty-eight hours for elementary school pupils, no fewer than four hundred thirty-five hours for half-day kindergarten pupils, or no fewer than eight hundred seventy hours for full-day kindergarten pupils, for parent-teacher conferences, staff in-service programs, and closing deemed by the board to be necessary for the health, safety, or welfare of students.

(B) Prior to the beginning of the school year, each district shall provide for the adoption of a district calendar which is applicable to all schools within the district or shall provide for the adoption of a school calendar for each individual school within the district. The district calendar or individual school calendars may be adopted by the board of education, the district administration, the school administration, or any combination thereof. A copy of the calendar shall be provided to the parents or guardians of all children enrolled in schools within the district. Such calendar shall include the dates for all staff in-service programs scheduled for the school year. The board, district administration, or school administration shall allow for public input from parents and teachers prior to scheduling the dates for staff in-service programs. Any change in the calendar, excluding changes resulting from emergency closings or other unforeseen circumstances, shall be preceded by adequate and timely notice from the board, district administration, or school administration of not less than thirty days.

(o) When so directed by the state board of education, but no more often than once during any twelve-month period, to cause a census of all persons resident within the district who have not attained the age of twenty-one years, or any age group thereof, to be taken on a prescribed date, upon such forms as shall be supplied by the state board;

(p) To appoint an attendance officer as required by the "School Attendance Law of 1963", article 33 of this title;

(q) To cause to be prepared, executed, and filed with the state board of education any report required by law or by regulation;

(r) To comply with the rules and regulations adopted by the state board of education pursuant to article 4 of title 24, C.R.S.;

(s) To cause to be erected and maintained a suitable flagstaff with the attachments necessary for the display of flags upon the administration building or, if none, on the principal school building or the grounds thereof and to cause suitable flags of standard bunting, not less than three by five feet in size, of the United States and the state of Colorado to be displayed upon said flagstaff at all times during the day while school is in session, except during inclement weather;

(t) To determine the educational programs to be carried on in the schools of the district and to prescribe the textbooks for any course of instruction or study in such programs;

(u) To provide free textbooks for an indigent child enrolled in a school of the district without requiring a loss or damage deposit, and to insure that no child is denied the use of textbooks because of refusal of his parents to pay for the same;

(v) To cause an educational program to be maintained and operated within or, if the board makes a specific determination that such is necessary for the efficient operation of the district, outside the territorial limits of the district for the school-age children resident therein; but nothing in this paragraph (v) shall be construed in a manner to prohibit the maintenance of ungraded levels of instruction therein;

(w) and (x) Repealed.

(y) (I) To adopt written bylaws relating to conflicts of interest for members of a board of education of a school district.

(II) Upon filing a copy of the adopted written bylaws with the department of education and upon acknowledgment of receipt thereof by the department, a board shall be considered to be exempt from the requirements of section 18-8-308 (1) and (2), C.R.S. A board member not voting because of a disclosed conflict shall be exempt from the provisions of section 22-32-108 (6).

(III) The commissioner of education shall, in writing, notify the secretary of state of the exemption.

(z) To provide for a periodic in-service program for all district teachers which shall provide information about the "Child Protection Act of 1987", part 3 of article 3 of title 19, C.R.S., instruction designed to assist teachers in recognizing child abuse or neglect, and instruction designed to provide teachers with information on how to report suspected incidents of child abuse or neglect and how to assist the child-victim and his family;

(aa) To adopt and implement preschool through elementary and secondary education standards as required in part 10 of article 7 of this title;

(bb) (I) To adopt a policy mandating a prohibition against the use of all tobacco products on school property and at school-sponsored activities by students, teachers, staff, and visitors

pursuant to the provisions of section 25-14-103.5, C.R.S., and to adopt such rules as are necessary to enforce such prohibition; except that no such policy shall require the expulsion of any student solely for such tobacco use;

(II) To the extent funds are available, to operate and maintain an educational program to assist students, faculty, and staff to avoid and discontinue the use of tobacco at each school under the board's direction and control;

(cc) To adopt a dress code policy for teachers and other school employees;

(dd) To adopt and revise, as necessary, policies to remove barriers to access and success in school for homeless children;

(ee) To adopt a policy to prohibit school personnel from recommending or requiring the use of a psychotropic drug for any student. School personnel shall not test or require a test for a child's behavior without prior written permission from the parents or guardians or the child and prior written disclosure as to the disposition of the results or the testing therefrom. Through such policy, school personnel should be encouraged to discuss concerns about a child's behavior with the parent or legal guardian of such child and such discussions may include a suggestion by school personnel that the parent or legal guardian speak with an appropriate health care professional.

(ff) To adopt a policy on or before October 1, 2005, to:

(I) Provide on or before December 31 of each school year, the names and mailing addresses of students enrolled in the eighth grade to the Colorado commission on higher education for use in mailing the notice of postsecondary educational opportunities and higher education admission guidelines as required in section 23-1-119.1, C.R.S.; and

(II) Provide to the parent of a student enrolled in the eighth grade, prior to the student's enrollment in his or her ninth-grade courses, a list of courses the school district has available that satisfy the Colorado commission on higher education's higher education admission guidelines;

(gg) To include a provision in any contract entered into by the school district with a college preparation program operating within the school district that the college preparation program shall provide to the Colorado commission on higher education, on or before December 31 of each school year, a report specifying each student, by unique identifying number, to the extent permissible by federal law, who was enrolled in the program during the previous school year; who completed the program during the previous school year; and who enrolled in an institution of higher education within six months after completing the program. The provisions of this paragraph (gg) shall apply to contracts entered into or renewed on or after August 10, 2005.

(hh) To provide the opportunity for a student enrolled in a public school of the district to develop a plan for academic remediation upon the request of the student's parent or legal guardian;

(ii) To adopt a policy within ninety days after April 28, 2006, to ensure that the right of school district employees and students to display reasonably the flag of the United States shall not be infringed with respect to the display:

(I) On an individual's person; or

(II) On an individual's personal property or property that is under the temporary control of an employee or a student, including but not limited to a desk top or a locker;

(jj) To identify any areas in which one or more of the principals of the schools of the school district require further training or development. The board of education shall contract for

or otherwise assist the identified principals in participating in professional development programs to assist the identified principals in improving their skills in the identified areas.

(kk) (I) To undertake a community-based process to develop a blueprint for the education system in the community and to determine the skills students will need to be successful after graduation. Each board of education shall seek input from the community at large, which may include, but need not be limited to, students, parents, business persons, neighboring school districts, and regional boards of cooperative services. Each board of education shall use this blueprint, together with the guidelines for high school graduation requirements developed by the state board pursuant to section 22-2-106 (1)(a.5), to establish local high school graduation requirements applicable to students enrolling in ninth grade beginning in the 2014-15 school year. To assist the state board of education in fulfilling its duties under part 10 of article 7 of this title, each board of education shall provide to the state board of education information concerning the blueprint and the input received in developing the blueprint. A board of education that has undertaken a comprehensive community-based process and has revised its high school graduation requirements within the previous two years shall not be required to develop a new blueprint for the education system in its community or make any revisions to its high school graduation requirements.

(II) Each board of education shall report its blueprint for the education system in the community and its new or revised high school graduation requirements to the public through the accreditation process, as determined by the state board. In its report, the board of education shall demonstrate how its high school graduation requirements meet or exceed any minimum standards or core competencies or skills identified in the guidelines for high school graduation requirements developed by the state board pursuant to section 22-2-106 (1)(a.5).

(ll) (I) To adopt written policies specifying that:

(A) The schools in the district are subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, sex, sexual orientation, national origin, religion, ancestry, or need for special education services;

(B) Enrollment in a school in the district must be open to any child who resides within the state; except that a school is not required to make alterations in the structure of the facility used by the school or to make alterations to the arrangement or function of rooms within the facility, except as may be required by state or federal law; and

(C) Enrollment decisions shall be made in a nondiscriminatory manner.

(II) As used in this subsection (1)(ll):

(A) "Protective hairstyle" includes such hairstyles as braids, locs, twists, tight coils or curls, cornrows, Bantu knots, Afros, and headwraps.

(B) "Race" includes hair texture, hair type, or a protective hairstyle that is commonly or historically associated with race.

(mm) To adopt and implement policies as described in section 22-11-307 for accreditation of the public schools of the school district;

(nn) Repealed.

(oo) (I) To adopt policies to require each school of the school district, including the charter schools, to assist each student and his or her parent or legal guardian to develop and maintain the student's individual career and academic plan, referred to in this paragraph (oo) as an "ICAP", no later than the beginning of ninth grade. The board of education may require the schools of the school district to assist the student and his or her parent or legal guardian to

develop and maintain the student's ICAP in any grade prior to ninth grade. Each student's ICAP shall comply with the requirements specified in section 22-2-136 and the rules promulgated by the state board of education pursuant to said section.

(II) The board of education shall further require each school of the school district to assist each student who is enrolled in the school and has an ICAP to use the plan effectively to direct the student's course selections and performance expectations in at least grades nine through twelve; to assist the student in meeting his or her academic and career goals as described in the ICAP; and to enable the student to demonstrate postsecondary and workforce readiness prior to or upon graduation from high school at a level that allows the student to progress toward his or her postsecondary education goals, if any, without requiring remedial educational services or courses.

(III) At a minimum, each public school shall ensure that, in developing and maintaining each student's ICAP, the counselor or teacher explains to the student's parent or legal guardian, by electronic mail or other written form, and to the student:

(A) The requirements for and benefits of concurrently enrolling in courses with an institution of higher education pursuant to the "Concurrent Enrollment Programs Act", article 35 of this title 22. Based on a request from the student or the student's parent or legal guardian, the counselor or teacher shall assist the student in course planning to enable the student to concurrently enroll in courses with an institution of higher education.

(B) The various career pathways created pursuant to section 24-46.3-104 and the types of certificates and jobs to which each pathway leads; and

(C) The skills and educational opportunities available through military enlistment. In discussing military enlistment with a student and his or her parent, each public school is encouraged to provide to the student information concerning the military enlistment test.

(pp) To annually distribute to each district charter school and to each district employee informational materials relating to federal student loan repayment programs and student loan forgiveness programs, including updated materials, received from the department of education pursuant to section 22-2-112 (1)(t). In addition to annual distribution, each board shall distribute the informational materials to newly hired district employees as part of its employee orientation process. The board may distribute the informational materials to district employees through an e-mail to employees or as part of a mailing or regular communication to employees.

(2) Any board conducting a complete educational program outside the territorial limits of the district in accordance with the provisions of paragraph (v) of subsection (1) of this section shall obtain the written consent of the board of the school district in which said educational program is to be conducted prior to establishing said educational program. No board shall conduct a complete educational program outside the territorial limits of the district unless the geographic and topographical characteristics of the district make the conducting of such educational program within the territorial limits of the district unduly burdensome on the district and the students.

**Source: L. 64:** p. 577, § 9. **C.R.S. 1963:** § 123-30-9. **L. 73:** pp. 1254, 1274, 1314, §§ 6, 1, 7. **L. 74:** (1)(n) amended, p. 363, § 2, effective March 19. **L. 75:** (1)(w) amended, p. 702, § 2, effective July 1. **L. 77:** (1)(w) amended, p. 1049, § 1, effective May 16; (1)(n) amended, p. 1071, § 2, effective May 24. **L. 79:** (1)(v) amended and (2) added, p. 782, § 1, effective June 7; (1)(x) added, p. 784, § 1, effective July 1. **L. 80:** (1)(n) amended, p. 553, § 7, effective April 30. **L. 84:**

(1)(n) amended, p. 604, § 2, effective April 2; (1)(y) added, p. 594, § 1, effective July 1; (1)(z) added, p. 595, § 1, effective January 1, 1985. **L. 86:** (1)(n) amended, p. 801, § 2, effective July 1. **L. 87:** (1)(z) amended, p. 819, § 28, effective October 1. **L. 88:** (1)(n) R&RE, p. 811, § 9, effective May 24. **L. 90:** (1)(f) and IP(1)(x)(I) amended, p. 1029, § 18, effective July 1. **L. 93:** (1)(aa) added, p. 1048, § 5, effective June 3; (1)(n)(II) amended, p. 1336, § 1, effective June 6; (1)(w) amended, p. 451, § 2, effective July 1. **L. 94:** (1)(bb) added, p. 676, § 3, effective April 19. **L. 97:** (1)(aa) amended, p. 461, § 7, effective August 6. **L. 2000:** (1)(n)(II)(A) amended, p. 375, § 32, effective April 10; (1)(cc) added and (1)(w) and (1)(x) repealed, p. 1963, §§ 2, 3, effective June 2; (1)(f) amended, p. 1594, § 1, effective July 1. **L. 2001:** (1)(n)(I) and (1)(n)(II)(A) amended, p. 561, § 3, effective May 29; (1)(f)(II)(A) amended, p. 1271, § 25, effective June 5. **L. 2002:** (1)(f)(III) added, p. 189, § 1, effective April 3; (1)(dd) added, p. 206, § 6, effective July 1. **L. 2003:** (1)(f)(II) amended, p. 2178, § 1, effective June 3; (1)(ee) added, p. 2526, § 1, effective June 5. **L. 2005:** (1)(hh) added p. 520, § 2, effective May 24; (1)(ff) and (1)(gg) added, p. 444, § 1, effective August 8. **L. 2006:** (1)(ii) added, p. 701, § 51, effective April 28; (1)(jj) added, p. 1240, § 4, effective May 26. **L. 2007:** (1)(kk) added, p. 678, § 4, effective May 2. **L. 2008:** (1)(kk)(I) amended, p. 768, § 3, effective May 14; (1)(f)(I) amended, p. 1431, § 2, effective May 28; (1)(ll) added, p. 1601, § 23, effective May 29. **L. 2009:** (1)(mm) added, (SB 09-163), ch. 293, p. 1541, § 40, effective May 21; (1)(nn) added, (SB 09-256), ch. 294, p. 1557, § 16, effective May 21. **L. 2010:** (1)(kk)(I) amended, (HB 10-1013), ch. 399, p. 1912, § 34, effective June 10. **L. 2012:**(1)(nn) amended and (1)(oo) added, (HB 12-1345), ch. 188, p. 725, § 12, effective May 19; (1)(kk)(I) amended, (HB 12-1240), ch. 258, p. 1308, § 2, effective June 4; (1)(nn) amended, (HB 12-1043), ch. 209, p. 898, § 1, effective August 8. **L. 2014:** (1)(nn) and (1)(oo) amended, (HB 14-1363), ch. 302, p. 1265, § 15, effective May 31. **L. 2015:** (1)(aa) amended, (HB 15-1323), ch. 204, p. 724, § 33, effective May 20. **L. 2016:** (1)(h) amended, (HB 16-1013), ch. 28, p. 65, § 2, effective March 18. **L. 2017:** (1)(oo)(III) amended, (HB 17-1041), ch. 51, p. 161, § 2, effective August 9. **L. 2019:** (1)(pp) added, (SB 19-057), ch. 35, p. 114, § 5, effective August 2. **L. 2020:** IP(1) and (1)(ll) amended, (HB 20-1048), ch. 8, p. 17, § 6, effective September 14; (1)(nn) repealed, (HB 20-1396), ch. 138, p. 599, § 3, effective September 14.

**Editor's note:** (1) Subsection (1)(f)(II)(B) provided for the repeal of subsection (1)(f)(II), effective July 1, 2005. (See L. 2003, p. 2178.)

(2) Subsection (1)(f)(III)(B) provided for the repeal of subsection (1)(f)(III), effective July 1, 2005. (See L. 2002, p. 189.)

(3) Amendments to subsection (1)(nn) by House Bill 12-1043 and House Bill 12-1345 were harmonized.

(4) Section 13(2) of chapter 8 (HB 20-1048), Session Laws of Colorado 2020, provides that the act changing this section applies to conduct occurring on or after September 14, 2020.

**Cross references:** (1) For additional duties of local boards of education concerning the release of personal information of a student to military recruiting officers, see § 24-72-204.

(2) For the legislative declaration contained in the 2001 act amending subsections (1)(n)(I) and (1)(n)(II)(A), see section 1 of chapter 174, Session Laws of Colorado 2001. For the legislative declaration contained in the 2006 act enacting subsection (1)(jj), see section 7 of chapter 270, Session Laws of Colorado 2006. For the legislative declaration contained in the

2007 act enacting subsection (1)(kk), see section 1 of chapter 182, Session Laws of Colorado 2007. For the legislative declaration contained in the 2008 act enacting subsection (1)(ll), see section 1 of chapter 341, Session Laws of Colorado 2008. For the legislative declaration in the 2012 act amending subsection (1)(nn) and adding subsection (1)(oo), see section 11 of chapter 188, Session Laws of Colorado 2012.

(3) For the short title ("Creating a Respectful and Open World for Natural Hair Act of 2020" or the "CROWN Act of 2020") and the legislative declaration in HB 20-1048, see sections 1 and 2 of chapter 8, Session Laws of Colorado 2020.

**22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements - school response framework - school resource officers - definitions.** (1) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "Action taken" means a specific type of discipline, including but not limited to the following categories of discipline:

(I) In-school suspension;

(II) Out-of-school suspension;

(III) Classroom removal in accordance with board policy;

(IV) Expulsion;

(V) Referral to law enforcement; or

(VI) Any other form of discipline, which shall be officially identified as part of a board policy.

(b) "Bullying" means any written or oral expression, or physical or electronic act or gesture, or a pattern thereof, that is intended to coerce, intimidate, or cause any physical, mental, or emotional harm to any student. Bullying is prohibited against any student for any reason, including but not limited to any such behavior that is directed toward a student on the basis of the student's academic performance or against whom federal and state laws prohibit discrimination upon any of the bases described in section 22-32-109 (1)(ll)(I)(A). This definition is not intended to infringe upon any right guaranteed to any person by the first amendment to the United States constitution or to prevent the expression of any religious, political, or philosophical views.

(b.5) "Community partners" means, collectively, local fire departments, state and local law enforcement, local 911 agencies, interoperable communications providers, the safe2tell program described in section 24-31-606, C.R.S., local emergency medical service personnel, local mental health organizations, local public health agencies, local emergency management personnel, local or regional homeland security personnel, and school resource officers.

(c) "Dangerous weapon" has the same meaning as set forth in section 22-33-102 (4).

(d) "Full-time teacher" means a person who is licensed pursuant to article 60.5 of this title, or is authorized pursuant to section 22-60.5-111 to teach, and is primarily engaged in teaching during a majority of the instructional minutes per school day.

(e) "Habitually disruptive student" has the same meaning as set forth in section 22-33-106 (1)(c.5).

(e.5) "Law enforcement" includes any law enforcement agency, law enforcement officer, or school resource officer.

(f) (I) "Referral to law enforcement" means a communication between a school administrator, teacher, or other school employee and law enforcement that:

(A) Is initiated by the school administrator, teacher, or other school employee; and

(B) Concerns behavior by a student that the school administrator, teacher, or other school employee believes may constitute a violation of the school conduct and discipline code or a criminal or delinquent offense and for which the school administrator, teacher, or other school employee requests an investigation or other involvement by law enforcement.

(II) "Referral to law enforcement" does not include:

(A) Contact with law enforcement that is made for the purpose of education, prevention, or intervention regarding a student's behavior;

(B) Routine or incidental communication between a school administrator, teacher, or other school employee and law enforcement; or

(C) Any incident or communication that is initiated by law enforcement.

(g) "Restorative justice" has the same meaning as set forth in section 22-32-144 (3).

(g.5) "School resource officer" means a peace officer, as described in section 16-2.5-101, C.R.S., who has specialized training, as described in section 24-31-312, C.R.S., to work with school staff and students and who is assigned to a public school or charter school for the purpose of creating a safe learning environment and responding to all-hazard threats that may impact the school.

(h) "School vehicle" shall have the same meaning as set forth in section 42-1-102 (88.5), C.R.S.

(1.5) **Mission statement.** Each school district board of education shall adopt a mission statement for the school district, which statement shall include making safety for all students and staff a priority in each public school of the school district.

(2) **Safe school plan.** In order to provide a learning environment that is safe, conducive to the learning process, and free from unnecessary disruption, each school district board of education or institute charter school board for a charter school authorized by the charter school institute shall, following consultation with the school district accountability committee and school accountability committees, parents, teachers, administrators, students, student councils where available, and, where appropriate, the community at large, adopt and implement a safe school plan, or review and revise, as necessary in response to any relevant data collected by the school district, any existing plans or policies already in effect. In addition to the aforementioned parties, each school district board of education, in adopting and implementing its safe school plan, may consult with victims' advocacy organizations, school psychologists, local law enforcement, and community partners. The plan, at a minimum, must include the following:

(a) **Conduct and discipline code.** (I) A concisely written conduct and discipline code that shall be enforced uniformly, fairly, and consistently for all students. Copies of the code shall be provided to each student upon enrollment at the preschool, elementary, middle, and high school levels and shall be posted or kept on file at each public school in the school district. The school district shall take reasonable measures to ensure that each student of each public school in the school district is familiar with the code. The code shall include, but need not be limited to:

(A) General policies on student conduct, safety, and welfare;

(B) General policies and procedures for dealing with students who cause a disruption on school grounds, in a school vehicle, or at a school activity or sanctioned event, including a specific policy allowing a teacher to remove a disruptive student from his or her classroom. The

policy shall state that, upon the third such removal from a teacher's class, the teacher may remove the disruptive student from the teacher's class for the remainder of the term of the class; except that a disruptive student shall not be removed from a teacher's class for the remainder of the term of the class unless the principal of the student's school or his or her designee has developed and implemented a behavior plan for the student. A behavior plan may be developed after the first such removal from class and shall be developed after the second removal from class. The general policies and procedures shall include a due process procedure, which at a minimum shall require that, as soon as possible after a removal, the teacher or the school principal shall contact the parent or legal guardian of the student to request his or her attendance at a student-teacher conference regarding the removal. Any policy or procedure adopted shall comply with applicable federal and state laws, including but not limited to laws regarding students with disabilities.

(C) Provisions for the initiation of suspension or expulsion proceedings for students who qualify as habitually disruptive students;

(D) Policies and procedures for the use of acts of reasonable and appropriate physical intervention or force in dealing with disruptive students; except that no board shall adopt a discipline code that includes provisions that are in conflict with the definition of child abuse in section 18-6-401 (1), C.R.S., and section 19-1-103 (1), C.R.S.;

(E) General policies and procedures for determining the circumstances under and the manner in which disciplinary actions, including suspension and expulsion, shall be imposed in accordance with the provisions of sections 22-33-105, 22-33-106, and 22-33-106.1;

(F) A specific policy concerning gang-related activities on school grounds, in school vehicles, and at school activities or sanctioned events;

(G) Written prohibition, consistent with section 22-33-106, of students from bringing or possessing dangerous weapons, drugs, or other controlled substances on school grounds, in a school vehicle, or at a school activity or sanctioned event and from using drugs or other controlled substances on school grounds, in a school vehicle, or at a school activity or sanctioned event;

(H) Written prohibition of students from using or possessing tobacco products on school grounds, in a school vehicle, or at a school activity or sanctioned event;

(I) A written policy concerning searches on school grounds, including searches of student lockers;

(J) A dress code policy that prohibits students from wearing apparel that is deemed disruptive to the classroom environment or to the maintenance of a safe and orderly school. The dress code policy may require students to wear a school uniform or may establish minimum standards of dress;

(K) On and after August 8, 2001, a specific policy concerning bullying prevention and education. Each school district is encouraged to ensure that its policy, at a minimum, incorporates the biennial administration of surveys of students' impressions of the severity of bullying in their schools, as described in section 22-93-104 (1)(c); character building; and the designation of a team of persons at each school of the school district who advise the school administration concerning the severity and frequency of bullying incidents that occur in the school, which team may include, but need not be limited to, law enforcement officials, social workers, prosecutors, health professionals, mental health professionals, school psychologists, counselors, teachers, administrators, parents, and students. Each school district's policy shall set

forth appropriate disciplinary consequences for students who bully other students and for any person who takes any retaliatory action against a student who reports in good faith an incident of bullying, which consequences shall comply with all applicable state and federal laws.

(L) Information concerning the school district's policies for the use of restraint and seclusion on students, including a reference to section 26-20-111 and information concerning the process for filing a complaint regarding the use of restraint or seclusion, as such process is set forth by rule of the state board pursuant to section 22-32-147.

(II) In creating and enforcing a school conduct and discipline code pursuant to subsection (2)(a)(I) of this section, each school district board of education, on and after August 1, 2013, shall:

(A) Impose proportionate disciplinary interventions and consequences, including but not limited to in-school suspensions, in response to student misconduct, which interventions and consequences are designed to reduce the number of expulsions, out-of-school suspensions, and referrals to law enforcement, except for such referrals to law enforcement as are required by state or federal law;

(B) Include plans for the appropriate use of prevention, intervention, restorative justice, peer mediation, counseling, or other approaches to address student misconduct, which approaches are designed to minimize student exposure to the criminal and juvenile justice system. The plans shall state that a school administration shall not order a victim's participation in a restorative justice practice or peer mediation if the alleged victim of an offending student's misconduct alleges that the misconduct constitutes unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S.; a crime in which the underlying factual basis involves domestic violence, as defined in section 18-6-800.3 (1), C.R.S.; stalking as defined in section 18-3-602, C.R.S.; or violation of a protection order, as defined in section 18-6-803.5, C.R.S.;

(C) Ensure that the implementation of the code complies with all state and federal laws concerning the education of students with disabilities, as defined in section 22-20-103 (5);

(D) Ensure that, in implementing the code, each school of the school district shows due consideration of the impact of certain violations of the code upon victims of such violations, in accordance with the provisions of Title IX of the United States Code and other state and federal laws; and

(E) Ensure that, in implementing the code, each school of the school district complies with the requirements of section 22-33-106.1.

(b) **Safe school reporting requirements.** A policy whereby the principal of each public school in a school district is required to submit annually, in a manner and by a date specified by rule of the state board, a written report to the board of education of the school district concerning the learning environment in the school during that school year. The board of education of the school district shall annually compile the reports from every school in the district and submit the compiled report to the department of education in a format specified by rule of the state board. The compiled report must be easily accessible by the general public through a link on the department of education's website home page. The report must include, but need not be limited to, the following specific information for the preceding school year:

(I) The total enrollment for the school;

(II) The average daily attendance rate at the school;

(III) Dropout rates for grades seven through twelve, if such grades are taught at the school;

(IV) The number of conduct and discipline code violations. Each violation must be reported only in the most serious category that is applicable to that violation, including but not limited to specific information identifying the number of, and the action taken with respect to, each of the following types of violations:

(A) Possessing a dangerous weapon on school grounds, in a school vehicle, or at a school activity or sanctioned event without the authorization of the school or the school district;

(B) Use or possession of alcohol on school grounds, in a school vehicle, or at a school activity or sanctioned event;

(C) Use, possession, or sale of a drug or controlled substance, other than marijuana, on school grounds, in a school vehicle, or at a school activity or sanctioned event;

(C.5) The unlawful use, possession, or sale of marijuana on school grounds, in a school vehicle, or at a school activity or sanctioned event;

(D) Use or possession of a tobacco product on school grounds, in a school vehicle, or at a school activity or sanctioned event;

(E) Being willfully disobedient or openly and persistently defiant or repeatedly interfering with the school's ability to provide educational opportunities to, and a safe environment for, other students;

(F) Commission of an act on school grounds, in a school vehicle, or at a school activity or sanctioned event that, if committed by an adult, would be considered first degree assault, as described in section 18-3-202, C.R.S., second degree assault, as described in section 18-3-203, C.R.S., or vehicular assault, as described in section 18-3-205, C.R.S.;

(G) Behavior on school grounds, in a school vehicle, or at a school activity or sanctioned event that is detrimental to the welfare or safety of other students or of school personnel, including but not limited to incidents of bullying and other behavior that creates a threat of physical harm to the student or to other students;

(H) Willful destruction or defacement of school property;

(I) Commission of an act on school grounds, in a school vehicle, or at a school activity or sanctioned event that, if committed by an adult, would be considered third degree assault, as described in section 18-3-204, C.R.S., or disorderly conduct, as described in section 18-9-106 (1)(d), C.R.S., but not disorderly conduct involving firearms or other deadly weapons, as described in section 18-9-106 (1)(e) and (1)(f), C.R.S.;

(J) Commission of an act on school grounds, in a school vehicle, or at a school activity or sanctioned event that, if committed by an adult, would be considered robbery; and

(K) Other violations of the code of conduct and discipline that resulted in documentation of the conduct in a student's record;

(V) and (VI) (Deleted by amendment, L. 2012.)

(VII) The average class size for each public elementary school, middle school or junior high school, and senior high school in the state calculated as the total number of students enrolled in the school divided by the number of full-time teachers in the school;

(VIII) The school's policy concerning bullying prevention and education, including information related to the development and implementation of any bullying prevention programs; and

(IX) The number of acts of sexual violence on school grounds, in a school vehicle, or at a school activity or sanctioned event. Any information provided as a part of this subparagraph (IX) for the safe school reporting requirements must be reported as aggregate data and must not

include any personally identifying information. For the purposes of this subparagraph (IX), "sexual violence" means a physical sexual act perpetrated against a person's will or where a person is incapable of giving consent.

(c) **Internet safety plan.** (I) Each school district is encouraged to provide a comprehensive, age-appropriate curriculum that teaches safety in working and interacting on the internet in grades kindergarten through twelve. At a minimum, the curriculum may address the following topics:

(A) Interaction with persons in the cybercommunity;

(B) Personal safety in interacting with persons on the internet;

(C) Recognition and avoidance of online bullying;

(D) Technology, computer virus issues, and ways to avoid computer virus infection;

(E) Predator identification;

(F) Intellectual property, including education concerning plagiarism and techniques to avoid committing plagiarism and laws concerning downloading of copyrighted materials including music;

(G) Privacy and the internet;

(H) Online literacy, including instruction in how to identify credible, factual, trustworthy websites; and

(I) Homeland security issues related to internet use.

(II) Each school district is encouraged to structure the internet safety plan so as to incorporate the internet safety topics into the teaching of the regular classroom curricula, rather than isolating the topics as a separate class. Each school district is encouraged to use available internet safety curricula resources, including but not limited to materials available through nonprofit internet safety foundations that are endorsed by the federal government. Each school district is also encouraged to work with local law enforcement for the jurisdiction in which the school district is located in developing the internet safety curricula, especially with regard to topics that address personal safety on the internet, internet predator identification, privacy issues, and homeland security issues. Each school district is also encouraged to collaborate with parents and teachers in developing the internet safety curricula, including collaborating with district and statewide organizations that represent parents and teachers.

(III) Each school district is encouraged to begin implementing the internet safety plan with the 2005-06 school year and to annually review and, as necessary, revise the plan. Each school district is encouraged to identify a person who is responsible for overseeing implementation of the internet safety plan within each public school of the school district to ensure that each public school complies with the requirements of the plan.

(IV) If a school district chooses to adopt an internet safety plan and to identify a person who is responsible for overseeing implementation of the plan, the person is encouraged to annually submit an internet safety plan implementation report to the school district board of education specifying the level of implementation achieved by each public school of the school district and providing an overview of the internet safety curricula adopted and implemented in each public school of the school district. The school district board of education of each school district that chooses to adopt an internet safety plan is encouraged to submit to the department of education an annual report summarizing the internet safety plan implementation report and is encouraged to make the annual summary report available on the school district website.

(2.5) (a) **Safe school plan - child sexual abuse and assault prevention plan.** Each school district is encouraged, as part of its safe school plan, to adopt a child sexual abuse and assault prevention plan. Each school district is encouraged to include in the plan delivery of a comprehensive, age-appropriate curricula for kindergarten through twelfth grade regarding child sexual abuse and assault awareness and prevention. The curricula may address, but need not be limited to:

(I) The skills to recognize:

(A) Child sexual abuse and assault;

(B) Boundary violations and unwanted forms of touching and contact; and

(C) Behaviors that an offender uses to groom or desensitize a victim; and

(II) Strategies to:

(A) Promote disclosure;

(B) Reduce self-blame; and

(C) Mobilize bystanders.

(b) Each school district is encouraged to include in the child sexual abuse and assault prevention plan professional development for school personnel and parents in preventing, identifying, and responding to child sexual abuse and assault. Professional development may include providing training in preventing, identifying, and responding to child sexual abuse and assault, including using the child abuse reporting hotline system created pursuant to section 26-5-111, C.R.S., and distributing resources to raise the awareness of school personnel and parents regarding child sexual abuse and assault and preventing child sexual abuse and assault.

(c) A school district is encouraged to use curricula and professional development materials, training, and other resources available from the school safety resource center pursuant to section 24-33.5-1809, C.R.S.

(d) As used in this subsection (2.5), "school personnel" includes teachers, administrators, school resource officers, and other employees of a school district or a public school.

(3) **Agreements with state agencies.** Each board of education shall cooperate and, to the extent possible, develop written agreements with law enforcement, the juvenile justice system, and social services, as allowed under state and federal law, to keep each school environment safe. Each board of education shall adopt a policy whereby procedures will be used following instances of assault upon, disorderly conduct toward, harassment of, the making knowingly of a false allegation of child abuse against, or any alleged offense under the "Colorado Criminal Code" directed toward a school teacher or school employee or instances of damage occurring on the premises to the personal property of a school teacher or school employee by a student. Such procedures shall include, at a minimum, the following provisions:

(a) Such school teacher or school employee shall file a complaint with the school administration and the board of education.

(b) The school administration shall, after receipt of such report and proof deemed adequate to the school administration, suspend the student for three days, such suspension to be in accordance with the procedures established therefor, and shall initiate procedures for the further suspension or expulsion of the student where injury or property damage has occurred.

(c) The school administration shall report the incident to the district attorney or appropriate local law enforcement, which shall, upon receiving such report, investigate the incident to determine the appropriateness of filing criminal charges or initiating delinquency proceedings.

(4) **School response framework - school safety, readiness, and incident management plan.** Each board of education shall establish a school response framework that shall consist of policies described in this subsection (4). By satisfying the requirements of this subsection (4), a school or school district shall be in compliance with the national incident management system, referred to in this subsection (4) as "NIMS", developed by the federal emergency management agency. At a minimum, the policies shall require:

(a) (I) Each school district, on or before July 1, 2009, to establish a date by which each school of the school district shall be in compliance with the requirements of this subsection (4); except that the date may be changed by the school board for cause.

(II) Each school district shall make the dates established pursuant to subparagraph (I) of this paragraph (a) available to the public upon request.

(b) Each school district to adopt the national response framework released by the federal department of homeland security and NIMS formally through orders or resolutions;

(c) Each school district to institutionalize the incident command system as taught by the emergency management institute of the federal emergency management agency;

(d) Each school district, on or before July 1, 2009, to start to develop a school safety, readiness, and incident management plan, including, to the extent possible, emergency communications, that coordinates with any statewide or local emergency operation plans. In developing the plan, a school district may collaborate with community partners. The school safety, readiness, and incident management plan shall, at a minimum, identify for each public school in the school district:

(I) Safety teams and backups who are responsible for interacting with community partners and assuming key incident command positions; and

(II) Potential locations for various types of operational locations and support functions or facilities;

(e) To the extent possible, each school district to enter into memoranda of understanding with the community partners specifying responsibilities for responding to incidents;

(f) To the extent possible, each public school to create an all-hazard exercise program based on NIMS and to conduct tabletop exercises and other exercises in collaboration with community partners from multiple disciplines and, if possible, multiple jurisdictions to practice and assess preparedness and communications interoperability with community partners;

(g) To the extent possible, each public school, in collaboration with its school district, to hold coordinated exercises among school employees and community partners, including at a minimum:

(I) Orientation meetings to inform all parties about emergency operation plans and procedures;

(II) All-hazard drills, in addition to fire drills, to improve individual and student emergency procedures and to test communications interoperability; and

(III) Tabletop exercises to discuss and identify roles and responsibilities in different scenarios;

(h) Each public school to conduct a written evaluation following the exercises and certain incidents as identified by the school or school district and identify and address lessons learned and corrective actions in updating response plans and procedures;

(i) Each public school, at least every academic term, to inventory emergency equipment and test communications equipment and its interoperability with affected state and local agencies;

(j) Each school district to adopt written procedures for taking action and communicating with local law enforcement agencies, community emergency services, parents, students, and the media in the event of certain incidents as identified by the school or school district;

(k) Key emergency school personnel, including but not limited to safety teams and backups, to complete courses provided by the federal emergency management agency's emergency management institute or by institutions of higher education in the state system of community and technical colleges;

(l) School district employee safety and incident management training, including provisions stating that completion of any courses identified by the department of public safety pursuant to section 24-33.5-1606.5 (3), C.R.S., as related to NIMS count toward the professional development requirements of a person licensed pursuant to article 60.5 of this title;

(m) Each school district to work with community partners to update and revise all standard operating procedures, ensuring that all aspects of NIMS are incorporated, including but not limited to policies and principles, planning, procedures, training, response, exercises, equipment, evaluation, and corrective actions;

(n) Each school district to coordinate with community partners to assess overall alignment and compliance with NIMS; identify requirements already met; establish a baseline for NIMS compliance; and determine action steps, including developing a plan and timeline, to achieve and maintain all NIMS goals;

(o) Each school district to develop a timeline and strategy for compliance with the requirements of this subsection (4) and to strategically plan, schedule, and conduct all activities with community partners; and

(p) School resource officers to be familiar with the school response framework outlined in this subsection (4), the all-hazard exercise program, and the interoperable communications of the school to which he or she is assigned.

(5) **Safety and security policy.** Each board of education shall adopt a policy requiring annual school building inspections to address the removal of hazards and vandalism and any other barriers to safety and supervision.

(6) **Sharing information.** Notwithstanding any provision to the contrary in title 24, each board of education shall establish policies consistent with section 24-72-204 (3) and with applicable provisions of the federal "Family Educational Rights and Privacy Act of 1974" (FERPA), 20 U.S.C. sec. 1232g, and all federal regulations and applicable guidelines adopted thereto, to share and release information directly related to a student and maintained by a public school or by a person acting for the public school in the interest of making schools safer. Sharing of information concerning an out-of-home placement student who is being transferred to a public school must comply with the rules established by the state board pursuant to section 22-2-139 (9).

(7) **Open school policy.** Each board of education shall adopt an open school policy to allow parents and members of the school district board of education reasonable access to observe classes, activities, and functions at a public school upon reasonable notice to the school administrator's office.

(8) **Employee screenings.** Each board of education shall adopt a policy of making inquiries upon good cause to the department of education for the purposes of screening licensed employees and nonlicensed employees hired on or after January 1, 1991. Licensed employees employed by school districts on or after January 1, 1991, shall be screened upon good cause to check for any new instances of criminal activity listed in section 22-32-109.9 (1)(a). Nonlicensed employees employed by a school district on or after January 1, 1991, shall be screened upon good cause to check for any new instances of criminal activity listed in section 22-32-109.8 (2)(a).

(9) **Immunity.** (a) A school district board of education or a teacher or any other person acting in good faith in accordance with the provisions of subsection (2) of this section in carrying out the powers or duties authorized by said subsection shall be immune from criminal prosecution or civil liability for such actions; except that a teacher or any other person acting willfully or wantonly in violation of said subsection shall not be immune from criminal prosecution or civil liability pursuant to said subsection. A teacher or any other person claiming immunity from criminal prosecution under this paragraph (a) may file a motion that shall be heard prior to trial. At the hearing, the teacher or other person claiming immunity shall bear the burden of establishing the right to immunity by a preponderance of the evidence.

(b) A teacher or any other person acting in good faith and in compliance with the conduct and discipline code adopted by the board of education pursuant to paragraph (a) of subsection (2) of this section shall be immune from civil liability; except that a person acting willfully and wantonly shall not be immune from liability pursuant to this paragraph (b). The court shall dismiss any civil action resulting from actions taken by a teacher or any other person pursuant to the conduct and discipline code adopted by the board of education pursuant to paragraph (a) of subsection (2) of this section upon a finding by the court that the person acted in good faith and in compliance with such conduct and discipline code and was therefore immune from civil liability pursuant to paragraph (a) of this subsection (9). The court shall award court costs and reasonable attorney fees to the prevailing party in such a civil action.

(c) If a teacher or any other person does not claim or is not granted immunity from criminal prosecution pursuant to paragraph (a) of this subsection (9) and a criminal action is brought against a teacher or any other person for actions taken pursuant to the conduct and discipline code adopted by the board of education pursuant to paragraph (a) of subsection (2) of this section, it shall be an affirmative defense in the criminal action that the teacher or such other person was acting in good faith and in compliance with the conduct and discipline code and was not acting in a willful or wanton manner in violation of the conduct and discipline code.

(d) An act of a teacher or any other person shall not be considered child abuse pursuant to sections 18-6-401 (1) and 19-1-103 (1), C.R.S., if:

(I) The act was performed in good faith and in compliance with the conduct and discipline code adopted by the board of education pursuant to paragraph (a) of subsection (2) of this section; or

(II) The act was an appropriate expression of affection or emotional support, as determined by the board of education.

(e) A teacher or any other person who acts in good faith and in compliance with the conduct and discipline code adopted by the board of education pursuant to paragraph (a) of subsection (2) of this section shall not have his or her contract nonrenewed or be subject to any disciplinary proceedings, including dismissal, as a result of such lawful actions, nor shall the

actions of the teacher or other person be reflected in any written evaluation or other personnel record concerning such teacher or other person. A teacher or any other person aggrieved by an alleged violation of this paragraph (e) may file a civil action in the appropriate district court within two years after the alleged violation.

(10) **Compliance with safe school reporting requirements.** If the state board determines that a school district or one or more of the public schools in a school district is in willful noncompliance with the provisions of paragraph (b) of subsection (2) of this section, the state's share of the school district's total program, as determined pursuant to article 54 of this title, may be subject to forfeiture until the school district and each school in the district attains compliance with the provisions of paragraph (b) of subsection (2) of this section.

(11) Repealed.

**Source: L. 2000:** Entire section added, p. 1957, § 1, effective June 2. **L. 2001:** (2)(b)(VII) amended, p. 1272, § 26, effective June 5; IP(2), (2)(a)(VIII), and (2)(a)(IX) amended and (2)(a)(X) and (2)(b)(VIII) added, pp. 494, 495, §§ 2, 3, effective August 8. **L. 2002:** IP(2) and IP(9)(d) amended, p. 1020, § 30, effective June 1. **L. 2004:** (2)(b)(VII) amended, p. 1285, § 18, effective May 28. **L. 2005:** (2)(c) added, p. 261, § 2, effective April 14. **L. 2006:** (2)(b)(IV) amended, p. 405, § 2, effective April 6. **L. 2007:** (9)(a), (9)(c), and (9)(e) amended, p. 686, § 1, effective May 3. **L. 2008:** (4) amended, p. 802, § 3, effective May 14. **L. 2009:** IP(2) amended, (SB 09-163), ch. 293, p. 1541, § 41, effective May 21; (2)(a)(III) amended, (HB 09-1243), ch. 290, p. 1423, § 2, effective May 21. **L. 2010:** (2)(a)(II) and (2)(a)(X) amended, (HB 10-1232), ch. 163, p. 569, § 4, effective April 28; (6) amended, (HB 10-1274), ch. 271, p. 1250, § 5, effective May 25. **L. 2011:** (2)(a)(IX), (2)(a)(X), and (2)(b)(IV)(G) amended, (HB 11-1254), ch. 173, p. 652, § 2, effective May 13; IP(4), IP(4)(d), (4)(f), (4)(g)(II), and (4)(i) amended, (SB 11-173), ch. 310, p. 1514, § 2, effective June 10; (6) amended, (HB 11-1303), ch. 264, p. 1161, § 46, effective August 10. **L. 2012:** IP(4)(d) amended, (SB 12-079), ch. 58, p. 213, § 6, effective March 24; (1), IP(2), (2)(a), and (2)(b) amended and (1.5) added, (HB 12-1345), ch. 188, p. 732, § 22, effective May 19; (4)(l) amended, (HB 12-1283), ch. 240, p. 1132, § 40, effective July 1. **L. 2013:** (1)(b.5), (1)(g.5), and (4)(p) added and IP(2), IP(4)(d), (4)(n), and (4)(o) amended, (SB 13-138), ch. 253, p. 1341, § 3, effective May 23. **L. 2014:** (1)(b.5) amended, (SB 14-002), ch. 241, p. 893, § 4, effective August 6. **L. 2015:** (1)(a)(V), (1)(b.5), (1)(f), IP(2), IP(2)(b), IP(2)(b)(IV), (2)(b)(IV)(C), (2)(b)(VII), (2)(b)(VIII), (2)(c)(II), IP(3), and (3)(c) amended and (1)(e.5), (2)(b)(IV)(C.5), (2)(b)(IX), and (11) added, (HB 15-1273), ch. 323, p. 1317, § 2, effective June 5; (2.5) added, (SB 15-020), ch. 277, p. 1133, § 3, effective June 5. **L. 2017:** (6) amended, (SB 17-294), ch. 264, p. 1395, § 47, effective May 25; (2)(a)(I)(L) added, (HB 17-1276), ch. 270, p. 1491, § 6, effective August 9. **L. 2019:** IP(11)(a) amended, (SB 19-241), ch. 390, p. 3467, § 19, effective August 2; IP(2)(a)(I), (2)(a)(I)(E), IP(2)(a)(II), (2)(a)(II)(C), and (2)(a)(II)(D) amended and (2)(a)(II)(E) added, (HB 19-1194), ch. 160, p. 1889, § 9, effective July 1, 2020. **L. 2020:** (1)(b) amended, (HB 20-1048), ch. 8, p. 20, § 12, effective September 14.

**Editor's note:** (1) Subsection (11)(b) provided for the repeal of subsection (11), effective July 1, 2020. (See L. 2015, p. 1317.)

(2) Section 13(2) of chapter 8 (HB 20-1048), Session Laws of Colorado 2020, provides that the act changing this section applies to conduct occurring on or after September 14, 2020.

**Cross references:** (1) For the legislative declaration contained in the 2001 act amending the introductory portion to subsection (2) and subsections (2)(a)(VIII) and (2)(a)(IX) and adding subsections (2)(a)(X) and (2)(b)(VIII), see section 1 of chapter 154, Session Laws of Colorado 2001. For the legislative declaration contained in the 2005 act adding subsection (2)(c), see section 1 of chapter 72, Session Laws of Colorado 2005. For the legislative declaration contained in the 2006 act amending subsection (2)(b)(IV), see section 1 of chapter 117, Session Laws of Colorado 2006. For the legislative declaration contained in the 2008 act amending subsection (4), see section 1 of chapter 215, Session Laws of Colorado 2008. For the legislative declaration in the 2010 act amending subsection (6), see section 1 of chapter 271, Session Laws of Colorado 2010. For the legislative declaration in the 2011 act amending the introductory portions to subsections (4) and (4)(d) and subsections (4)(f), (4)(g)(II), and (4)(i), see section 1 of chapter 310, Session Laws of Colorado 2011. For the legislative declaration in the 2012 act amending subsection (4)(l), see section 1 of chapter 240, Session Laws of Colorado 2012. For the legislative declaration in the 2013 act adding subsections (1)(b.5), (1)(g.5), and (4)(p) and amending the introductory portions to subsections (2) and (4)(d) and subsections (4)(n) and (4)(o), see section 1 of chapter 253, Session Laws of Colorado 2013. For the legislative declaration in HB 15-1273, see section 1 of chapter 323, Session Laws of Colorado 2015. For the legislative declaration in HB 17-1276, see section 1 of chapter 270, Session Laws of Colorado 2017. For the legislative declaration in HB 19-1194, see section 1 of chapter 160, Session Laws of Colorado 2019.

(2) For the short title ("Creating a Respectful and Open World for Natural Hair Act of 2020" or the "CROWN Act of 2020") and the legislative declaration in HB 20-1048, see sections 1 and 2 of chapter 8, Session Laws of Colorado 2020.

**22-32-109.2. Board of education - specific duties - adoption of policy.** (1) In carrying out the duties specified in section 22-32-109 (1)(t), on and after July 1, 1990, each board of education is required to formally adopt a policy concerning the delivery of all educational programs and courses of instruction or study that expose pupils to any psychiatric or psychological methods or procedures involving the diagnosis, assessment, or treatment of any behavioral or mental health disorder.

(2) Prior to taking action pursuant to subsection (1) of this section, a board of education shall provide an adequate opportunity to allow review by and receive recommendations from members of the board, the personnel of the school district, the parents of pupils enrolled in the school district, and members of the public.

(3) The department of education shall prepare model policies to provide guidance to boards of education adopting policies under subsection (1) of this section.

**Source: L. 90:** Entire section added, p. 1098, § 63, effective May 31. **L. 2017:** (1) amended, (SB 17-242), ch. 263, p. 1319, § 171, effective May 25.

**Cross references:** For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

**22-32-109.3. Board of education - specific duties - student records.** (1) Except as otherwise provided in subsections (2) and (3) of this section, each school district, as required

under section 24-72-204 (3), C.R.S., shall maintain the confidentiality of the addresses and telephone numbers of students enrolled in public elementary and secondary schools within the school district and any medical, psychological, sociological, and scholastic achievement data collected concerning individual students.

(2) Notwithstanding the provisions of subsection (1) of this section, the address and telephone number and any medical, psychological, sociological, and scholastic achievement data concerning any student are released only under the following conditions:

(a) As provided in section 24-72-204 (3), C.R.S.;

(b) To district or municipal court personnel, the division of youth services, county departments of human or social services, the youthful offender system, and any other juvenile justice agency within fifteen days after receipt by the school district of a court order authorizing release of such information.

(3) Notwithstanding the provisions of subsection (1) of this section, either the principal of a school, or such principal's designee, or, if the student is enrolled in a public school, the superintendent of a school district in which the student is enrolled, or such superintendent's designee, shall provide attendance and disciplinary records to a criminal justice agency pursuant to the provisions of section 19-1-303 (2), C.R.S.

**Source: L. 96:** Entire section added, p. 1683, § 9, effective January 1, 1997. **L. 2000:** (1) amended and (3) added, p. 321, § 10, effective April 7. **L. 2017:** IP(2) and (2)(b) amended, (HB 17-1329), ch. 381, p. 1980, § 49, effective June 6. **L. 2018:** (2)(b) amended, (SB 18-092), ch. 38, p. 438, § 91, effective August 8.

**Cross references:** For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of Colorado 2018.

**22-32-109.4. Colorado School Collective Bargaining Agreement Sunshine Act - board of education - specific duties.** (1) This section shall be known and may be cited as the "Colorado School Collective Bargaining Agreement Sunshine Act".

(2) "Collective bargaining agreement" means, for the purpose of this section, a master agreement, and any amendments, addendums, memorandums, or any other documents modifying the master agreement.

(3) In addition to any other duty required to be performed by law, each board of education shall cause, within thirty days following August 8, 2001, a true and correct copy of each collective bargaining agreement entered into by the board of education and in effect as of said date and all subsequent collective bargaining agreements entered into by the board of education, within thirty working days following the date of ratification of each agreement, to be:

(a) Posted on the website of the school district;

(b) Repealed.

(c) Made available for public inspection during regular business hours in a convenient and identified location at the main administrative office of the school district; and

(d) Filed with the board of trustees of the largest public library located within the school district.

(4) Any meeting of a board of education at which a collective bargaining agreement is discussed is open to the public and any notice required by section 24-6-402 (2)(c) must be given

prior to the meeting; except that a board of education may hold an executive session in accordance with the requirements of section 24-6-402 (4)(e)(III) for the purpose of developing the strategy of the school district for negotiations relating to a collective bargaining agreement.

**Source: L. 2001:** Entire section added, p. 168, § 1, effective August 8. **L. 2010:** IP(3) amended, (HB 10-1036), ch. 79, p. 269, § 2, effective April 12. **L. 2012:** (3)(a) amended and (3)(b) repealed, (HB 12-1240), ch. 258, p. 1312, § 15, effective June 4. **Initiated 2014:** (4) added, L. 2015, p. 2204, § 2, effective upon proclamation of the governor, December 17, 2014. **L. 2019:** (4) amended, (HB 19-1201), ch. 98, p. 360, § 2, effective September 1.

**Editor's note:** The vote count on the measure at the general election held November 4, 2014, was as follows:

FOR: 1,364,747

AGAINST: 582,473

**22-32-109.5. Board of education - specific duties - testing requirements - developmental education placement or assessment tests - intervention plans.** (1) In carrying out its duties under section 22-32-109 (1)(t) in determining educational programs, if a board of education imposes any special proficiency test for graduation from the twelfth grade beyond the regular requirements for satisfactory completion of the courses and hours prescribed for graduation, the results of such tests shall be used by school districts to design regular or special classes to meet the needs of all children as indicated by overall test results. If a board determines to impose such a proficiency test, such test shall be given at least twice during each school year, and initial testing shall take place in the ninth grade.

(2) Any child who does not satisfactorily fulfill the requirements of a special proficiency test imposed under the provisions of subsection (1) of this section shall be provided with remedial or tutorial services during the school day in the subject area in which the test indicates deficiencies for graduation purposes. Such child shall be provided with these services from the time of the initial testing until such time as the results of the special proficiency test are satisfactory. Parents of children not satisfactorily fulfilling the requirements of a special proficiency test shall be provided with all special proficiency test scores for their child a minimum of once each semester.

(3) Repealed.

(4) (a) Each school district may administer to students enrolled in grades nine through twelve in the schools of the school district the developmental education placement or assessment tests that are administered to matriculated first-time freshman students pursuant to section 23-1-113. The school district may administer the tests to a student at any time and as often as it deems necessary while the student is enrolled in any of grades nine through twelve, but the department of education shall allocate money to each school district to offset the costs incurred in administering each of the test units only once per student while he or she is enrolled in those grades.

(b) If a school district chooses to administer the developmental education placement or assessment tests, each student's individual career and academic plan must include the scores achieved by the student on the developmental education placement or assessment tests and, based on an analysis of the scores, the student's level of postsecondary and workforce readiness

at the time he or she takes the tests. If a student's scores indicate that he or she is at risk of being unable to demonstrate postsecondary and workforce readiness prior to or upon graduating from high school, school personnel shall work with the student and the student's parent or legal guardian to create an intervention plan that identifies the necessary courses and education support services that the student requires to be able to achieve postsecondary and workforce readiness prior to or upon graduating from high school and to be prepared to continue into the postsecondary education option, if any, selected by the student in his or her individual career and academic plan without need for remedial educational services. If appropriate, the school, the student, and the student's parent or legal guardian may choose to enroll the student in gateway courses in English or mathematics, as defined in section 23-1-113 (11)(b.5), with additional supports through supplemental academic instruction, as defined in section 23-1-113 (11)(e), at an institution of higher education through the "Concurrent Enrollment Programs Act", article 35 of this title 22.

**Source: L. 75:** Entire section added, p. 698, § 1, effective July 18. **L. 93:** (3) added, p. 1048, § 6, effective June 3. **L. 2012:** (4) added, (HB 12-1345), ch. 188, p. 725, § 13, effective May 19. **L. 2019:** (4) amended, (HB 19-1206), ch. 133, p. 601, § 10, effective April 25.

**Editor's note:** Subsection (3)(b) provided for the repeal of subsection (3), effective July 1, 1995. (See L. 93, p. 1048.)

**Cross references:** For the legislative declaration in the 2012 act adding subsection (4), see section 11 of chapter 188, Session Laws of Colorado 2012. For the legislative declaration in HB 19-1206, see section 1 of chapter 133, Session Laws of Colorado 2019.

**22-32-109.6. Board of education - specific duties - class size reduction plans - alternative student achievement plans - definitions.** (1) (a) The general assembly hereby finds and declares that:

(I) The voters approved section 17 of article IX of the state constitution with the intent that the increased funding of public education be used for specific and accountable purposes to improve the state's public schools;

(II) Elementary school teachers support reducing class size in early grades; and

(III) Parents have indicated that reducing class size, especially in early grades, is one of their top priorities for public schools.

(b) It is the general assembly's duty to ensure that the one-percent increase in statewide base per pupil funding required by section 17 of article IX of the state constitution be used in a manner intended by the voters.

(2) As used in this section, unless the context otherwise requires:

(a) "Class" means a non-elective class in kindergarten or the first, second, or third grade or any combination of kindergarten or the first, second, or third grades in a public school, which class provides instruction in one or more of the areas of reading, writing, mathematics, science, history, or geography.

(b) and (c) Repealed.

(d) "One-percent increase" means the one-percent increase in the statewide base per pupil funding for state fiscal years 2001-02 through 2010-11 required by section 17 of article IX of the state constitution.

(e) Repealed.

(f) "Teacher" means a person who is licensed pursuant to article 60.5 of this title, or is authorized pursuant to section 22-60.5-111, to teach and is primarily engaged in teaching kindergarten or the first, second, or third grade.

(3) and (4) Repealed.

**Source: L. 2001:** Entire section added, p. 335, § 1, effective April 16. **L. 2004:** (2)(f) amended, p. 1286, § 19, effective May 28. **L. 2007:** (2)(b), (2)(c), (2)(e), (3), and (4) repealed, p. 745, § 28, effective May 9. **L. 2015:** (2)(a) amended, (HB 15-1323), ch. 204, p. 725, § 34, effective May 20.

**22-32-109.7. Board of education - specific duties - employment of personnel.** (1) Prior to the employment of any person by a school district, the board of education shall make an inquiry concerning such person to the department of education for the purpose of determining:

(a) Whether such person has been convicted of, has pled nolo contendere to, or has received a deferred sentence or deferred prosecution for:

(I) A felony; or

(II) A misdemeanor crime involving unlawful sexual behavior or unlawful behavior involving children;

(b) Whether such person has been dismissed by, or has resigned from, a school district as a result of an allegation of unlawful behavior involving a child, including unlawful sexual behavior, which was supported by a preponderance of the evidence according to information provided to the department by a school district pursuant to subsection (3) of this section and confirmed by the department pursuant to the provisions of section 22-2-119 (1)(b);

(c) If a holder of a license or authorization issued pursuant to the provisions of article 60.5 of this title, whether such person's license or authorization has ever been denied, annulled, suspended, or revoked pursuant to the provisions of section 22-60-110 (2)(b), as it existed prior to July 1, 1999, or pursuant to article 60.5 of this title, following a conviction, a plea of nolo contendere, or a deferred sentence for a crime involving unlawful sexual behavior or unlawful behavior involving children.

(1.5) During the employment of any person by a school district, the board of education may make an inquiry concerning such person to the department of education for the purposes described in subsection (1) of this section.

(2) (a) The board of education shall also contact previous employers of such applicant for the purpose of obtaining information or recommendations which may be relevant to such person's fitness for employment.

(b) Any previous employer of an applicant for employment who provides information to a school district or who makes a recommendation concerning an applicant, whether at the request of the school district or the applicant, shall be immune from civil liability unless:

(I) The information is false and the previous employer knows such information is false or acts with reckless disregard concerning the veracity of such information; and

(II) The school district acts upon such information to the detriment of:

(A) The applicant because the school district refused to employ such person based, in whole or in part, on negative information concerning such person later determined to be false; or

(B) The school district because the school district employed the applicant based, in whole or in part, on positive information concerning such person later determined to be false.

(c) Any school district which relies on information provided by or a recommendation made by a previous employer in making an employment decision shall be immune from civil liability unless the information is false and such school district knows the information is false or acts with reckless disregard concerning the veracity of such information.

(3) If an employee of a school district is dismissed or resigns as a result of an allegation of unlawful behavior involving a child, including unlawful sexual behavior, which is supported by a preponderance of the evidence, within ten business days after the dismissal or resignation, the board of education of the school district shall notify the department of education and provide any information requested by the department concerning the circumstances of the dismissal or resignation. The district shall also notify the employee that information concerning the employee's dismissal or resignation is being forwarded to the department of education unless the notice would conflict with the confidentiality requirements of the "Child Protection Act of 1987", part 3 of article 3 of title 19, C.R.S. A public school district or charter school shall not enter into a settlement agreement that would restrict the school district or charter school from sharing any relevant information related to a conviction for child abuse or a sexual offense against a child as defined by section 13-80-103.9 (1)(c), C.R.S., pertaining to the employee with the department, another school district, or charter school pertaining to the incident upon which the dismissal or resignation is based.

(3.5) Whenever a school district learns from a source other than the department of education that a current or past employee of the school district has been convicted of, pled nolo contendere to, or has received a deferred sentence or deferred prosecution for a felony or a misdemeanor crime involving unlawful sexual behavior or unlawful behavior involving children, the school district shall notify the department of education.

(4) Any information received by a board of education pursuant to subsection (1) or (2) of this section shall be confidential information and not subject to the provisions of part 2 of article 72 of title 24, C.R.S. Any person who releases information obtained pursuant to the provisions of said subsections or who makes an unauthorized request for information from the department shall be subject to the penalties set forth in section 24-72-206, C.R.S.; except that any person who releases information received from the department of education concerning information contained in the records and reports of child abuse or neglect maintained by the state department of human services shall be deemed to have violated section 19-1-307 (4), C.R.S.

**Source: L. 90:** Entire section added, p. 1029, § 19, effective July 1. **L. 93:** (1)(b) and (3) amended, p. 633, § 1, effective July 1. **L. 99:** (1)(a) amended and (1.5) and (3.5) added, p. 1100, § 1, effective July 1. **L. 2000:** (1)(c) amended, p. 1856, § 56, effective August 2. **L. 2003:** (4) amended, p. 1409, § 16, effective January 1, 2004. **L. 2006:** (1)(c) amended, p. 922, § 1, effective July 1. **L. 2008:** (3) amended, p. 2225, § 2, effective June 5.

**Cross references:** For the legislative declaration contained in the 2003 act amending subsection (4), see section 1 of chapter 196, Session Laws of Colorado 2003.

**22-32-109.8. Applicants selected for nonlicensed positions - submittal of form and fingerprints - prohibition against employing persons - department database.** (1) Except as otherwise provided in subsection (10) of this section, any person applying to any school district for any position of employment for which a license issued pursuant to article 60.5 of this title 22 is not required and who is selected for such position of employment by such school district shall submit a complete set of fingerprints of such applicant taken by a qualified law enforcement agency, authorized employee of a school district or board of cooperative services and notarized, or any third party approved by the Colorado bureau of investigation in a completed form as specified in subsection (2) of this section. At the request of a school district, a law enforcement agency that has fingerprinting equipment that meets the federal bureau of investigation image quality standards shall take the fingerprints of an applicant pursuant to this section if an approved third-party vendor is not operating within twenty miles of the school district within the law enforcement agency's jurisdiction. A school district employee or board of cooperative services employee may use any fingerprinting equipment that meets the federal bureau of investigation image quality standards. If an approved third party takes the person's fingerprints, the fingerprints may be electronically captured using Colorado bureau of investigation-approved livescan equipment. Third-party vendors shall not keep the applicant information for more than thirty days unless requested to do so by the applicant. The fingerprints and form must be submitted to the school district at the time requested by such school district.

(2) On a form provided by the school district, a selected applicant shall certify, under penalty of perjury, either:

(a) That he has never been convicted of committing any felony or misdemeanor; but not including any misdemeanor traffic offense or traffic infraction; or

(b) That he has been convicted of committing any felony or misdemeanor; but not including any misdemeanor traffic offense or traffic infraction. Such certification shall specify such felony or misdemeanor for which convicted, the date of such conviction, and the court entering the judgment of conviction.

(3) In addition to any other requirements established by law, the submittal of fingerprints and the form pursuant to subsection (1) of this section shall be a prerequisite to the employment of a person in a nonlicensed position in a school district, and no person shall be so employed who has not complied with the provisions of subsection (1) of this section.

(4) (a) Any school district to which fingerprints are submitted pursuant to subsection (1) of this section shall forward such fingerprints to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing the records of the Colorado bureau of investigation and the federal bureau of investigation.

(b) When the results of a fingerprint-based criminal history record check of an applicant performed pursuant to this subsection (4) reveal a record of arrest without a disposition, the school district shall require that applicant to submit to a name-based criminal history record check, as defined in section 22-2-119.3 (6)(d).

(5) (a) A school district may employ a person in a nonlicensed position in the school district prior to receiving the results regarding the selected applicant's fingerprint-based or name-based criminal history record check; however:

(I) The school district may terminate the person's employment if the results are inconsistent with the information provided by the person in the form submitted pursuant to subsection (1) of this section; and

(II) The school district shall terminate the person's employment if the results of a fingerprint-based criminal history record check or name-based criminal history record check completed on or after August 10, 2011, disclose a conviction for an offense described in subsection (6.5) of this section.

(b) The school district shall notify the proper district attorney of inconsistent results as described in subparagraph (I) of paragraph (a) of this subsection (5) for purposes of action or possible prosecution.

(6) (a) When a school district finds good cause to believe that a nonlicensed person employed by the school district has been convicted of a felony or misdemeanor other than a misdemeanor traffic offense or traffic infraction subsequent to his or her employment, the school district shall require the person to submit to the school district a complete set of his or her fingerprints taken by a qualified law enforcement agency, an authorized employee of the school district or board of cooperative services, or any third party approved by the Colorado bureau of investigation. At the request of a school district, a law enforcement agency that has fingerprinting equipment that meets the federal bureau of investigation image quality standards shall take the fingerprints of an employee pursuant to this section if an approved third-party vendor is not operating within twenty miles of the school district within the law enforcement agency's jurisdiction. A school district employee or board of cooperative services employee may use any fingerprinting equipment that meets the federal bureau of investigation image quality standards. If an approved third party takes the person's fingerprints, the fingerprints may be electronically captured using Colorado bureau of investigation-approved livescan equipment. Third-party vendors shall not keep the applicant information for more than thirty days unless requested to do so by the applicant. The fingerprints shall be submitted within twenty days after receipt of written notification from the school district. The school district shall forward the fingerprints of the person to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing the records of the Colorado bureau of investigation and the federal bureau of investigation. If the results of the fingerprint-based criminal history record check completed on or after August 10, 2011, disclose a conviction for an offense described in subsection (6.5) of this section, the school district shall terminate the person's employment.

(a.5) When the results of a fingerprint-based criminal history record check of an employee performed pursuant to this subsection (6) reveal a record of arrest without a disposition, the school district shall require that employee to submit to a name-based criminal history record check, as defined in section 22-2-119.3 (6)(d).

(b) School districts shall not charge nonlicensed personnel any fees for the direct and indirect costs of the school district for fingerprint processing performed pursuant to the provisions of this subsection (6).

(6.5) (a) Except as provided in paragraph (d) of this subsection (6.5), a person employed in or applying to a school district for employment in a nonlicensed position is disqualified from employment if:

(I) The applicant or employee has been convicted of, or convicted of attempt, solicitation, or conspiracy to commit, one of the following offenses:

(A) Felony child abuse, as described in section 18-6-401, C.R.S.;

(B) A crime of violence, as defined in section 18-1.3-406 (2), C.R.S.;

(C) A felony involving unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S.;

(D) Except as provided in paragraph (b) of this subsection (6.5), a felony, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3, C.R.S.;

(E) Except as provided in paragraph (b) of this subsection (6.5), a felony drug offense described in part 4 of article 18 of title 18, C.R.S., committed on or after August 25, 2012;

(F) Felony indecent exposure, as described in section 18-7-302, C.R.S.; or

(G) An offense in any other state, the United States, or any territory subject to the jurisdiction of the United States, which, if committed in this state, would constitute an offense described in sub-subparagraphs (A) to (F) of this subparagraph (I);

(II) The applicant or employee fails to submit fingerprints on a timely basis following receipt of the written request from the school district pursuant to subsection (1) or (6) of this section.

(b) The disqualification from employment pursuant to sub-subparagraphs (D) and (E) of subparagraph (I) of paragraph (a) of this subsection (6.5) shall only apply for a period of five years following the date the offense was committed, and, for the offense described in sub-subparagraph (D) of subparagraph (I) of paragraph (a) of this subsection (6.5), the person shall have successfully completed any domestic violence treatment required by the court prior to employment. An employee terminated from employment solely on the basis of the disqualification contained in sub-subparagraphs (D) and (E) of subparagraph (I) of paragraph (a) of this subsection (6.5) may reapply for employment after five years have passed since the date the offense was committed.

(c) Nothing in this subsection (6.5) shall require a second or subsequent fingerprint-based criminal history record check to be conducted for an employee for whom a fingerprint-based criminal history record check has been completed prior to August 10, 2011.

(d) (I) Notwithstanding the disqualification from employment set forth in this subsection (6.5), a school district may employ a person convicted of an offense listed in sub-subparagraphs (D) and (E) of subparagraph (I) of paragraph (a) of this subsection (6.5) after conducting an assessment of the current safety risk posed by the person.

(II) A person who is or would be disqualified from employment pursuant to sub-subparagraphs (D) and (E) of subparagraph (I) of paragraph (a) of this subsection (6.5) may submit a written request to the school district for reconsideration of the disqualification from employment. Reconsideration shall be based upon the school district's assessment of the current safety risk in hiring the person or in continuing the person's employment after considering:

(A) The seriousness and nature of the disqualifying offense;

(B) The time elapsed since the date the offense was committed;

(C) The nature of the position held or sought by the person; and

(D) Any other relevant information.

(III) The decision of the school district shall be final.

(7) For purposes of this section, a person is deemed to be convicted of committing a felony or misdemeanor as described in this section if the person has been convicted under the laws of any other state, the United States, or any territory subject to the jurisdiction of the United

States of an unlawful act which, if committed within this state, would be a felony or misdemeanor.

(8) For purposes of this section:

(a) "Convicted" means a conviction by a jury or by a court and shall also include the forfeiture of any bail, bond, or other security deposited to secure appearance by a person charged with a felony or misdemeanor, the payment of a fine, a guilty plea accepted by a court, a plea of nolo contendere, and the imposition of a deferred or suspended sentence by the court.

(a.5) "Nonlicensed" means a person does not hold, or a position of employment does not require, a license issued pursuant to article 60.5 of this title.

(b) "Position of employment" means any job or position in which any person may be engaged in the service of a school district for salary or hourly wages, whether full time or part time and whether temporary or permanent.

(9) All costs arising from the taking of fingerprints and from any fingerprint processing performed by the Colorado bureau of investigation pursuant to the provisions of this section shall be borne by school districts. Except as otherwise provided in paragraph (b) of subsection (6) of this section, school districts may charge such selected applicants a nonrefundable fee in an amount equal to the direct and indirect costs of such school district for the administration of this section. Said fees shall be credited to the fingerprint processing account and shall be used for the purposes set forth in this section and may not be expended by the school district for any other purpose; however, said fees shall not be used for the purposes set forth in subsection (6) of this section. Any moneys in said account which are not expended during a budget year shall be carried forward and budgeted for the purposes set forth in this section in the next budget year. Such fee may be paid by the selected applicant over a period of sixty days after employment.

(10) (a) The provisions of this section shall not apply to any person who is enrolled as a student in any school district and who is applying to the same school district in which such student is enrolled for a position of employment for which a license issued pursuant to article 60.5 of this title is not required.

(b) (Deleted by amendment, L. 2002, p. 974, § 9, effective June 1, 2002.)

(c) Subsections (1) to (4) of this section do not apply to a person who has submitted to a fingerprint-based criminal history record check pursuant to section 22-2-119.3.

(11) (a) Each school district shall submit to the department of education the name, date of birth, and social security number from the human resource electronic data communications and reporting system required by section 22-44-105 (4)(a) for each nonlicensed person employed by the district.

(b) The department of education shall create and maintain a database of all the information submitted pursuant to this subsection (11).

(c) At the beginning of each semester, a school district shall notify the department of education when a nonlicensed employee is no longer employed by the school district, and the department shall purge at least annually the employees' information from the database created pursuant to paragraph (b) of this subsection (11).

(d) On or before August 30 each year, the department of education shall submit a list of all persons employed by each school district in the state for the preceding school year to the Colorado bureau of investigation. The list shall include each employee's name and date of birth.

(12) Nothing in this section shall create for a person a property right in or entitlement to employment or continued employment with a school district or impair a school district's right to terminate employment for a nondiscriminatory reason.

**Source: L. 90:** Entire section added, p. 1113, § 3, effective June 7. **L. 92:** (1), IP(2), (5), (8), and (9) amended and (10) added, p. 517, § 1, effective July 1. **L. 93:** (10) amended, p. 71, § 1, effective March 26. **L. 2000:** (1) and (10)(a) amended, p. 1856, § 57, effective August 2. **L. 2002:** (1), (4), (6)(a), and (10) amended, p. 974, § 9, effective June 1. **L. 2004:** (11) added, p. 381, § 1, effective April 8. **L. 2006:** (11)(d) amended, p. 607, § 24, effective August 7. **L. 2011:** (3), (5), (6), (7), and (8) amended and (6.5) and (12) added, (HB 11-1121), ch. 242, p. 1055, § 4, effective August 10. **L. 2017:** (1) and (6)(a) amended, (SB 17-189), ch. 149, p. 502, § 10, effective August 9. **L. 2018:** (1) amended and (10)(c) added, (SB 18-229), ch. 232, p. 1451, § 3, effective August 8. **L. 2019:** (1) and (6)(a) amended, (HB 19-1186), ch. 94, p. 345, § 4, effective April 10; (4), IP(5)(a), and (5)(a)(II) amended and (6)(a.5) added, (HB 19-1166), ch. 125, p. 548, § 26, effective April 18.

**Cross references:** (1) In 2011, subsections (3), (5), (6), (7), and (8) were amended and subsections (6.5) and (12) were added by the "Safer Schools Act of 2011". For the short title, see section 1 of chapter 242, Session Laws of Colorado 2011.

(2) For the legislative declaration in HB 19-1186, see section 1 of chapter 94, Session Laws of Colorado 2019.

**22-32-109.9. Licensed personnel - submittal of fingerprints.** (1) (a) When any school district finds good cause to believe that any licensed personnel employed by such school district has been convicted of any felony or misdemeanor, other than a misdemeanor traffic offense or traffic infraction, subsequent to such employment, such school district shall require such person to submit a complete set of his or her fingerprints taken by a qualified law enforcement agency, an authorized employee of the school district or board of cooperative services, or any third party approved by the Colorado bureau of investigation. At the request of a school district, a law enforcement agency that has fingerprinting equipment that meets the federal bureau of investigation image quality standards shall take the fingerprints of an employee pursuant to this section if an approved third-party vendor is not operating within twenty miles of the school district within the law enforcement agency's jurisdiction. A school district employee or board of cooperative services employee may use any fingerprinting equipment that meets the federal bureau of investigation image quality standards. If an approved third party takes the person's fingerprints, the fingerprints may be electronically captured using Colorado bureau of investigation-approved livescan equipment. Third-party vendors shall not keep the applicant information for more than thirty days unless requested to do so by the applicant. The fingerprints must be submitted within twenty days of receipt of written notification from the school district.

(b) For purposes of this subsection (1), a person is deemed to be convicted of committing a felony or misdemeanor if such person has been convicted under the laws of any other state, the United States, or any territory subject to the jurisdiction of the United States of an unlawful act which, if committed within this state, would be a felony or misdemeanor.

(c) For purposes of this subsection (1), "convicted" means a conviction by a jury or by a court and shall also include the forfeiture of any bail, bond, or other security deposited to secure

appearance by a person charged with a felony or misdemeanor, the payment of a fine, a plea of nolo contendere, and the imposition of a deferred or suspended sentence by the court.

(2) (a) Any school district to which fingerprints are submitted pursuant to subsection (1) of this section shall forward such fingerprints to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing the records of the Colorado bureau of investigation and the federal bureau of investigation.

(b) When the results of a fingerprint-based criminal history record check of an employee performed pursuant to this section reveal a record of arrest without a disposition, the school district shall require that employee to submit to a name-based criminal history record check, as defined in section 22-2-119.3 (6)(d).

(3) All costs arising from the taking of fingerprints and from any fingerprint processing performed by the Colorado bureau of investigation pursuant to the provisions of subsection (1) of this section and costs arising from the performance of a name-based criminal history record check must be borne by school districts. School districts shall not charge licensed personnel any fees for the direct and indirect costs of such school district for fingerprint processing or criminal history record checks performed pursuant to the provisions of subsection (1) of this section.

**Source: L. 90:** Entire section added, p. 1113, § 3, effective June 7. **L. 93:** (1)(a)(I) amended, p. 71, § 2, effective March 26. **L. 2000:** (1)(a) and (3) amended, p. 1856, § 58, effective August 2. **L. 2002:** (1)(a) and (2) amended, p. 975, § 10, effective June 1. **L. 2017:** (1)(a) amended, (SB 17-189), ch. 149, p. 503, § 11, effective August 9. **L. 2019:** (1)(a) amended, (HB 19-1186), ch. 94, p. 346, § 5, effective April 10; (2) and (3) amended, (HB 19-1166), ch. 125, p. 548, § 27, effective April 18.

**Cross references:** For the legislative declaration in HB 19-1186, see section 1 of chapter 94, Session Laws of Colorado 2019.

**22-32-110. Board of education - specific powers - definitions.** (1) In addition to any other power granted to a board of education of a school district by law, each board of education of a school district has the following specific powers, to be exercised in its judgment:

(a) To take and hold in the name of the district so much real and personal property located within or outside the territorial limits of the district as may be reasonably necessary for any purpose authorized by law;

(b) To purchase on such terms, including but not limited to installment purchase plans, as the board sees fit and necessary or to lease or rent, with or without an option to purchase, undeveloped or improved real property located within or outside the territorial limits of the district or equipment on such terms as the board sees fit for use as school sites, buildings, or structures, or for any school purpose authorized by law; to determine the location of each school site, building, or structure; and to construct, erect, repair, alter, and remodel buildings and structures;

(c) To provide furniture, equipment, library books, and everything needed to carry out the education program;

(d) To construct, purchase, or remodel teacherages for the employees, or any classification thereof, of the district;

(e) To sell and convey district property which may not be needed within the foreseeable future for any purpose authorized by law, upon such terms and conditions as it may approve; and to lease any such property, pending sale thereof, under an agreement of lease, with or without an option to purchase the same. No finding that the property may not be needed within the foreseeable future shall be necessary if the property is sold and conveyed to a state agency or political subdivision of this state or if the board anticipates that the district will become the tenant of the property under a lease, with or without an option to purchase. A board of education of a school district may only include, by title, covenant, deed, or otherwise, a use restriction on the sale, conveyance, or lease of any district property pursuant to this subsection (1)(e) that restricts the property from being used as a public or nonpublic school for any grade from preschool through the twelfth grade, after providing public notice of its intent to include such use restriction and after discussing the issue in public at a regularly scheduled meeting of the board of education.

(f) To rent or lease district property not needed for its purposes for terms not exceeding ten years, or in the case of unimproved real property leased to a lessee that is a charter school as defined in section 22-30.5-403 (3), for a term not exceeding thirty years, or in the case of a charter school using debt financing, for a term not exceeding the term of the debt financing, subject to all land use and building and zoning plans, codes, resolutions, and regulations, and to permit the use of district property by community organizations upon such terms and conditions as it may approve. No finding that the property is not needed for the district's purposes shall be necessary if the board anticipates that the district will become the subtenant of the property under a sublease, and under such circumstances the term of the lease may exceed ten years but may not exceed fifty years. A board of education of a school district may only include, in a lease or otherwise, a use restriction on the rental or lease of any district property pursuant to this subsection (1)(f) that restricts the property from being used as a public or nonpublic school for any grade from preschool through the twelfth grade, after providing public notice of its intent to include such use restriction and after discussing the issue in public at a regularly scheduled meeting of the board of education.

(f.5) Subject to prior approval by the commissioner of education as provided in section 22-2-112 (5), to lease district property to a state institution of higher education for use by the institution for a term agreed to by the district and the institution. In addition to or in lieu of monetary lease payments, the board of education may agree to receive in-kind services provided by the institution to the district or its employees or graduates who reside within Colorado, such as reduced tuition rates and scholarships for the school district's employees or graduates who reside within Colorado. If the school district receives in-kind services as provided in this paragraph (f.5), the dollar value of the in-kind services that the school district receives must equal the dollar amount of the lease payment for which the in-kind service is substituted. No later than December 31, 2018, and no later than December 31 every three years thereafter, the school district shall submit to the education committees of the house of representatives and the senate, or any successor committees, a report specifying the amount of bonded indebtedness incurred to build a building that is leased to an institution of higher education as provided in this paragraph (f.5), an accounting of the value of any in-kind services received, and the impact on the school district as a result of the lease.

(g) To employ a chief executive officer to administer the affairs and the programs of the district, pursuant to a contract;

(h) To discharge or otherwise terminate the employment of any personnel. A board of a district of innovation, as defined in section 22-32.5-103 (2), may delegate the power specified in this paragraph (h) to an innovation school, as defined in section 22-32.5-103 (3), or to a school in an innovation school zone, as defined in section 22-32.5-103 (4).

(i) To reimburse employees of the district for expenses incurred in the performance of their duties either within or without the territorial limits of the district;

(j) To procure group life, health, or accident insurance covering employees of the district pursuant to section 10-7-203, C.R.S.;

(k) (I) To adopt written policies, rules, and regulations, not inconsistent with law, that may relate to the efficiency, in-service training, professional growth, safety, official conduct, and welfare of the employees, or any classification thereof, of the district. The practices of employment, promotion, and dismissal shall be unaffected by the employee's religion, creed, color, sex, sexual orientation, marital status, racial or ethnic background, national origin, ancestry, or participation in community affairs.

(II) As used in this subsection (1)(k):

(A) "Protective hairstyle" includes such hairstyles as braids, locs, twists, tight coils or curls, cornrows, Bantu knots, Afros, and headwraps.

(B) "Racial or ethnic background" includes hair texture, hair type, or a protective hairstyle that is commonly or historically associated with race.

(l) To determine which schools of the district shall be operated and maintained;

(m) To fix the attendance boundaries of each school in the district;

(n) To provide for the necessary expenses of the board in the exercise of its powers and the performance of its duties; to maintain membership in established school board organizations; and to reimburse a board member for necessary expenses incurred by him in the performance of his official duties, whether within or without the territorial limits of the district;

(o) To provide textbooks to all school-age pupils enrolled in the public schools. The use of such textbooks may be provided free of charge or for a reasonable rental fee for the use of some or all of the textbooks. The rental fee shall be based solely on the purchase price and normal life expectancy of each book rented.

(p) To require pupils enrolled in the public schools of the district to possess suitable supplies;

(q) To procure supplies and equipment required to carry on the musical, dramatic, athletic, and equivalent programs of the district;

(r) To exclude from each school and school library any books, magazines, papers, or other publications which, in the judgment of the board, are of immoral or pernicious nature;

(s) To procure such insurance coverage on the building, structures, and equipment owned by the district, or in which the district has an insurable interest, as may, in the judgment of the board, be adequate from time to time;

(t) To procure such casualty insurance coverage on the personal property owned by the district, or in which the district has an insurable interest, as may, in the judgment of the board, be adequate from time to time;

(u) To procure public liability insurance covering the school district and the directors and employees thereof;

(v) To procure liability and property damage insurance on school vehicles, as defined in section 42-1-102 (88.5), C.R.S., and to procure accident insurance covering the medical

expenses incurred by any pupil who is injured while being furnished transportation by the school district pursuant to section 22-32-113, including injury received in the course of entering or alighting from any school vehicle or other means of transportation furnished by the school district;

(w) To contract for the transportation of pupils enrolled in the public schools of the district and to require any such contractor operating a bus or motor vehicle for such purpose to procure liability and property damage insurance on such bus or motor vehicle and pay all premiums for such insurance, without the right of contribution from the school district to the insurer;

(x) To elect to have moneys belonging to the school district withdrawn from the custody of the county treasurer and paid over to the treasurer of the board in the manner provided by law;

(y) To accept gifts, donations, or grants of any kind made to the district and to expend or use said gifts, donations, or grants in accordance with the conditions prescribed by the donor; but no gift, donation, or grant shall be accepted by the board if subject to any condition contrary to law;

(z) To cause a census to be taken of all persons resident within the district who have not attained the age of twenty-one years, or any age group thereof, whenever determined by the board, notwithstanding any census theretofore or thereafter required to be taken by the state board of education;

(aa) To authorize the use of facsimile signatures on teacher contracts, bonds, and bond coupons by appropriate resolution;

(bb) Repealed.

(cc) To provide, in the discretion of the local board, out of federal grants made available specifically for this purpose, special educational services and arrangements, such as dual enrollment, educational radio and television, and mobile educational services, for the benefit of educationally deprived children in the district who attend nonpublic schools, without the requirement of full-time public school attendance and without discrimination on the ground of race, color, religion, sex, or national origin;

(dd) To provide, in the discretion of the local board, out of federal grants made available specifically for this purpose, library resources which, for the purposes of this title, means books, periodicals, documents, magnetic tapes, films, phonograph records, and other related library materials and printed and published instructional materials for the use and benefit of all children in the district and the use of teachers to benefit all children in the district, both in the public and nonpublic schools, without charge and without discrimination on the ground of race, color, religion, sex, or national origin;

(ee) To employ on a voluntary or paid basis teachers' aides and other auxiliary, nonlicensed personnel to assist licensed personnel in the provision of services related to instruction or supervision of children and to provide compensation for such services rendered from any funds available for such purpose, notwithstanding the provisions of sections 22-63-201 and 22-63-402;

(ff) and (gg) Repealed.

(hh) To enter into installment purchase contracts or shared-savings contracts or otherwise incur indebtedness under section 29-12.5-103, C.R.S., to finance energy conservation and energy saving measures and enter into contracts for an analysis and recommendations pertaining to such measures under section 29-12.5-102, C.R.S.;

(ii) To enter into contracts and to receive federal matching funds for moneys spent in providing student health services pursuant to section 25.5-5-301 (6) or 25.5-5-318, C.R.S.;

(jj) To require the payment of any fine or fee assessed pursuant to law, the return or replacement of textbooks or library resources, or the return or replacement of other school property. A school district shall not withhold, and shall ensure that a school of the school district does not withhold, records required for enrollment in another school or institution of higher education or the diploma, transcript, or grades of any student who fails to pay any assessed fine or fee, to return or replace textbooks or library resources, or to return or replace any school property at the completion of any semester or school year. The school district shall make a reasonable effort to obtain payment of any assessed fine or fee, payment for lost or damaged textbooks or library resources, and payment for lost or damaged school property. If the school district determines that a student is unable to pay, the school district may obtain payment through other methods, including but not limited to payment plans or service within the school in which the student is enrolled. Nothing in this subsection (1)(jj) limits the authority of a school district to collect debt.

(kk) To authorize the use of electronic records or signatures and adopt rules, standards, policies, and procedures for use of electronic records or signatures pursuant to article 71.3 of title 24, C.R.S.;

(ll) (I) Repealed.

(II) (Deleted by amendment, L. 2005, p. 433, § 5, effective April 29, 2005.)

(mm) To adopt a resolution, as provided in section 13-1-127 (7), C.R.S., authorizing one or more employees of the school district to represent the school district in judicial proceedings brought to enforce the "School Attendance Law of 1963", article 33 of this title.

(2) to (4) Repealed.

(5) No board of education shall enter into an agreement with any group, association, or organization representing employees of the district which commits revenues raised or received pursuant to article 54 of this title for a period of time in excess of one year unless such agreement includes a provision which allows for the reopening of the portion of the agreement relating to salaries and benefits.

**Source: L. 64:** p. 579, § 10. **C.R.S. 1963:** § 123-30-10. **L. 65:** p. 1023, § 1. **L. 69:** p. 1032, § 1. **L. 71:** p. 1163, § 1. **L. 73:** pp. 1274, 1275, 1279, §§ 2, 1, 1. **L. 77:** (1)(b) amended, p. 1050, § 1, effective June 10; (1)(cc) and (1)(dd) amended, p. 1053, effective July 1. **L. 79:** (1)(a) and (1)(b) amended, p. 782, § 2, effective June 7. **L. 83:** (1)(b), (1)(e), and (1)(f) amended, p. 749, §§ 1, 2, effective July 1; (1)(f) amended, p. 754, § 1, effective July 1. **L. 84:** (1)(bb) amended, p. 582, § 2, effective March 19; (2) to (4) added, p. 597, § 1, effective April 5. **L. 89:** (5) added, p. 965, § 12, effective June 7. **L. 90:** (1)(ff) and (1)(gg) added, p. 1456, § 3, effective April 24; (1)(ee) amended, p. 1130, § 5, effective July 1; (2) and (4) amended, p. 1031, § 20, effective July 1. **L. 91:** (4)(a) amended and (4)(c) added, p. 529, § 1, effective April 20; (1)(hh) added, p. 732, § 2, effective May 1. **L. 93:** (2) and (3) amended and (3.5) added, p. 449, § 1, effective July 1. **L. 94:** (1)(ff), (1)(gg), and (5) amended, pp. 808, 813, §§ 14, 26, effective April 27; (1)(ee) amended, p. 1633, § 39, effective May 31; (1)(ff) and (1)(gg) amended, p. 2831, § 1, effective January 1, 1995. **L. 95:** (1)(o) amended, p. 346, § 2, effective January 1, 1996. **L. 97:** (1)(ii) added, p. 1139, § 7, effective May 28; (3.5)(b) repealed, p. 461, § 8, effective August 6. **L. 98:** (2)(b)(V) amended, p. 572, § 6, effective April 30; (2)(b)(IV) amended, p. 823, § 32,

effective August 5. **L. 99:** (1)(jj) added, p. 291, § 1, effective April 14; (1)(kk) added, p. 1347, § 5, effective July 1. **L. 2000:**(3.5)(a) amended, p. 369, § 21, effective April 10; (2), (3), (3.5), and (4) repealed, p. 1963, § 4, effective June 2; (1)(ee) and IP(4)(b) amended, p. 1857, § 59, effective August 2. **L. 2001:** (1)(ll) added, p. 560, § 2, effective May 29. **L. 2002:** (1)(kk) amended, p. 858, § 6, effective May 30; (1)(ff) and (1)(gg) amended, p. 1118, § 1, effective June 3; (1)(f) amended, p. 1767, § 35, effective June 7. **L. 2003:** (1)(jj) amended, p. 1634, § 1, effective May 2; (1)(ff)(III) and (1)(gg)(III) added, p. 2137, §§ 35, 36, effective May 22. **L. 2005:** (1)(ll) amended, p. 433, § 5, effective April 29. **L. 2006:** (1)(ll)(I) repealed, p. 696, § 40, effective April 28; (1)(ii) amended, p. 2006, § 64, effective July 1. **L. 2007:** (1)(mm) added, p. 165, § 3, effective March 22; (1)(ff)(I) and (1)(gg)(I) amended, p. 348, § 3, effective August 3. **L. 2008:** (1)(h) amended, p. 1431, § 3, effective May 28; (1)(k) amended, p. 1601, § 24, effective May 29. **L. 2010:** (1)(v) amended, (HB 10-1232), ch. 163, p. 570, § 5, effective April 28; (1)(ff) and (1)(gg) repealed, (HB 10-1013), ch. 399, p. 1896, § 3, effective June 10; (1)(bb) repealed, (HB 10-1171), ch. 401, p. 1935, § 5, effective August 11. **L. 2016:** (1)(f.5) added, (SB 16-209), ch. 235, p. 949, § 1, effective August 10. **L. 2017:** (1)(jj) amended, (HB 17-1301), ch. 201, p. 745, § 1, effective August 9. **L. 2019:** (1)(e) and (1)(f) amended, (HB 19-1100), ch. 36, p. 118, § 2, effective August 2. **L. 2020:** IP(1) and (1)(k) amended, (HB 20-1048), ch. 8, p. 18, § 7, effective September 14.

**Editor's note:** (1) Subsection (3.5)(a) was amended by Senate Bill 00-186 with a conforming amendment that will not take effect because of the repeal of the provision by Senate Bill 00-133.

(2) Section 13(2) of chapter 8 (HB 20-1048), Session Laws of Colorado 2020, provides that the act changing this section applies to conduct occurring on or after September 14, 2020.

**Cross references:** (1) For the legislative declaration contained in the 1995 act amending subsection (1)(o), see section 1 of chapter 113, Session Laws of Colorado 1995. For the legislative declaration contained in the 2001 act enacting subsection (1)(ll), see section 1 of chapter 174, Session Laws of Colorado 2001. For the legislative declaration contained in the 2008 act amending subsection (1)(k), see section 1 of chapter 341, Session Laws of Colorado 2008. For the legislative declaration in HB 19-1100, see section 1 of chapter 36, Session Laws of Colorado 2019.

(2) For the short title ("Creating a Respectful and Open World for Natural Hair Act of 2020" or the "CROWN Act of 2020") and the legislative declaration in HB 20-1048, see sections 1 and 2 of chapter 8, Session Laws of Colorado 2020.

**22-32-110.3. Board of education - specific powers - teacher in residence program. (Repealed)**

**Source: L. 99:** Entire section added, p. 1192, § 9, effective June 1. **L. 2000:** (4)(d) amended, p. 1114, § 2, effective May 26. **L. 2002:** (4)(b) and (6)(a) amended and (4)(f) and (7) added, pp. 1622, 1623, §§ 1, 2, effective June 7. **L. 2003:** (4)(a) amended, p. 2516, § 6, effective June 5. **L. 2004:** (4)(a), (4)(b)(I), (4)(d), and (4)(f) amended, p. 1282, § 8, effective May 28. **L. 2005:** (4)(c) amended, p. 189, § 30, effective April 7. **L. 2009:** Entire section repealed, (SB 09-160), ch. 292, p. 1447, § 1, effective May 21.

**Cross references:** For current provisions relating to teacher in residence programs, see alternative teacher programs as contained in § 22-60.5-205.

**22-32-110.4. Board of education - specific powers - alternative principal preparation program. (Repealed)**

**Source: L. 2004:** Entire section added, p. 1287, § 23, effective May 28. **L. 2005:** (3)(a) and (5) amended, p. 189, § 31, effective April 7. **L. 2009:** Entire section repealed, (SB 09-160), ch. 292, p. 1447, § 1, effective May 21.

**Editor's note:** This section was relocated to § 22-60.5-305.5 in 2009.

**22-32-110.5. Charter schools - effectiveness of charter. (Repealed)**

**Source: L. 96:** Entire section added, p. 755, § 10, effective May 22. **L. 98:** Entire section repealed, p. 164, § 2, effective April 6.

**22-32-110.6. Board of education - specific powers - "No Child Left Behind Act of 2001".** (1) Effective July 1, 2005, a school district board of education may adopt a resolution stating its intent to decline one or more of the federal funding sources of the "Elementary and Secondary Education Act of 1965", as reauthorized and amended in the "No Child Left Behind Act of 2001", 20 U.S.C. sec. 6301 et seq., and thereby be exempt from the requirements of said federal act that accompany the declined funding sources and are identified by said federal act as available for exemption. The resolution shall remain in place until rescinded by the school district board of education.

(2) If a school district chooses to adopt a resolution to decline federal funding sources as provided in this section, the school district's action in declining federal funds and thereby being exempt from specified federal requirements shall not affect the school district's accreditation category, and the department of education and the state board of education shall not impose any form of sanction on the school district for its action in declining federal funds and in not complying with the federal requirements from which it is exempt.

**Source: L. 2005:** Entire section added, p. 487, § 1, effective May 7. **L. 2009:** (2) amended, (SB 09-163), ch. 293, p. 1542, § 42, effective May 21.

**22-32-110.7. Board of education - specific powers - drug testing.** (1) The general assembly recognizes that the safety issues which face schools have changed in the recent past. The general assembly finds the safety of school children should be a priority of the state. The general assembly further finds the use of illegal drugs by employees of school districts who hold safety-sensitive positions could endanger the lives and safety of school children. The general assembly therefore authorizes school districts to create school safety programs, which may include drug testing of all personnel who apply for, transfer to, or are promoted to safety-sensitive positions. The program may also include drug testing of personnel in safety-sensitive positions if there is probable cause to believe the person is using illegal drugs.

(2) For each collective bargaining agreement entered into on or after April 16, 2001, with a union representing personnel in safety-sensitive positions, the collective bargaining agreement shall include drug testing policies for personnel who occupy safety-sensitive positions.

(3) Implementation of this section shall be within existing appropriations.

(4) For the purposes of this section, "safety-sensitive positions" means positions in which a single mistake can create imminent threat of serious harm to students or teachers.

**Source: L. 2001:** Entire section added, p. 363, § 33, effective April 16.

**22-32-111. Power of eminent domain.** A school district has the power to take by eminent domain so much real property as the board of education of the district may deem necessary for any school purpose authorized by law, but the power of eminent domain shall not be exercised to acquire any real property located outside the territorial limits of the school district. The procedure for the exercise of eminent domain as authorized by this section shall be as prescribed by article 1 of title 38, C.R.S., but without regard to the municipal corporation and purposes specified in said article.

**Source: L. 64:** p. 583, § 12. **C.R.S. 1963:** § 123-30-12.

**22-32-112. Oil and gas leases.** (1) A board of education of a school district has the power to lease any real property or any interest therein owned by the district for oil and gas exploration, development, and production purposes, upon such terms and conditions as may be prescribed and contracted by the board in the exercise of its best judgment as the board deems to be for the best interests of the district. Any lease of oil and gas rights shall be for a term not to exceed ten years and as long thereafter as oil or gas is produced, and shall provide for a royalty of not less than twelve and one-half percent of all oil and gas produced, saved, and sold, or the gross production value thereof, which royalty may be reduced proportionately under appropriate provision in the lease if the interest in the school district is less than a full interest in the land or oil and gas rights in the land described in the lease. Whenever in the opinion of the board of education, and because of the size, shape, or current use of any tract of land owned by the district, the best interests of the district so require, any lease of such tract may provide that no drilling shall be conducted on the land covered thereby, in which case such lease shall be for a term not to exceed ten years and so long thereafter as the district may share in royalties payable on account of production of oil or gas from lands adjacent to such tract so leased.

(2) Whenever deemed by the board of education of a school district to be in the best interests of the district, it may enter into a unit agreement providing for the pooling, unitization, or consolidation of acreage covered by any oil and gas lease executed by the district with other acreage for oil and gas exploration, development, and production purposes, and providing for the apportionment or allocation of royalties among the separate tracts of land included in the unit or pooling agreement on an acreage or other equitable basis, and may change, by such agreement, with the consent of the lessee under the lease, any or all of the provisions of any lease issued by the district, including the term of years for which the lease was originally granted, in order to conform such lease to the terms and provisions of the unit or pooling agreement and to facilitate the efficient and economic production of oil and gas from the lands subject to such agreement.

(3) The leasing of school district real property or any interest therein under the provisions of this section shall not be deemed to be a sale of such school property.

(4) All leases of oil and gas or rights therein and all unit agreements relating to or dealing with oil and gas and containing provisions similar to those set forth in this section affecting school district lands heretofore made or entered into by any school district are hereby confirmed, validated, and declared to be legal and valid in all respects.

**Source: L. 64:** p. 583, § 13. **C.R.S. 1963:** § 123-30-13.

**22-32-113. Transportation of pupils - when.** (1) The board of education of a school district may furnish transportation:

(a) To and from public schools of the district for any reasonable classification of resident pupils enrolled in the schools of the district;

(b) To and from public schools located in an adjacent state for any reasonable classification of resident pupils who have not completed the twelfth grade, but only if the district of attendance is one to which the district of residence of such pupils is authorized to pay tuition for the attendance of such pupils;

(c) To and from public schools for any reasonable classification of pupils enrolled in the schools of the district who are residents of any other school district, if the district of residence is adjacent to the district of attendance, and if the board or other governing body of the district of residence consents to such transportation;

(d) To and from any school-sponsored activity, or for any emergency, for any reasonable classification of resident pupils enrolled in the schools of the district, whether said activity or emergency be within or without the territorial limits of the district, and whether or not occurring during school hours.

(1.5) The general assembly recognizes that section 2 of article IX of the state constitution requires the establishment and maintenance of a thorough and uniform system of free public schools and requires school districts to maintain such public schools. The general assembly finds and declares, however, that the provision by school districts of transportation for pupils is not required by the constitution as a part of a thorough and uniform system of free public schools and that any school district which provides transportation may pay the costs incurred in doing so through any means authorized by the general assembly pursuant to this title.

(2) A board may determine the points at which pupils shall be received and delivered and the routes of transportation pursuant to subsection (1) of this section.

(3) If it is impractical, as determined by the board, to furnish transportation to and from school for any resident pupil enrolled or eligible to be enrolled in the schools of the district pursuant to subsection (1)(a), (1)(b), or (1)(c) of this section, the board may pay the cost, or any portion thereof, of room and board for the pupil to reside at a point near a school of the district of residence, or a school of a district to which the district of residence is authorized to pay tuition.

(4) A board may reimburse a parent or guardian for the expenses incurred by such parent or guardian in furnishing transportation to and from a public school or designated school vehicle stop for his or her child or children and for other pupils enrolled in the schools of the district, but the board shall not reimburse any person for transportation furnished to a pupil resident in another school district without the consent of the board or other governing body of the district of

residence. The amount and payment of transportation expenses are determined by the board paying the expenses.

(5) (a) The board of education of a school district that furnishes transportation to pupils pursuant to the provisions of this section may impose and collect a fee for the payment of excess transportation costs pursuant to a fee schedule adopted by a resolution of the board of education of the district.

(a.5) Prior to adopting a resolution to collect a transportation fee pursuant to the provisions of this subsection (5), a school district board of education shall hold a public meeting to solicit and consider recommendations from, at a minimum, the school district accountability committee, or its equivalent within the school district, and from teachers, parents, and students, including but not limited to any statewide or local organization that represents parents, teachers, and students within the school district. The recommendations shall pertain both to the question of whether to impose the transportation fee and to the proposed fee schedule. The school district board of education shall provide public notice of the meeting at least thirty days prior to the meeting. At a meeting held subsequent to the meeting at which the school district board of education receives comments and recommendations, the district board may adopt a resolution to impose a transportation fee pursuant to this subsection (5). The school district board of education shall specifically take into account the recommendations received from the school district accountability committee, or its equivalent, and teachers, parents, and students when making the final determination of whether to impose a transportation fee pursuant to this subsection (5).

(a.6) In imposing a transportation fee on pupils pursuant to this subsection (5), the school district shall ensure that only those pupils who use the transportation services are required to pay the fee.

(a.7) A school district shall deposit any revenues received from the imposition of a fee pursuant to the provisions of this subsection (5) in the transportation fund of the district created in section 22-45-103 (1)(f).

(a.9) If a school district that imposes a transportation fee pursuant to this subsection (5) chooses to impose the transportation fee on students enrolled in charter schools of the school district, the school district, prior to imposing the transportation fee, shall consult with the parents of the students enrolled in the charter schools of the school district. If the school district chooses to include charter school students in the transportation fee, the school district shall ensure that the full amount of the transportation fee collected from students enrolled in charter schools is used to offset the costs of providing transportation services for charter school students.

(b) For the purposes of this subsection (5), "excess transportation costs" means the current operating expenditures for pupil transportation, as defined in section 22-51-102 (1), minus any reimbursement entitlement, as defined in section 22-51-102 (4). The calculation of excess transportation costs shall be based upon amounts expended and amounts received for the twelve-month period ending on June 30 prior to the adoption of the fee schedule.

(c) If a school district imposes a fee for the transportation of pupils, the district shall waive the fee for any pupil who is eligible for a reduced-cost meal or free meal pursuant to the "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq.

**Source: L. 64:** p. 584, § 14. **C.R.S. 1963:** § 123-30-14. **L. 69:** p. 1033, § 1. **L. 91:** (1.5) and (5) added, pp. 538, 537, §§ 3, 2, effective May 1. **L. 93:** (5)(a) amended, p. 1782, § 50, effective June 6. **L. 2005:** (5) amended, p. 1506, § 1, effective June 9. **L. 2010:** (4) amended,

(HB 10-1232), ch. 163, p. 570, § 6, effective April 28. **L. 2018:** (1)(c) and (4) amended, (HB 18-1306), ch. 364, p. 2185, § 7, effective August 8. **L. 2019:** (1)(c) and (4) amended, (SB 19-039), ch. 24, p. 82, § 1, effective March 7.

**Cross references:** (1) For reimbursement of transportation costs, see article 51 of this title.

(2) For the legislative declaration in HB 18-1306, see section 1 of chapter 364, Session Laws of Colorado 2018.

**22-32-114. Transportation by parents of own children.** Notwithstanding the provisions of section 42-4-1904, C.R.S., the board of a school district shall not require a parent or guardian to comply with said statutes and school bus regulations when such parent or guardian shall transport only his or her own child or children, even though the board may reimburse such parent or guardian for expenses incurred in furnishing such transportation.

**Source: L. 64:** p. 585, § 15. **C.R.S. 1963:** § 123-30-15. **L. 94:** Entire section amended, p. 2554, § 46, effective January 1, 1995.

**Cross references:** For reimbursement entitlement to school districts from the public school transportation fund, see § 22-51-104.

**22-32-115. Tuition for resident school-age children.** (1) A board of education of a school district may pay tuition for any school-age child resident in the district who has not completed the twelfth grade to attend a school operated by another school district, whether said school is located within or without the county, when the board of the district of residence determines for any reason whatsoever that it would be to the educational advantage or general welfare or convenience of said child to attend such school operated by another school district.

(2) (a) The tuition, to be paid as authorized by subsection (1) of this section, shall not exceed one hundred twenty percent of the current per pupil general fund cost in the school district of attendance during the preceding school year.

(b) (I) A board of education of a district shall permit any child, the parents or guardian of whom are residents of the state but are not residents of the district, to attend school in the district pursuant to the provisions of section 22-36-101, and the parents or guardian of such child shall not be required to pay tuition. If the child permitted to attend school in the district pursuant to the provisions of section 22-36-101 is a child with a disability, the school district of residence shall be responsible for paying any tuition for educating the child in accordance with the provisions of section 22-20-109 (4). Nothing in this paragraph (b) shall be construed as creating an obligation on the part of the school district of residence or the school district of attendance to provide transportation at public expense for any such child to and from the school of attendance. The board of education of any school district may permit any child, the parents or guardian of whom are not residents of the state, to attend school in the school district and may require the parents or guardian of the child to pay tuition on behalf of the child.

(II) A board of education of a school district shall permit an elementary school-age child to attend an elementary school operated by such school district if the provisions of section 22-32-116 (2) are applicable.

(3) The authority of a board of education to pay tuition for a child pursuant to subsection (1) of this section shall include authority to pay tuition for a child to attend a public school of a school district situate in an adjacent state when the district of residence of the child is situate adjacent to the other state and the geographic conditions or distances are such that it would be impracticable for the child to attend the schools of his district. In the case of tuition paid to a school district of an adjacent state, the limitations of subsection (2)(a) of this section shall not be applicable.

(4) (a) A district of residence shall not be liable for the tuition of any school-age child except pursuant to a written agreement with the district of attendance. A copy of any written agreement between the district of residence and the district of attendance shall be furnished to the parent or guardian of a child covered by the agreement, and such parent or guardian shall not be liable for such part of the tuition, if any, not paid to the district of attendance by the district of residence of such child; except that such parent or guardian may be liable for the payment of such part of the tuition if such parent or guardian is not a resident of the state.

(b) The written agreement between the school district of residence and the school district of attendance regarding a nonresident child who is attending an elementary school in a school district other than the school district of residence pursuant to the provisions of section 22-32-116 (2) may not contain any requirement for the payment of tuition. The school district of residence and the parent or guardian of a child attending school pursuant to section 22-32-116 (2) are not liable for any tuition for the attendance of the child in the school district of attendance.

(5) (Deleted by amendment, L. 94, p. 558, § 3, effective April 6, 1994.)

**Source: L. 64:** p. 585, § 16. **C.R.S. 1963:** § 123-30-16. **L. 75:** (2)(a) amended, p. 710, § 1, effective July 1. **L. 88:** (2)(a) amended, p. 811, § 10, effective May 24. **L. 93:** (5) amended, p. 1648, § 41, effective July 1. **L. 94:** (2)(b), (4), and (5) amended, p. 558, § 3, effective April 6; (2)(a) amended, p. 813, § 27, effective April 27; (2)(b) and (4) amended, p. 1061, § 2, effective May 4; (2)(b) amended, p. 1283, § 10, effective May 22. **L. 95:** (2)(b)(II) amended, p. 1101, § 27, effective May 31. **L. 2009:** (2)(a) amended, (SB 09-292), ch. 369, p. 1963, § 60, effective August 5.

**Editor's note:** Amendments to subsections (2)(b) and (4) in House Bill 94-1065 and House Bill 94-1174 were harmonized.

**22-32-116. Exclusion of nonresidents - exception.** (1) Notwithstanding the provisions of section 22-36-101, and except as otherwise provided for homeless children pursuant to section 22-1-102, any pupil who is enrolled as a resident student shall be entitled to complete the semester or other term for credit if such pupil becomes a nonresident, or, if such pupil becomes a nonresident while enrolled in the twelfth grade, such pupil shall be entitled to finish that school year as a resident.

(2) (a) The provisions of this subsection (2) are only applicable to elementary school-age children.

(b) If a pupil is enrolled in an elementary school and becomes a nonresident subsequent to the time of enrollment or becomes a nonresident during the time period between school years, the school district shall allow the pupil to remain enrolled in or to reenroll in said elementary school subject to the following requirements:

(I) The pupil was included in the most recent October pupil enrollment count taken by the school district and has been continuously enrolled in the elementary school since the date the count was taken;

(II) The parent or guardian of the pupil has made a written request to the principal of the elementary school asking for the pupil to remain enrolled in or to reenroll in the school; and

(III) The request has been approved by the principal of the elementary school following a finding that space exists in the school to accommodate the pupil.

(c) If the pupil's request is made and approved pursuant to this subsection (2), the school district shall permit the pupil to remain enrolled in or to reenroll in the requested elementary school. The school district of residence and the school district of attendance shall enter into a written agreement concerning the pupil as provided in section 22-32-115 (4).

(d) If the pupil that has received permission to reenroll in an elementary school pursuant to the provisions of this subsection (2) does not do so by the pupil enrollment count in October, the school district is no longer required to permit such reenrollment.

(e) Nothing in this subsection (2) may be construed as creating an obligation on the part of the school district of residence or the school district of attendance to provide transportation at public expense for any such pupil to and from the school of attendance.

**Source: L. 64:** p. 587, § 17. **C.R.S. 1963:** § 123-30-17. **L. 73:** p. 1280, § 1. **L. 94:** Entire section amended, p. 559, § 4, effective April 6; entire section amended, p. 1060, § 1, effective May 4. **L. 2002:** (1) amended, p. 206, § 5, effective July 1.

**Editor's note:** Amendments to this section in House Bill 94-1065 and House Bill 94-1174 were harmonized.

**22-32-116.5. Extracurricular and interscholastic activities - definitions.** (1) (a) Notwithstanding any other provision of this article, each school district and each public school, subject to the requirements of this section, shall allow any student enrolled in a school or participating in a nonpublic home-based educational program to participate on an equal basis in any activity offered by the school district or the public school that is not offered at the student's school of attendance or through the student's nonpublic home-based educational program. A school district or school shall not adopt or agree to be bound by any rule or policy of any organization or association that would prohibit any participation allowed by this section. Each nonpublic school may allow a student to participate in a particular activity offered by the nonpublic school, at the nonpublic school's discretion.

(b) Any student may participate in an activity through any amateur association or league of which the school or school district is not a member, and such participation shall not prevent the student from participating or affect the student's eligibility to participate in the same activity at any school, subject to the limitations specified in this section. Prior to participating in any activity through such an amateur association or league, the student shall obtain the express written permission of the principal of the school at which the student participates in the activity, which permission shall be granted if:

(I) The student's class attendance is not compromised; and

(II) The student is in good academic standing under the school's activities policy applicable to all students.

(c) No school or school district that receives funds under article 54 of this title shall belong to any organization or association nor enforce any rule of a coach or principal that would prohibit a student's participation in any school or interscholastic school activity based upon the student's participation in lawful activities during out-of-school hours and off of school property.

(2) (a) A student may participate in activities only at the student's school of attendance or through the student's nonpublic home-based educational program, whichever is applicable, unless the school of attendance or nonpublic home-based educational program does not offer an activity in which the student wishes to participate.

(b) If a student's school of attendance or nonpublic home-based educational program does not offer an activity in which the student wishes to participate, the student may participate in the activity at another public school in the student's school district of attendance or in the student's school district of residence. If the activity is not offered at any public school in the school district of attendance or the school district of residence, the student may participate in the activity at a public school in a school district that is contiguous to the student's school district of residence or at the nearest public school that has the facilities for and offers the activity, even if the public school is not in a contiguous school district.

(c) If an activity is not offered at the student's school of attendance and the student chooses to participate in the activity at a public school as provided in paragraph (b) of this subsection (2), the school district in which the student chooses to participate shall choose the public school at which the student shall participate. In choosing a public school, the school district shall seek to maximize all students' opportunities to participate in extracurricular activities and shall consider certain factors, including but not limited to:

(I) Which public school of the school district offers the most activities in which the student wishes to participate;

(II) Which public school or schools of the school district are nearest to the student's residence;

(III) The preferences of the student's parents or legal guardians; and

(IV) Such issues as may be presented for the school district's consideration by a statewide high school activities association.

(d) A student may participate in activities at more than one school of participation during the same school year only if the original school of participation does not offer an activity in which the student wishes to participate. This limitation applies regardless of whether the student participates in activities at a public or nonpublic school.

(3) (a) If a student's school of attendance does not offer a particular activity, the student may choose to participate in the activity at a nonpublic school. The nonpublic school has discretion whether to allow the student to participate in an activity at the nonpublic school.

(b) A student may participate at a nonpublic school located in the student's school district of attendance or school district of residence. If the activity is not offered at a school in the student's school district of attendance or school district of residence, the student may apply to participate in the activity at a nonpublic school in a school district contiguous to the student's school district of residence.

(c) Repealed.

(4) (a) To participate in an activity at the school of attendance, a student shall meet all of the requirements imposed by the school of attendance.

(b) To participate in an activity at a school of participation, a student shall:

(I) If the student is participating in a nonpublic home-based educational program, comply with all laws governing said programs;

(II) Comply with all eligibility requirements imposed by the school of participation;

(III) Comply with the same responsibilities and standards of behavior, including related classroom and practice requirements, as are imposed on other students participating in the activity at the school of participation.

(c) Notwithstanding any provision of this subsection (4) to the contrary, a school district or a public school shall not require a student who is participating in a nonpublic home-based educational program and who chooses to participate in an extracurricular activity at a public school selected by the district to enroll in a course or to complete any course credits as an eligibility requirement or other condition for participating in the activity at the district-selected school of participation; except that the school district or public school may require the student to enroll in a course if the extracurricular activity is an extension of the course, such as a performing arts group.

(5) A student who has not met all eligibility requirements for or who would have become ineligible to participate in activities at a school cannot gain or regain eligibility by applying to participate in activities at another school pursuant to this section. A student shall pay any penalty assessed against the student at the student's school of attendance or school of participation before the student may regain eligibility at the school of attendance or school of participation or become eligible to participate in any activity at another school.

(5.5) For each athletic activity offered, a school district may:

(a) For a team athletic activity, reserve for students enrolled in the district of the school of participation up to twice the number of starting positions on a team at each level of competition;

(b) For an individual athletic activity, reserve for students enrolled in the district of the school of participation up to one-half the total number of team members at each level of competition.

(6) (a) A school may charge any student participating in an activity a participation fee as a prerequisite to participation. The fee amount that a school of participation charges a nonenrolled student shall not exceed one hundred fifty percent of the fee amount the school of participation would charge an enrolled student to participate in the activity.

(b) If any fee is collected pursuant to this section for participation in an activity, the fee shall be used to fund the particular activity for which it is charged and shall not be expended for any other purpose.

(c) In addition to the fees allowed under paragraph (a) of this subsection (6), a school may charge a nonenrolled student participating in postseason competition in an individual athletic activity the actual cost of that postseason participation if the school is sponsoring only nonenrolled students in the postseason competition.

(7) For purposes of article 54 of this title, no student who participates in an activity in a school district other than the student's school district of attendance shall be included in the pupil enrollment of the school district where the student participates.

(8) The provisions of this section are intended to allow students to participate on an equal basis in extracurricular and interscholastic activities who would otherwise be denied the opportunity to do so and are not intended to sanction or encourage the recruitment of students for participation in such activities by schools or school districts.

(9) If a student transfers enrollment to another school without an accompanying change of domicile by the student's parent or legal guardian, the student's eligibility to participate in activities at the new school of attendance shall be determined under the rules of participation adopted by the school district in which the new school of attendance is located.

(9.5) (a) Notwithstanding any rule adopted or agreed to by any public school or school district, any student who is sanctioned or is found by the school, school district, or any organization or association to which the school or school district belongs to be ineligible to participate in any activity for any reason, except unsportsmanlike conduct or ejection from an activity, may appeal the sanction or finding. The appeal may be made through the applicable process at the school, any league to which the school or school district belongs, or any other organization to which the school or school district belongs.

(b) A student who has completed the appeal process described in paragraph (a) of this subsection (9.5) may seek a preliminary injunction or restraining order from a court of competent jurisdiction.

(c) This subsection (9.5) shall not apply to any coach's team rules that are uniformly applicable to all team members; except that no coach may adopt a rule that is contrary to any provision of this section.

(10) As used in this section, unless the context otherwise requires:

(a) "Activity" means any extracurricular or interscholastic activity, including but not limited to any academic, artistic, athletic, recreational, or other activity offered by a school.

(b) "Nonpublic home-based educational program" has the same meaning as in section 22-33-104.5 (2).

(c) "Nonpublic school" means any independent or parochial school that provides a basic academic education, as defined in section 22-33-104 (2)(b).

(d) "Public school" means any school that is under the direction and control of a school district, including but not limited to a charter school.

(e) "School" includes any public school and nonpublic school.

(f) "School of attendance" means the school in which a student is enrolled and attends classes.

(g) "School district of attendance" means the school district in which a student is enrolled and attends classes or, if the student is participating in a nonpublic home-based educational program, except as provided for in section 22-33-104.5 (6)(b)(II)(B), the school district in which the student participates in said program.

(h) "School district of residence" means the school district in which a student resides.

(i) "School of participation" means a school, other than the student's school of attendance, in which the student participates in an activity.

**Source: L. 93:** Entire section added, p. 337, § 1, effective April 12. **L. 94:** (3) added, p. 1282, § 7, effective May 22; entire section amended, p. 2836, § 1, effective June 7. **L. 96:** Entire section amended, p. 1018, § 1, effective May 23. **L. 97:** (1) and (6)(a) amended and (9.5) added, p. 166, § 1, effective March 28; (1)(c) added, p. 587, § 19, effective April 30. **L. 2000:** (10)(g) amended, p. 372, § 23, effective April 10. **L. 2001:** (5.5) added and (6) amended, p. 11, § 1, effective February 22. **L. 2003:** (9) amended, p. 1220, § 1, effective April 22. **L. 2004:** (2)(b) and (2)(c) amended, p. 17, § 1, effective March 1. **L. 2010:** (9.5)(b) amended, (HB 10-1064), ch. 54, p. 200, § 1, effective August 11. **L. 2013:** (4)(c) added, (HB 13-1095), ch. 144, p. 466, § 2,

effective April 26; (2)(c) and (2)(d) amended and (3)(c) repealed, (HB 13-1047), ch.143, p. 464, § 2, effective August 7. **L. 2015:** (9.5)(b) amended, (SB 15-051), ch. 73, p. 194, § 1, effective August 5.

**Editor's note:** Amendments to this section by House Bill 94-1097 and House Bill 94-1365 were harmonized.

**Cross references:** (1) For further provisions concerning student participation in interscholastic activities in a school they do not attend, see § 22-33-104.5.

(2) For the legislative declaration in the 2013 act amending subsections (2)(c) and (2)(d) and repealing subsection (3)(c), see section 1 of chapter 143, Session Laws of Colorado 2013.

**22-32-117. Miscellaneous fees.** (1) When the use of textbooks is provided pursuant to section 22-32-110 (1)(o), whether free or by rental, a board of education of a school district may require each nonindigent pupil to make a reasonable loss or damage deposit to cover such textbooks. A board may also require each nonindigent pupil to make a reasonable loss or damage deposit to cover nonacademic equipment. All such deposits shall be refunded to the pupil when he or she has returned the textbooks or equipment in good condition except for ordinary wear.

(2) (a) A board may require a pupil to pay:

(I) Tuition as authorized by law;

(II) Any fees reasonably necessary for and reasonably related to the actual cost of textbooks or expendable supplies not provided free of charge;

(III) Charges and fees authorized by this section and section 22-32-118;

(IV) Miscellaneous fees collected on a voluntary basis as a condition of participation or attendance at a school-sponsored activity or program not within the academic portion of the educational program.

(b) Except as provided in paragraph (a) of this subsection (2), a board may not require a pupil who has not completed the twelfth grade to pay:

(I) Any fees as a condition of enrollment in school or as a condition of attendance in any course of study, instruction, or class;

(II) Any fees for any course of study, instruction, or class that satisfies the requirements of or transfers the skill, knowledge, or information necessary to meet the requirements of any such course taken for credit, promotion, or graduation.

(c) Any fee collected pursuant to the provisions of this subsection (2) shall be used for the purpose set forth in the resolution of the board authorizing the collection of such fee and shall not be expended for any other purpose. A complete list of fees, how the amount of each fee was derived, and the purpose of each fee shall be made available by the board upon request.

(3) Whenever a board or public school publicizes any information concerning any fee authorized to be collected pursuant to this section, the board or school shall clearly state whether the fee is voluntary or mandatory and shall specify any activity from which the student shall be excluded if the fee is not paid.

**Source: L. 64:** p. 587, § 18. **C.R.S. 1963:** § 123-30-18. **L. 94:** (2) amended, p. 804, § 5, effective April 27. **L. 95:** (1) amended and (2) R&RE, p. 347, §§ 3, 4, effective January 1, 1996. **L. 97:** (2)(c) amended and (3) added, p. 164, § 1, effective March 28.

**Cross references:** For the legislative declaration contained in the 1995 act amending subsections (1) and (2), see section 1 of chapter 113, Session Laws of Colorado 1995.

**22-32-118. Summer schools - continuation, evening, and community education programs.** (1) During that period of the calendar year not embraced within the regular school term, a board of education may provide and conduct courses in subject matters normally included in the regular school program or in demand by the pupils of the district, may fix and collect a charge for attendance at such courses in an amount not to exceed the per capita cost of the operation thereof, and may give regular school credit for satisfactory completion by students of such courses, in the discretion of the board. Such courses or programs not conducted during the regular school term shall not for any purpose, other than school credit, be considered part of the regular school program.

(2) (a) A board of education may establish and maintain continuation programs, part-time programs, evening programs, vocational programs, programs for aliens, and other opportunity programs and may pay for such programs out of the moneys of the school district or charge a fee or tuition. A board may also establish and maintain open-air schools, playgrounds, and museums and may pay for the same out of moneys of the school district.

(b) In addition to the authority granted to a board of education in paragraph (a) of this subsection (2), a board may establish and maintain community education programs in cooperation with any unit of local government, quasi-governmental agency, institution of higher education, or civic organization and may pay for such programs by a fee or tuition charged or out of moneys of the school district. Attendance in community education programs shall not be considered in computing pupil enrollment under article 54 of this title and articles 8 and 60 of title 23, C.R.S.

(c) For the purposes of this subsection (2), a "community education program" may be defined as a program which, while not interfering with the regular school program, may offer a composite of services to the citizens of its service area, including, but not limited to, year-round use of the facilities and personnel of the school for off-hours educational, cultural, recreational, and social enrichment activities for children, youth, and adults; family education and counseling, civic affairs meetings, and discussions; counseling for teenagers; community organization activities; senior citizen activities; cooperation with other social agencies and groups in improving community life; and other similar activities which provide educational, social, cultural, and recreational programs for children, youth, and adults. As used in this paragraph (c):

(I) "Senior citizen" means a person sixty years of age or older and includes the spouse of a senior citizen.

(II) "Senior citizen activity" includes, but is not limited to:

(A) Provision for the serving to senior citizens of the meals regularly served to students at regular mealtimes and at a price not to exceed the adult cost of the meal as determined by the board of education of the school district;

(B) Senior citizen volunteer programs in which senior citizens may assist in any or all aspects of school operation;

(C) Utilization of school facilities for senior citizens' social, educational, cultural, and recreational purposes.

(d) Repealed.

(3) Any charge, fee, or tuition collected pursuant to the provisions of this section shall be used to fund the program for which the charge, fee, or tuition was collected and shall not be expended for any other purpose.

**Source: L. 64:** p. 587, § 19. **C.R.S. 1963:** § 123-30-19. **L. 74:** (2) amended, p. 367, § 1, effective April 30. **L. 75:** (2)(d) added, p. 700, § 1, effective July 14. **L. 76:** (2)(c) amended, p. 566, § 1, effective April 6. **L. 88:** (2)(b) amended and (2)(d) repealed, pp. 812, 832, §§ 11, 42, effective May 24. **L. 94:** (2)(b) amended and (3) added, pp. 805, 813, §§ 8, 28, effective April 27.

**Cross references:** For provisions concerning the establishment of preschool programs, see article 28 of this title.

**22-32-118.5. Intervention strategies - students at risk of dropping out - legislative declaration.** (1) The general assembly finds that research shows there are certain behaviors such as truancy, low academic achievement, and misbehavior that results in suspension or expulsion that, when exhibited by a student, are clear indications that the student is at increased risk of dropping out of school before graduation. These behaviors are often noticeable as early as grades six through nine and, even at this relatively early stage of a student's academic career, are accurate predictors of whether the student will graduate or drop out of high school. The general assembly further finds that interventions with students who demonstrate these behaviors in these middle grades can be very successful in enabling the student to refocus his or her efforts, improve in academic achievement, and successfully graduate from high school. Therefore, it is the intent of the general assembly that school districts and public schools focus attention on the data collected for students in these middle grades, identify students who require interventions, and provide the appropriate interventions to assist students in graduating from high school.

(2) (a) Each school district board of education shall consider adopting procedures by which the schools of the school district, including charter schools, that include any of grades six through nine shall review the relevant data for students in those grades and identify students who are demonstrating behaviors that indicate the student is at greater risk of dropping out of school. The behaviors may include, but need not be limited to, low academic achievement, truancy, insubordinate behavior, and disengagement.

(b) The procedures may specify that, after a school identifies a student as being at increased risk of dropping out of school, the school shall provide appropriate interventions that are designed to assist the student in improving his or her academic performance and behavior and in increasing his or her overall level of engagement in school. Interventions may include, but need not be limited to, counseling, tutoring, parent engagement, and developmental education services.

(c) If a school district board of education adopts procedures pursuant to this subsection (2), the school district shall notify a student's parents as soon as possible after the school district identifies the student as being at greater risk of dropping out of school. The school district shall provide to the student's parents a description of the interventions that the school district intends to implement for the student, if any. The parent may approve or reject the described interventions. If the parent rejects the interventions, the school district shall not implement the

interventions. The parent may terminate the interventions at any time after the school district begins providing the interventions.

(d) A parent may contact the school district in which his or her student is enrolled to request interventions pursuant to this subsection (2) if the parent determines that the student is at greater risk of dropping out of school.

**Source: L. 2012:** Entire section added, (HB 12-1013), ch. 23, p. 59, § 1, effective August 8.

**22-32-119. Kindergartens - definition.** (1) (a) A board of education shall establish and maintain full-day or half-day kindergarten educational programs in connection with the schools of its district for the instruction of children one year prior to the year in which the children would be eligible for admission to the first grade. A board may prescribe courses of training, study, and discipline and rules governing the kindergarten educational programs. The kindergarten educational programs must be a part of the public school system, and the school district must pay the cost of establishing and maintaining the kindergarten educational programs from the general school fund. A school district shall not charge the parent of a child enrolled in a kindergarten educational program tuition to attend any portion of the program, except as provided pursuant to section 22-32-115 (2)(b)(I), and shall not charge the parent fees for the child to attend the program other than fees that are routinely charged to the parents of students enrolled in other grades and are applicable to the kindergarten educational program.

(b) Notwithstanding the provisions of subsection (1)(a) of this section to the contrary, if the general assembly amends the "Public School Finance Act of 1994", article 54 of this title 22, to count a student enrolled in kindergarten only as a half-day pupil, with or without the addition of supplemental kindergarten enrollment as defined in section 22-54-103 (15) for purposes of calculating the funded pupil count as defined in section 22-54-103 (7), a school district may charge the student's parents tuition or a fee for the portion of the school day for which it does not receive funding for the student pursuant to the "Public School Finance Act of 1994"; except that the amount of tuition or fee charged shall not exceed the amount of tuition or fee that the school district charged to attend a full-day kindergarten educational program for the 2018-19 budget year, adjusted for inflation and prorated by the percentage of the school day for which the student is no longer funded by the "Public School Finance Act of 1994". As used in this subsection (1)(b), "inflation" means the annual percentage change in the United States department of labor bureau of labor statistics consumer price index for Denver-Aurora-Lakewood for all items paid by all urban consumers, or its applicable successor index.

(1.5) (Deleted by amendment, L. 2005, p. 433, § 6, effective April 29, 2005.)

(2) and (3) Repealed.

**Source: L. 64:** p. 588, § 20. **C.R.S. 1963:** § 123-30-20. **L. 2001:** Entire section amended, p. 561, § 4, effective May 29. **L. 2002:** (2)(a) amended, p. 1020, § 31, effective June 1. **L. 2003:** (1.5) added and (2)(e) amended, pp. 2139, 2128, §§ 43, 20, effective May 22. **L. 2004:** (1) amended, p. 1394, § 14, effective May 28. **L. 2005:** (1) amended, p. 69, § 1, effective March 25; (1.5) amended and (3) added, p. 433, § 6, effective April 29. **L. 2006:** (3) repealed, p. 695, § 38, effective April 28. **L. 2019:** (1) amended, (HB 19-1262), ch. 245, p. 2394, § 3, effective May 21.

**Editor's note:** Subsection (2)(e) provided for the repeal of subsection (2), effective July 1, 2003. (See L. 2003, p. 2128.)

**Cross references:** For the legislative declaration contained in the 2001 act amending this section, see section 1 of chapter 174, Session Laws of Colorado 2001.

**22-32-119.5. Full-day kindergarten - phase-in plan - report - legislative declaration.** (1) (a) The general assembly finds and declares that:

(I) Rigorous research proves that full-day kindergarten is an effective way of improving a child's academic performance;

(II) Research shows that children who have academic success are less likely to drop out of school and more likely to graduate from high school and enter an institution of higher education, leading them to higher-paying jobs that provide for a strong economy in the state;

(III) Studies show that full-day kindergarten educational programs address achievement gap issues and promote student achievement;

(IV) All children in Colorado deserve the chance to attend a full day of kindergarten, as the benefits of full-day kindergarten continue throughout a child's educational experience and set the tone for future academic success.

(b) The general assembly further finds and declares that while the benefits of full-day kindergarten educational programs are evident, determining an approach to phase in full-day kindergarten educational programs is the first step toward potentially offering full-day kindergarten educational programs statewide. The development of a plan by each local board of education that is not offering a full-day kindergarten educational program as of the 2019-20 school year to phase in a full-day kindergarten educational program at the district level is essential to ensure that the appropriate mechanisms are in place to support and maintain high-quality, full-day kindergarten educational programs in Colorado.

(2) Each local board of education that is not offering a full-day kindergarten educational program as of the 2019-20 school year shall develop a plan to potentially phase in a full-day kindergarten educational program in the school district. In developing the plan, each local board shall consider the following:

(a) Available space in existing school district facilities for a full-day kindergarten educational program;

(b) The need and cost of new school district facilities necessary to offer a full-day kindergarten educational program, including but not limited to the cost associated with construction, acquisition, reconfiguration, or renovation of new or existing facilities;

(c) (Deleted by amendment, L. 2019.)

(d) Professional development and staffing needs;

(e) (Deleted by amendment, L. 2019.)

(f) A plan for parent and community outreach and enrollment processes; and

(g) The anticipated enrollment in a full-day kindergarten educational program, including the percentage of eligible children in the school district that will choose to enroll in the program.

(3) Each local board of education that is not offering a full-day kindergarten educational program as of the 2019-20 school year shall submit its plan to phase in a full-day kindergarten educational program to the department of education on or before July 1, 2020. A school district that has developed a full-day kindergarten plan within the five years before July 1, 2020, may

submit the previously developed plan to the department in lieu of developing a plan pursuant to this section.

(4) Nothing in this section:

(a) Requires a child to attend a full day of kindergarten; or

(b) Prohibits a school district from offering a half-day kindergarten educational program.

(c) (Deleted by amendment, L. 2019.)

**Source: L. 2007:** Entire section added, p. 741, § 18, effective May 9. **L. 2009:** (2)(c)(IV) amended, (SB 09-163), ch. 293, p. 1542, § 43, effective May 21; (2)(c)(II) amended, (SB 09-292), ch. 369, p. 1963, § 61, effective August 5. **L. 2019:** Entire section amended, (HB 19-1262), ch. 245, p. 2395, § 4, effective May 21.

**22-32-120. Food services - facilities - school food authorities - rules.** (1) (a) A board of education may establish, maintain, equip, and operate a food-service facility, and expend the moneys of the district therefor, for pupils enrolled in the public schools of the district, for persons participating in or attending a school-sponsored activity, and for the employees of the district. Any such food-service facility shall be deemed to be an integral part of the program of the district and shall be maintained, operated, and governed in the same manner as the schools of the district.

(b) A school food authority may establish, maintain, equip, and operate a food-service facility for pupils enrolled in a district charter school or institute charter school that contracts with the school food authority, for persons participating in or attending a district charter school-sponsored or institute charter school-sponsored activity, and for the employees of a district charter school or institute charter school that contracts with the school food authority.

(2) All food shall be sold by a food-service facility as nearly as practicable on a nonprofit basis, but a school food authority may sell food at lower than cost and may provide food free of charge to those pupils entitled thereto pursuant to the provisions of the federal "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq. Capital outlay and rental costs shall not be included in computing the cost of the meals served.

(3) Upon the written request from a parent or guardian of a school-age pupil enrolled in a school, such pupil shall not be required to participate in a food-service program or remain on the school premises during the lunch period.

(4) If a district charter school requests in writing that the school district of the district charter school provide food services pursuant to a contract with the district charter school that includes terms specified by the district charter school, the school district board of education may attempt to negotiate the terms of the contract with the district charter school. If the school district board of education and the district charter school attempt to negotiate contract terms that are mutually satisfactory, and the negotiations fail to produce such mutually satisfactory terms, the school district board of education shall:

(a) Agree to provide food services to the district charter school according to the terms requested by the district charter school; or

(b) Allow the district charter school to transfer the maintenance, supervision, and operation of the district charter school's food-service facility from the district to a school food authority.

(5) (a) Using the timeline and procedures established by rules promulgated by the state board of education pursuant to paragraph (a) of subsection (7) of this section, a district charter school or an institute charter school may apply to the department of education for authorization as a school food authority.

(b) Using the timeline, standards, and procedures established by rules promulgated by the state board of education pursuant to paragraph (b) of subsection (7) of this section, the department of education shall grant or deny authorization as a school food authority to a district charter school or an institute charter school that applies for the authorization pursuant to paragraph (a) of this subsection (5).

(6) (a) On and after May 4, 2009, a district charter school or an institute charter school may submit a written request to the department of education for provisional authorization as a school food authority.

(b) On and after May 4, 2009, the commissioner of education or his or her designee may grant or deny provisional authorization as a school food authority to a district charter school or institute charter school that submits a written request for such authorization to the department of education.

(c) (I) Subject to the provisions of subparagraph (II) of this paragraph (c), if the commissioner of education or his or her designee grants provisional authorization to a district charter school or an institute charter school as a school food authority pursuant to this subsection (6), the department of education shall review the provisional authorization and, using the standards established by rules promulgated by the state board of education pursuant to paragraph (b) of subsection (7) of this section, grant or deny authorization as a school food authority to the district charter school or institute charter school.

(II) Before granting authorization as a school food authority to a district charter school or an institute charter school that was granted provisional authorization as a school food authority pursuant to this subsection (6), the department of education shall ensure that the district charter school or institute charter school has completed one full fiscal year of operation as a school food authority under the provisional authorization granted pursuant to this subsection (6), that the district charter school or institute charter school has submitted its governmental audit required pursuant to section 22-30.5-112 (7) to the department, and that the district charter school or institute charter school has successfully complied with the requirements of the "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq., as determined by the department's compliance review evaluation process and has taken any necessary corrective actions identified by the department. The department shall grant or deny authorization as a school food authority to a district charter school or institute charter school within forty-five days after the school has satisfied the requirements of this subparagraph (II).

(d) Notwithstanding any provision of this subsection (6) to the contrary, the commissioner of education or his or her designee shall not grant provisional authorization as a school food authority to more than six applicant district charter schools or institute charter schools.

(e) (Deleted by amendment, L. 2010, (HB 10-1013), ch. 399, p. 1900, § 9, effective June 10, 2010.)

(7) On or before October 1, 2009, the state board of education shall promulgate rules establishing:

(a) A timeline and procedures by which a district charter school or an institute charter school may apply to the department of education for authorization as a school food authority; and

(b) A timeline, standards, and procedures for the department of education to use in granting or denying authorization as a school food authority to a district charter school or an institute charter school. The standards shall include, at a minimum, the following requirements:

(I) The district charter school or institute charter school shall serve at least a minimum number of children, specified by rule, who are enrolled in the district charter school or institute charter school;

(II) The district charter school or institute charter school shall demonstrate its sound financial status to the satisfaction of the department of education;

(III) The district charter school or institute charter school shall demonstrate, to the satisfaction of the department of education, its capacity to operate a food service program;

(IV) The district charter school or institute charter school shall include in its application a statement of its willingness to contract, to the extent practicable, with other district charter schools and institute charter schools to provide a food service program; and

(V) The department of education shall not grant authorization as a school food authority to more than ten applicant district charter schools or institute charter schools until July 1, 2016, including any district charter schools or institute charter schools that have been granted provisional authorization pursuant to subsection (6) of this section.

(8) As used in this section, "school food authority" means:

(a) A school district or the state charter school institute;

(a.3) A charter school collaborative formed pursuant to section 22-30.5-603;

(a.5) A board of cooperative services created pursuant to article 5 of this title that elects to operate as a school food authority pursuant to section 22-5-120; or

(b) A district charter school or an institute charter school that:

(I) The commissioner of education or his or her designee provisionally authorizes as a school food authority pursuant to subsection (6) of this section; or

(II) The department of education authorizes as a school food authority pursuant to subsection (5) of this section.

**Source: L. 64:** p. 588, § 21. **C.R.S. 1963:** § 123-30-21. **L. 2009:** (1) and (2) amended and (4), (5), (6), (7), and (8) added, (SB 09-230), ch. 227, p. 1030, § 1, effective May 4. **L. 2010:** (6) and (7)(b)(V) amended, (HB 10-1013), ch. 399, p. 1900, § 9, effective June 10; (8)(a) amended and (8)(a.5) added, (HB 10-1335), ch. 326, p. 1513, § 5, effective August 11; (8)(b)(I) amended, (HB 10-1422), ch. 419, p. 2077, § 42, effective August 11. **L. 2011:** (7)(b)(V) amended, (HB 11-1303), ch. 264, p. 1161, § 47, effective August 10; (8)(a.3) added, (HB 11-1277), ch. 306, p. 1505, § 36, effective August 10. **L. 2012:** (7)(b)(V) amended, (HB 12-1240), ch. 258, p. 1312, § 16, effective June 4.

**22-32-121. Facsimile signature.** (1) A board of education may authorize an employee to affix the signature of the treasurer, or assistant treasurer if any, to any warrant, order, or check by any device capable of affixing a facsimile signature; but each such officer shall give written consent to the board for the use of such facsimile signature and written approval of the employee designated to affix his facsimile signature.

(2) The authorization by a board of an employee to affix signatures pursuant to subsection (1) of this section shall be evidenced by a resolution adopted by the board, which, together with the written consent of the officer consenting thereto and approving the designated employee, shall be recorded in the proceedings of the board.

(3) Any employee authorized and approved pursuant to the provisions of this section to affix the facsimile signature of the treasurer, or assistant treasurer if any, of a board shall be bonded in such amount and manner as may be required for the said respective officers.

(4) If a board of education does not elect to have its moneys withdrawn from the county treasurer in the manner authorized by law and an employee is authorized and designated to affix a facsimile signature of the treasurer, or assistant treasurer if any, pursuant to subsection (1) of this section, the board shall cause a copy of the resolution and written consent of such officer to be forwarded to the county treasurer who has temporary custody of the moneys of the district.

**Source: L. 64:** p. 588, § 22. **C.R.S. 1963:** § 123-30-22.

**22-32-122. Contract services, equipment, and supplies.** (1) A school district may contract with another district, with the governing body of a state college or university, with the tribal corporation of an Indian tribe or nation, with a federal agency or officer, with a county, city, or city and county, or with a natural person, body corporate, or association for the performance of a service, including an educational service, an activity, or an undertaking that a school may be authorized by law to perform or undertake.

(2) Each school district board of education may review and revise the policies and procedures adopted by the board pursuant to section 22-32-109 (1)(b) and may choose to require competitive bidding on contracts for professional services, other than contracts for instructional services. A policy adopted pursuant to this subsection (2) may:

(a) Require that the school district personnel, prior to recommending that the board of education enter into a contract pursuant to this section, examine the costs and benefits of contracting for the service, activity, or undertaking rather than performing the service, activity, or undertaking using school district personnel and that the recommendation specify the conclusions of the cost-benefit analysis and their rationale;

(b) Require the school district personnel to implement a bidding process for contracts entered into pursuant to this section; and

(c) Establish criteria for recommending a contractor to the board of education.

(3) (a) A contract entered into pursuant to this section shall set forth fully the purposes, powers, rights, obligations, and responsibilities, financial or otherwise, of the parties so contracting and shall require the service, including educational service, activity, or undertaking to be of comparable quality and meet the same requirements and standards that would apply if performed by the school district.

(b) A contract executed pursuant to this section may include, among other things, the purchase, outright or by installment sale, or rental or lease, with or without an option to purchase, of necessary building facilities, equipment, supplies, and employee services.

(c) Any state or federal financial assistance that would accrue to a contracting school district, if the district were to perform the contracted service, including educational service, activity, or undertaking individually, shall, if the state board of education finds the contracted service, including educational service, activity, or undertaking is of comparable quality and

meets the same requirements and standards that would apply if performed by a school district, be apportioned by the state board of education on the basis of the contractual obligations and paid separately to each contracting school district in the manner prescribed by law.

(4) (a) A contract executed pursuant to this section that includes services performed for a public school shall include a provision requiring a criminal background check for any person providing services under the contract, including any subcontractor or other agent of the contracting entity, if the person provides direct services to students, including but not limited to transportation, instruction, or food services. The criminal background check shall, at a minimum, meet the requirements of section 22-32-109.7 and any other requirements of the school district that executes the contract. The contracting entity is responsible for any costs associated with the background check. A contractor need not provide the results of the background check with the submission of the bid but shall make the background check results available upon request of the school board in compliance with the provisions of section 24-72-305.3, C.R.S.

(b) The background check described in paragraph (a) of this subsection (4) is required only for those persons who have regular, but not incidental, contact with students at least once a month.

(c) The provisions of paragraph (a) of this subsection (4) do not apply to a faculty member from an institution of higher education who contracts to teach for a school district and who has undergone a background check that meets the requirements of section 22-32-109.7 and any other requirements of the school district with which the faculty member contracts.

(5) Nothing in this section authorizes a school district to expend proceeds from the sale of general obligation or revenue bonds issued by the school district to procure or erect a school or other building beyond the territorial limits of the district except in accordance with the provisions of section 22-32-109 (1)(v).

**Source: L. 64:** p. 589, § 23. **C.R.S. 1963:** § 123-30-23. **L. 67:** p. 1078, § 1. **L. 75:** (2) amended, p. 786, § 5, effective July 1. **L. 77:** (1) amended, p. 1050, § 2, effective June 10. **L. 79:** (2) amended, p. 783, § 3, effective June 7. **L. 93:** Entire section amended, p. 669, § 1, effective April 30; (1) amended, p. 1648, § 42, effective July 1. **L. 2011:** (1.5) added, (SB 11-266), ch. 241, p. 1052, § 1, effective May 27. **L. 2012:** Entire section amended, (SB 12-051), ch.200, p. 800, § 1, effective August 8.

**Editor's note:** Subsection (1) was amended in Senate Bill 93-242. Those amendments were superseded by the amendment of the entire section in House Bill 93-1118.

**22-32-123. Penalty.** Any officer or employee who refuses to perform a duty required by law when specifically directed to perform such duty by the board of education is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment.

**Source: L. 64:** p. 590, § 24. **C.R.S. 1963:** § 123-30-24.

**22-32-124. Building codes - zoning - planning - fees - rules - definitions.** (1) (a) Prior to the acquisition of land or any contracting for the purchase thereof, the board of education of

the school district in which the land is located shall consult with and advise in writing the planning commission, or governing body if no planning commission exists, that has jurisdiction over the territory in which the site is proposed to be located in order that the proposed site shall conform to the adopted plan of the community insofar as is feasible. In addition, the board of education shall submit a site development plan for review and comment to the planning commission or governing body prior to construction of any structure or building. The planning commission or governing body may request a public hearing before the board of education relating to the proposed site location or site development plan. The board of education shall thereafter promptly schedule the hearing, publish at least one notice in advance of the hearing, and provide written notice of the hearing to the requesting planning commission or governing body.

(b) Prior to the acquisition of land for school building sites or construction of any buildings thereon, the board of education of the school district in which the land is located also shall consult with the Colorado geological survey regarding potential swelling soil, mine subsidence, and other geologic hazards and to determine the geologic suitability of the site for its proposed use.

(c) All buildings and structures shall be constructed in conformity with the building and fire codes adopted by the director of the division of fire prevention and control in the department of public safety, referred to in this section as the "division".

(c.5) In constructing buildings and structures, a school district, district charter school, or institute charter school may consult the guidelines adopted by the public school capital construction assistance board pursuant to section 22-43.7-106 (2)(a).

(d) Nothing in this subsection (1) shall be construed to limit the authority of a board of education to finally determine the location of the public schools of the school district and construct necessary buildings and structures.

(1.5) (a) Prior to contracting for a facility, a charter school shall advise in writing the planning commission, or governing body if no planning commission exists, which has jurisdiction over the territory in which the site is proposed to be located. The relevant planning commission or governing body may request the charter school to submit a site development plan for the proposed facility, but must issue such request, if any, within ten days after receiving the written advisement. If requested by the relevant planning commission or governing body, the charter school, acting on behalf of its sponsoring school board, shall submit such a site development plan. The relevant planning commission or governing body may review and comment on such plan to the governing body of the charter school, but must do so, if at all, within thirty days after receiving such plan. The relevant planning commission or governing body, if not satisfied with the response to such comments, may request a hearing before the board of education regarding such plan. Such hearing shall be held, if at all, within thirty days after the request of the relevant planning commission or governing body. The charter school then may proceed with its site development plan unless prohibited from doing so by school board resolution.

(b) An institute charter school authorized pursuant to part 5 of article 30.5 of this title shall proceed pursuant to the provisions of this subsection (1.5). Notwithstanding the provisions of paragraph (a) of this subsection (1.5) to the contrary, the relevant planning commission or governing body may request a hearing before the state board of education. The institute charter

school then may proceed with its site development plan unless prohibited from doing so by the state board of education.

(2) (a) (I) (A) This subsection (2) shall apply to building or structure construction. Except as specified in subparagraph (II) of this paragraph (a), the division shall conduct the necessary plan reviews, issue building permits, cause the necessary inspections to be performed, perform final inspections, and issue certificates of occupancy to assure that a building or structure constructed pursuant to subsection (1) or (1.5) of this section has been constructed in conformity with the building and fire codes adopted by the director of the division and that the school district or charter school, whichever is appropriate, has complied with the provisions of paragraph (b) of subsection (1) of this section. Pursuant to this sub-subparagraph (A), the division may contract with third-party inspectors that are certified in accordance with section 24-33.5-1213.5, C.R.S., to perform inspections. The affected board of education, state charter school institute, or charter school may hire and compensate third-party inspectors under contract with the division or hire and compensate other third-party inspectors that are certified in accordance with section 24-33.5-1213.5, C.R.S., to perform inspections. If the board of education, state charter school institute, or charter school is unable to obtain a third-party inspector and no building department has been prequalified, the division shall perform the required inspections. If a third-party inspector is used, the division shall require a sufficient number of third-party inspection reports to be submitted by the inspector to the division based upon the scope of the project to ensure quality inspections are performed. Except as specified in sub-subparagraph (B) of this subparagraph (I), the third-party inspector shall attest that inspections are complete and all violations are corrected before the board of education, state charter school institute, or charter school is issued a certificate of occupancy. Inspection records shall be retained by the third-party inspector for two years after the certificate of occupancy is issued. If the division finds that inspections are not completed satisfactorily, as determined by rule of the division, or that all violations are not corrected, the division shall take enforcement action against the appropriate board of education, state charter school institute, or charter school pursuant to section 24-33.5-1213, C.R.S.

(B) If inspections are not completed and a building requires immediate occupancy, and if the board of education, state charter school institute, or charter school has passed the appropriate inspections that indicate there are no life safety issues, the division may issue a temporary certificate of occupancy. The temporary certificate of occupancy shall expire ninety days after the date of occupancy. If no renewal of the temporary certificate of occupancy is issued or a permanent certificate of occupancy is not issued, the building shall be vacated upon expiration of the temporary certificate. The division shall enforce this sub-subparagraph (B) pursuant to section 24-33.5-1213, C.R.S.

(II) Pursuant to a memorandum of understanding between the appropriate building department and the division, the division may prequalify an appropriate building department to conduct the necessary plan reviews, issue building permits, conduct inspections, issue certificates of occupancy, and issue temporary certificates of occupancy pursuant to sub-subparagraph (B) of subparagraph (I) of this paragraph (a), to ensure that a building or structure constructed pursuant to subsection (1) or (1.5) of this section has been constructed in conformity with the building and fire codes adopted by the director of the division, and take enforcement action. Nothing in the memorandum of understanding shall be construed to allow the building department to take enforcement action other than in relation to the building and fire codes

adopted by the division. An appropriate building department shall meet certification requirements established by the division pursuant to section 24-33.5-1213.5, C.R.S., prior to prequalification. An affected board of education, state charter school institute, or charter school may, at its own discretion, opt to use a prequalified building department that has entered into a memorandum of understanding with the division as the delegated authority. If a building department conducts an inspection, the building department shall retain the inspection records for two years after the final certificate of occupancy is issued. The fees charged by the building department shall cover actual, reasonable, and necessary costs. For purposes of this section, "appropriate building department" means the building department of a county, town, city, or city and county and includes a building department within a fire department.

(III) The division shall cause copies of the building plans to be sent to the appropriate fire department for review of fire safety issues. The fire department shall review the building plans, determine whether the building or structure is in compliance with the fire code adopted by the director of the division, and respond to the division within twenty business days; except that the fire department may request an extension of this time from the director of the division on the basis of the complexity of the building plans.

(IV) If the fire department declines to perform the plan review or any subsequent inspection, or if no certified fire inspector is available, the division shall perform the plan review or inspection. As used in this section, unless the context otherwise requires, "certified fire inspector" has the same meaning as set forth in section 24-33.5-1202 (2.5), C.R.S.

(V) If the building or structure is in conformity with the building and fire codes adopted by the director of the division, and if the appropriate fire department or the division certifies that the building or structure is in compliance with the fire code adopted by the director of the division, the division or the appropriate building department shall issue the necessary certificate of occupancy prior to use of the building or structure by the school district or by the institute charter school. The division is authorized to charge a fee to cover the actual, reasonable, and necessary costs of the inspections of buildings and structures. The amount of the fee shall be determined by the director of the division by rule, on the basis of the direct cost of providing the service.

(VI) If the division authorizes building code inspections by a third-party inspector pursuant to subparagraph (I) of this paragraph (a) or authorizes building code plan reviews and inspections by an appropriate building department pursuant to subparagraph (II) of this paragraph (a), the plan reviews and inspections shall be in lieu of any plan reviews and inspections made by the division; except that this subsection (2) shall not be construed to relieve the division of the responsibility to ensure that the plan reviews and inspections are conducted if the third-party inspector or appropriate building department does not conduct the plan reviews and inspections. Nothing in this subsection (2) shall be construed to require a county, town, city, city and county, or fire department to conduct building code plan reviews and inspections.

(b) (I) If the division conducts the necessary plan reviews and causes the necessary inspections to be performed to determine that a building or structure constructed pursuant to subsection (1) or (1.5) of this section has been constructed in conformity with the building and fire codes adopted by the director of the division, the division shall charge fees as established by rule of the director of the division. The fees shall cover the actual, reasonable, and necessary expenses of the division. The director of the division by rule or as otherwise provided by law may increase or reduce the amount of the fees as necessary to cover actual, reasonable, and

necessary costs of the division. Any fees collected by the division pursuant to this paragraph (b) shall be transmitted to the state treasurer, who shall credit the same to the public school construction and inspection cash fund created in section 24-33.5-1207.7, C.R.S.

(II) Any moneys remaining as of December 31, 2009, in the public safety inspection fund created pursuant to section 8-1-151, C.R.S., from fees collected by the division of oil and public safety in the department of labor and employment pursuant to this paragraph (b) as it existed prior to January 1, 2010, shall be transferred to the public school construction and inspection cash fund created in section 24-33.5-1207.7, C.R.S.

(c) (Deleted by amendment, L. 2009, (HB 09-1151), ch. 230, p. 1045, § 1, effective January 1, 2010.)

(d) The inspecting entity shall cooperate with the affected board of education or the state charter school institute in carrying out the duties of this section.

(e) If the inspecting entity and the board of education or the state charter school institute disagree on the interpretation of the codes or standards adopted by the division, the division shall set a date for a hearing as soon as practicable before the board of appeals in accordance with section 24-33.5-1213.7, C.R.S., and the rules adopted by the director of the division pursuant to article 4 of title 24, C.R.S.

(f) The rules authorized by this subsection (2) shall be adopted in accordance with article 4 of title 24, C.R.S.

(g) School buildings shall be maintained in accordance with the fire code adopted by the director of the division pursuant to section 24-33.5-1203.5, C.R.S.

(3) (Deleted by amendment, L. 2009, (HB 09-1151), ch. 230, p. 1045, § 1, effective January 1, 2010.)

**Source: L. 64:** p. 590, § 25. **C.R.S. 1963:** § 123-30-25. **L. 81:** Entire section amended, p. 1064, § 1, effective June 12. **L. 84:** (1) R&RE and (2) amended, pp. 599, 600, §§ 1, 2, effective April 5. **L. 85:** (2) amended, p. 338, § 6, effective July 1. **L. 86:** Entire section amended, p. 499, § 118, effective March 26. **L. 98:** (2)(b) amended, p. 1331, § 41, effective June 1. **L. 2000:** (1.5) added, p. 519, § 2, effective August 2. **L. 2001:** (1), (2), and (3) amended, p. 1138, § 66, effective June 5. **L. 2004:** (2) amended, p. 1592, § 28, effective June 3; (1.5) amended, p. 1635, § 39, effective July 1. **L. 2006:** (1), (2), and (3) amended, p. 1355, § 2, effective July 1. **L. 2007:** (2)(a)(IV) amended, p. 2031, § 44, effective June 1. **L. 2008:** (2)(a), (2)(b), (2)(c), and (3) amended, p. 1084, § 1, effective August 5. **L. 2009:** (1), (2)(a)(I), (2)(a)(II), (2)(a)(III), (2)(a)(IV), (2)(a)(V), (2)(b), (2)(c), (2)(e), and (3) amended and (2)(g) added, (HB 09-1151), ch. 230, p. 1045, § 1, effective January 1, 2010. **L. 2011:** (2)(a)(I)(A) amended, (SB 11-251), ch. 240, p. 1043, § 4, effective June 30. **L. 2012:** (1)(c) amended, (HB 12-1283), ch. 240, p. 1132, § 41, effective July 1. **L. 2013:** (1)(c.5) added, (SB 13-279), ch. 413, p. 2451, § 3, effective August 7.

**Cross references:** For the legislative declaration in the 2012 act amending subsection (1)(c), see section 1 of chapter 240, Session Laws of Colorado 2012. For the legislative declaration in the 2013 act adding subsection (1)(c.5), see section 1 of chapter 413, Session Laws of Colorado 2013.

**22-32-124.3. Energy-efficient design of school buildings and structures required - definitions.** (1) On and after January 1, 2014, each school district, institute charter school, and each district charter school that receives operating moneys from the state shall ensure that each project for a new or substantially renovated building or structure is submitted to or verified by the highest energy efficiency standards practicable, including but not limited to the federal energy star label or the highest performance certification attainable.

(2) The school district, institute charter school, or district charter school may consult with the Colorado energy office concerning the best building practices for the construction, redesign, or renovation project. If a school district, institute charter school, or district charter school consults with the Colorado energy office pursuant to this subsection (2), the Colorado energy office shall advise the school district, institute charter school, or district charter school concerning the best building practices for the construction, redesign, or renovation project. It is the intent of the general assembly that the Colorado energy office use existing resources to satisfy the requirements of this subsection (2).

(3) A school district, institute charter school, or district charter school that has met the requirements of this section for designing or constructing a new or substantially renovated building or structure is encouraged to incorporate the high performance measures adopted or high performance standards met into its curriculum.

(4) As used in this section, unless the context otherwise requires:

(a) "High performance standard" means a building or structure renovation, design, and construction standard that:

(I) Results in the recovery of the initial capital costs attributable to compliance with this section over a time period to be determined by the school district, institute charter school, or district charter school, not to exceed fifteen years, by reducing long-term energy, maintenance, and operating costs;

(II) Reduces the operating costs of a school district, institute charter school, or district charter school by reducing the consumption of energy, water, or other resources;

(III) Improves the indoor environmental quality of a school building for a healthier learning environment;

(IV) Protects Colorado's environment; and

(V) Complies with the federal secretary of the interior's standards for the treatment of historic properties when such work will affect properties fifty years of age or older, unless the state historical society, designated in section 24-80-201, C.R.S., determines that the property is not of historical significance, as that term is defined in section 24-80.1-102 (6), C.R.S.

(b) "Submitted" means the submission to a federal agency of an energy efficiency plan for design and construction pursuant to the requirements of this section.

(c) "Substantially renovate a building or structure" means any renovation that causes the building occupancy to change or where alterations of the work area exceed fifty percent of the aggregate area of the building. If the alterations within the identified scope of the project of the work area exceed fifty percent of the aggregate area of the building, the alterations to existing buildings or structures are permitted without requiring modifications outside the identified scope of the project to the entire building or structure to comply with the requirements of this section. The alterations must conform to the requirements of this section as they relate to new construction only.

(d) "Verified" means certification of the highest energy efficiency standards as practicable by an independent third party.

**Source: L. 2013:** Entire section added, (SB 13-279), ch. 413, p. 2450, § 2, effective August 7.

**Cross references:** For the legislative declaration in the 2013 act adding this section, see section 1 of chapter 413, Session Laws of Colorado 2013.

**22-32-124.5. Board of appeals - definitions. (Repealed)**

**Source: L. 2006:** Entire section added, p. 1358, § 3, effective July 1. **L. 2009:** Entire section repealed, (HB 09-1151), ch. 230, p. 1060, § 16, effective January 1, 2010.

**22-32-125. Applicability of article. (Repealed)**

**Source: L. 64:** p. 590, § 26. **C.R.S. 1963:** § 123-30-26. **L. 75:** Entire section repealed, p. 788, § 13, effective July 1.

**22-32-126. Principals - employment and authority.** (1) The board of education may employ through written contract public school principals who shall hold valid principal licenses or authorizations and who shall supervise the operation and management of the school and such property as the board shall determine necessary.

(2) The principal shall assume the administrative responsibility and instructional leadership, under the supervision of the superintendent and in accordance with the rules and regulations of the board of education, for the planning, management, operation, and evaluation of the educational program of the schools to which he is assigned.

(3) The principal shall submit recommendations to the superintendent regarding the appointment, assignment, promotion, transfer, and dismissal of all personnel assigned to the school under his supervision.

(4) The principal shall perform such other duties as may be assigned by the superintendent pursuant to the rules and regulations of the board of education.

(5) (a) The principal or the principal's designee shall communicate discipline information concerning any student enrolled in the school to any teacher who has direct contact with the student in the classroom and to any counselor who has direct contact with the student. Any teacher or counselor who receives information under this subsection (5) shall maintain the confidentiality of the information and does not have authority to communicate the information to any other person.

(b) Each school district shall include in its discipline code adopted in accordance with section 22-32-110 (2) procedures to inform the student and the student's parent or guardian when disciplinary information is communicated and to provide a copy of the disciplinary information to the student and the student's parent or guardian. The discipline code shall also establish procedures to allow the student and the student's parent or guardian to challenge the accuracy of the disciplinary information.

**Source: L. 73:** p. 1284, § 1. **C.R.S. 1963:** § 123-30-27. **L. 96:** (5) added, p. 431, § 2, effective April 22. **L. 2004:** (1) amended, p. 1286, § 20, effective May 28.

**22-32-127. Leases or installment purchases for periods exceeding one year.** (1) (a) Whenever the term of an installment purchase agreement or a lease agreement with an option to purchase, including but not limited to any sublease-purchase agreement entered into by a school district pursuant to section 22-43.7-110 (2)(c), under which a school district becomes entitled to the use of undeveloped or improved real property or equipment for a school site, building, or structure is greater than one year, the obligation to make payments under the agreement shall constitute an indebtedness of the district.

(b) Under any installment purchase agreement or under any lease or rental agreement, with or without the option to purchase, or similar agreement pursuant to which the subject real or personal property is used by the school district for school district purposes, title shall be considered to have passed to the school district at the time of execution of the agreement for purposes of determining liability for or exemption from property taxation.

(2) No board of education shall enter into an installment purchase agreement of the type which constitutes an indebtedness unless such agreement shall be first approved as provided in this section by a majority of the registered electors of the district voting at an election held pursuant to this section. The board of education may submit to the registered electors of the district the question of entering into such an agreement at any general election, regular biennial school election, or special election called for the purpose. The secretary of the board of education shall give notice of an election to be held pursuant to this section in essentially the same manner and for the same length of time as is required by law for a notice of election of school directors. Such notice shall contain, to the extent applicable, the information required for a notice of election of school directors and in addition shall contain a statement of the maximum term of the proposed agreement, the maximum and periodic amounts of payments for which the district would be obligated, and the purpose of the agreement.

(3) The manner and place of conducting elections held pursuant to this section, and all other election procedures relating thereto, shall be as provided by law for the approval of contracting a bonded indebtedness of the district.

(4) The principal amount of any indebtedness incurred by a school district by means of installment purchase or lease-purchase or sublease-purchase agreements having terms of more than one year shall be subject to the limitation imposed by law on the amount of bonded indebtedness that may be incurred by a school district.

(5) The question of entering into an agreement of the type which constitutes an indebtedness of the district beyond a term of one year may be submitted or resubmitted after the same or any other such question has previously been rejected at an election held pursuant to this section; but no such question shall be submitted or resubmitted at any election held less than one hundred twenty days after a previous submission of such question, and the board of education of any school district shall not submit any question of entering into such an agreement at more than two elections within any twelve-month period.

(6) The provisions of this section shall have no application to any installment purchase agreement or lease agreement with option to purchase, even though the term thereof may be greater than one year, where the school district's obligation to make payments under such installment purchase agreement or lease agreement with option to purchase is limited to its

capital reserve fund, its general fund, or both and is expressly subject to the making of annual appropriations therefor in accordance with law.

(7) The provisions of this section shall have no application to any installment purchase agreement or lease agreement with an option to purchase in which such payments are made from the capital reserve fund following approval in an election as provided for in section 22-45-103 (1)(c).

**Source: L. 73:** p. 1275, § 2. **C.R.S. 1963:** § 123-30-28. **L. 77:** (1) amended, p. 1051, § 3, effective June 10. **L. 83:** (1) amended, p. 743, § 2, effective June 1; (1)(a) and (6) amended, p. 750, § 3, effective July 1. **L. 85:** (6) amended, p. 733, § 3, effective May 31. **L. 87:** (2) amended, p. 315, § 50, effective July 1. **L. 2008:** (1)(a) and (4) amended, p. 1062, § 2, effective May 22.

**Editor's note:** Subsection (1)(a) was amended in Senate Bill 83-384. Those amendments were superseded by the amendment of subsection (1) in Senate Bill 83-345.

**Cross references:** For procedure for contracting bonded indebtedness by a school district, see article 42 of this title.

**22-32-128. Use of school vehicles by residents of district.** At times to be specified by the board of education of each school district, school vehicles used for the transportation of pupils pursuant to the provisions of section 22-32-113 shall be available to groups of five or more residents of the district who are sixty-five years of age or older for use within or without the district. The board of education of each school district of the state shall adopt policies regarding the reasonable use of such vehicles by groups of persons with special consideration being given those residents who are sixty-five years of age or older. Such school vehicles shall be covered by an insurance policy similar to, with limits not less than, the insurance coverage that is in effect while said school vehicles are used for the transportation of pupils. To the extent that such policies provide for the reimbursement to the school district of all the expenses of the operation of such school vehicles as determined by the school district auditor, no such reimbursement shall constitute compensation, and it shall not subject the school district to the provisions of article 10.1 of title 40, C.R.S. The miles traveled and the costs expended under this article shall not be allowable for the computation of benefits accruing to a school district under the provisions of article 51 of this title.

**Source: L. 73:** p. 1282, § 1. **C.R.S. 1963:** § 123-30-29. **L. 78:** Entire section amended, p. 521, § 7, effective July 1. **L. 2010:** Entire section amended, (HB 10-1232), ch. 163, p. 570, § 7, effective April 28. **L. 2011:** Entire section amended, (HB 11-1303), ch. 264, p. 1161, § 48, effective August 10. **L. 2013:** Entire section amended, (HB 13-1300), ch. 316, p. 1679, § 43, effective August 7.

**22-32-129. Validation - effect - limitations. (Repealed)**

**Source: L. 73:** p. 1277, § 6. **C.R.S. 1963:** § 123-30-30. **L. 2006:** Entire section repealed, p. 607, § 25, effective August 7.

**22-32-130. Children's activity buses. (Repealed)**

**Source: L. 93:** Entire section added, p. 1456, § 1, effective June 6; entire section repealed, p. 1456, § 1, effective September 1.

**22-32-131. Voter approval of repayment of loans for capital improvements made to a growth district.** (1) The board of education of a growth district, as defined in section 22-2-125 (1)(b), at any regular biennial school election or special election, may submit to the eligible electors of the growth district:

(a) The question of whether the growth district may repay any loan made pursuant to section 22-2-125 over a period exceeding one budget year; or

(b) The question of whether the growth district may repay any loan made pursuant to article 15 of title 23, C.R.S., over a period exceeding one budget year.

(2) Any question submitted pursuant to subsection (1) of this section may be combined with a question submitted by the growth district pursuant to section 22-40-110 at the same election.

(3) Any special election called pursuant to this section shall be held on the general election day in each even-numbered year or on the first Tuesday in November of each odd-numbered year and shall be conducted pursuant to the provisions of articles 1 to 13 of title 1, C.R.S.

**Source: L. 2002:** Entire section added, p. 1744, § 17, effective June 7.

**22-32-132. Diplomas - veterans.** (1) Upon the request of an honorably discharged veteran, a board of education of a school district may award a diploma to the honorably discharged veteran if he or she:

(a) Served in the armed forces of the United States at any time during the period from:

(I) December 7, 1941, through December 31, 1946, a period that includes world war II;

(II) June 25, 1950, through January 31, 1955, a period that includes the Korean war; or

(III) August 5, 1964, through May 7, 1975, a period that includes the Vietnam war, and the period from February 28, 1961, through August 5, 1964, for persons serving in Vietnam;

(b) Left high school before graduating in order to serve in the armed forces of the United States;

(c) Has not received a high school diploma;

(d) Has attained the age of sixty years; and

(e) (I) At the time of making the request, resides within the school district; or

(II) At the time of leaving high school to serve in the armed forces of the United States, resided within the school district.

(2) Notwithstanding any provision of subsection (1) of this section to the contrary, a board of education of a school district may award a diploma:

(a) Posthumously to an honorably discharged veteran, upon the request of an immediate family member or legal guardian of the honorably discharged veteran; or

(b) Even though an honorably discharged veteran has already successfully completed a high school equivalency examination, as defined in section 22-33-102 (8.5).

(3) A school district, in implementing the provisions of this section, may utilize a form for acquiring the information from a veteran described in subsection (1) of this section. The form may be prescribed by rule proposed by the Colorado board of veterans affairs and adopted by the adjutant general in accordance with section 28-5-703, C.R.S.

**Source: L. 2003:** Entire section added, p. 585, § 2, effective March 18. **L. 2014:** (2)(b) amended, (SB 14-058), ch. 102, p. 380, § 9, effective April 7.

**Cross references:** For the legislative declaration contained in the 2003 act enacting this section, see section 1 of chapter 39, Session Laws of Colorado 2003.

**22-32-133. American sign language.** (1) As used in this section, unless the context otherwise requires:

(a) "American sign language" means the natural language recognized globally that is used by members of the deaf community and that is linguistically complete with unique rules for language structure and use, that include phonology, morphology, syntax, semantics, and discourse.

(b) "School district" means any school district organized and existing pursuant to law, but does not include a local college district.

(c) Repealed.

(2) A school district may offer one or more elective courses in American sign language.

(3) A school district may elect to treat American sign language as a foreign language and may:

(a) Grant academic credit for completion of an American sign language course or demonstrated proficiency in American sign language on the same basis as the successful completion of a foreign language; and

(b) Count completion of an American sign language course or demonstrated proficiency in American sign language toward the fulfillment of any foreign language requirement for graduation.

**Source: L. 2004:** Entire section added, p. 255, § 2, effective August 4. **L. 2005:** (1)(c) repealed, p. 767, § 32, effective June 1. **L. 2006:** (2) amended, p. 607, § 26, effective August 7.

**22-32-133.5. Computer science courses - legislative declaration.** (1) The general assembly finds that:

(a) Computer science and computer coding skills are widely recognized as valuable assets in the current and future job market;

(b) Students in Colorado would benefit from taking computer science and coding courses in high school;

(c) High school students who are exposed to computer science and coding courses in high school are more likely to take such courses in college;

(d) Many high school students are not taking computer science and coding courses because they are elective courses and do not count toward graduation requirements;

(e) According to the Code.org Advocacy Coalition, in states that count a computer science course as either a math or science credit toward graduation, the average class size is fifty-three percent bigger than in states where computer science is only an elective; and

(f) More high school students would take computer science and coding courses if they fulfilled a graduation requirement in mathematics or science.

(2) All school districts are encouraged to offer in every high school one or more courses in computer science and coding.

(3) All school districts are encouraged to and may elect to treat computer science and coding courses as a mathematics or science course and count completion of a computer science or coding course toward the fulfillment of any mathematics or science graduation requirement.

**Source: L. 2016:** Entire section added, (HB 16-1198), ch. 122, p. 345, § 1, effective August 10.

**22-32-134. Healthful alternatives - school vending machines - requirements. (Repealed)**

**Source: L. 2004:** Entire section added, p. 503, § 1, effective April 20. **L. 2008:** Entire section repealed, p. 641, § 2, effective August 5.

**Cross references:** For the legislative declaration contained in the 2008 act repealing this section, see section 1 of chapter 185, Session Laws of Colorado 2008.

**22-32-134.5. Healthy beverages policy required.** (1) On or before July 1, 2009, each school district board of education shall adopt and implement a policy that prohibits, except as described in subsection (2) of this section, the sale of beverages to students from any source, including but not limited to:

(a) School cafeterias;

(b) Vending machines;

(c) School stores; and

(d) Fund-raising activities conducted on school campuses.

(2) (a) On or before November 15, 2008, the state board of education shall promulgate rules describing beverages that school districts and schools may permit to be sold to students. Each beverage described by the rules shall satisfy minimum nutritional standards for beverages, which standards are science-based and established by a national organization that:

(I) Establishes and promotes minimum nutritional standards for beverages served to students in schools; and

(II) Has set forth a memorandum of understanding between various interested entities, including representatives of the beverage industry, which memorandum of understanding sets forth guidelines for policies concerning beverages that school districts and schools may permit to be sold to students.

(b) On or before November 15, 2008, the state board of education shall promulgate rules describing specific events occurring outside of the regular and extended school day, including but not limited to extracurricular competitions and performances, at which a school district or

school may permit to be sold to students beverages other than the beverages described by the rules promulgated by the state board pursuant to paragraph (a) of this subsection (2).

(3) (a) The policy adopted by a school district pursuant to subsection (1) of this section shall apply to all beverages sold on school campuses during regular and extended school days.

(b) For the purposes of this subsection (3), "extended school day" means the regular hours of operation for a school plus any time spent by students after the regular hours of operation for any purpose, including but not limited to participation in extracurricular activities or childcare programs.

(4) The provisions of this section shall apply to contracts entered into or renewed by a school district on or after July 1, 2009.

**Source: L. 2008:** Entire section added, p. 641, § 3, effective August 5.

**Cross references:** For the legislative declaration contained in the 2008 act enacting this section, see section 1 of chapter 185, Session Laws of Colorado 2008.

**22-32-135. Financial literacy curriculum.** (1) The general assembly hereby finds that:

(a) Life skills such as the ability to formulate a household budget, balance a checking account, read and understand the terms and conditions of a credit card, and otherwise manage personal finances are critical to a person's success in today's economy;

(b) In February and March of 2000, in a survey of high school seniors designed to test their knowledge of personal finance basics, the students answered only fifty-one and nine tenths percent of the questions correctly, receiving a failing grade;

(c) Many students graduate from high school without having learned crucial personal financial management skills, although many have already obtained their first credit cards;

(d) Recent studies of consumer finances by the federal reserve board show that, at the end of the third quarter of 1999, household debt in the United States totaled over six trillion three hundred billion dollars. Almost one trillion four hundred billion dollars of this debt was consumer credit debt, while four trillion four hundred billion dollars consisted of mortgage debt.

(e) With the recent growth in consumer debt and the apparently low level of education and understanding with regard to personal finances, it is imperative that the public schools of the state provide students with a thorough, high-quality curriculum of financial literacy to enable students to understand and master personal finance skills, including, at a minimum, managing bank accounts, household budgeting, understanding and managing personal debt, and managing personal savings and investment.

(2) As used in this section, "financial literacy" means knowledge of personal finances that is sufficient to enable a person to manage savings, investment, and checking accounts, to design and maintain a household budget, to manage personal debt, to understand consumer credit and finance, to manage personal credit options, and to understand and select among short-term and long-term investment options.

(3) Each school district board of education is strongly encouraged to adopt as part of its district curriculum courses pertaining to financial literacy to be taught in grade-appropriate courses at the elementary, middle, junior high, and high school grade levels. When selecting mathematics and economics textbooks, each school district is strongly encouraged to select those

texts that include substantive provisions on personal finance, including personal budgeting, credit, debt management, and similar personal finance topics.

(4) Each school district board of education is further encouraged to adopt successful completion of a course in financial literacy as a graduation requirement.

**Source: L. 2004:** Entire section added, p. 1774, § 2, effective June 4.

**22-32-136. Children's nutrition - healthful alternatives - information - facilities - local wellness policy - competitive foods.** (1) The general assembly hereby recognizes that:

(a) Overweight children and youth and obesity among children and youth are major public health threats, and being overweight is now the most common medical condition of childhood. An estimated nine million young people in the United States are considered overweight. In Colorado, obesity in the adult population has more than doubled since 1991. Childhood obesity is related to the development of a number of preventable chronic childhood diseases such as type 2 diabetes and hypertension, and overweight children are likely to become overweight adults with increased risk of developing high cholesterol, heart disease, stroke, osteoporosis, gallbladder disease, arthritis, and endometrial, breast, prostate, and colon cancers.

(b) Schools can play a major role in reducing the number of overweight and obese children and youth. Schools are places where students can gain the knowledge, motivation, and skills needed for lifelong physical activity and lifelong healthy eating habits and are also places for students to practice healthy eating habits.

(c) Meeting a student's basic nutritional and fitness needs will increase a student's cognitive energy to learn and achieve, and, as a result, the overall educational process will be more effective.

(2) As used in this section, unless the context otherwise requires:

(a) "Competitive food" means any food or beverage available to students that is separate from the school district's nonprofit, federally reimbursed food service program and is provided by a school-approved organization or a school-approved outside vendor.

(b) "School day" means one hour prior to the start of the first class period to one half hour after the end of the last class period; except that, for schools not offering school breakfast, "school day" means one half hour before the first class period to one half hour after the end of the last class period.

(3) On or before July 1, 2006, each school district board of education is encouraged to adopt policies ensuring that:

(a) Every student has access to healthful food choices in appropriate portion sizes throughout the school day. At a minimum, this includes the provision of:

(I) Healthful meals in the school cafeteria made available to students with an adequate time to eat;

(II) Healthful beverages sold to students on school campuses, pursuant to section 22-32-134.5; and

(III) Healthful items for fundraisers, classroom parties, and rewards in the schools.

(b) (I) Every student and his or her parent or legal guardian has access to information concerning the nutritional content of:

(A) Food and beverages sold by or available from the school's food service department at breakfast and lunch and throughout the school day; and

(B) Competitive food sold or available anywhere on school district property on a recurring basis during the school day.

(II) The information described in subparagraph (I) of this paragraph (b) may be made available by placing the information on the school district website or printing the information on the menus sent home with students or by posting the information in a visible place in each school building.

(c) Every student has access to fresh fruits and vegetables at appropriate times during the school day. Whenever practical, school districts shall work to acquire fresh produce from Colorado sources.

(d) Every student has access to age-appropriate and culturally sensitive instruction designed to teach lifelong healthy eating habits and a healthy level of physical activity.

(e) Every student has access to a school facility with a sufficient number of functioning water fountains in accordance with local building codes, or other means which provide him or her with sufficient water.

(f) Every student has access to age-appropriate daily physical activity.

(4) Each school district board of education is encouraged to establish rules specifying the time and place at which competitive foods may be sold on school property in order to encourage the selection of healthful food choices by students.

(5) On or before July 1, 2006, each school district board of education is encouraged to adopt a local wellness policy as provided for in the federal "Child Nutrition and WIC Reauthorization Act of 2004", Public Law 108-265, which provides, in part, that, not later than the first day of the school year beginning after June 30, 2006, each school district participating in a program authorized by the "Richard B. Russell National School Lunch Act", 42 U.S.C. 1751 et seq., or the Child Nutrition Act of 1966, 42 U.S.C. 1771 et seq., shall establish a local school wellness policy for schools under the local educational agency that, at a minimum:

(a) Includes goals for nutrition education, physical activity, and other school-based activities that are designed to promote student wellness in a manner that the school district determines is appropriate;

(b) Includes nutrition guidelines selected by the local school district for all foods available on each school campus during the school day with objectives of promoting student health and reducing childhood obesity and overweight and type 2 diabetes;

(c) Provides an assurance that guidelines for reimbursable school meals shall not be less restrictive than regulations and guidance issued by the secretary of agriculture pursuant to subsections (a) and (b) of section 10 of the Child Nutrition Act, 42 U.S.C. sec. 1779, and sections 9 (f)(1) and 17 (a) of the "Richard B. Russell National School Lunch Act", 42 U.S.C. secs. 1758 (f)(1) and 1766 (a), as those regulations and guidance apply to schools;

(d) Establishes a plan for measuring implementation of the local wellness policy, including designation of one or more persons within the school district or at each school, as appropriate, charged with operational responsibility for ensuring that the school meets the local wellness policy; and

(e) Involves parents, representative of the school food authority, the school board and school administrators, and the public, in the development of the school wellness policy.

(5.5) On or before October 1, 2008, each school district board of education is encouraged to expand its local wellness policy adopted pursuant to subsection (5) of this section to include goals for:

(a) Increasing the availability of courses in physical education, including but not limited to, for a school district that enrolls more than one thousand five hundred students, establishing the goal of ensuring that all physical education classes offered by the school district are taught by persons who are licensed and endorsed pursuant to article 60.5 of this title to teach physical education;

(b) Increasing classes in health education;

(c) Providing health services;

(d) Providing nutrition services;

(e) Providing increased access to mental health counseling and services;

(f) Developing and maintaining a healthy school environment in each of the schools of the school district;

(g) Increasing the level of family and community involvement in developing and maintaining an emphasis on healthy lifestyles and choices to enable students to retain healthy behaviors throughout their lives.

(6) Nothing in this section shall be construed to prohibit the sale or distribution of any food or beverage item through periodic fundraisers by a student, teacher, or school group when the item is for sale after completion of the school day.

**Source: L. 2005:** Entire section added, p. 225, § 1, effective August 8. **L. 2008:** (3)(a)(II) amended, p. 642, § 4, effective August 5; (5.5) added, p. 671, § 1, effective August 5.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsection (3)(a)(II), see section 1 of chapter 185, Session Laws of Colorado 2008.

**22-32-136.3. Children's nutrition - no trans fats in school foods - definitions - rules.** (1) As used in this section, unless the context otherwise requires:

(a) "Extended school day" means the school day, plus any additional time that a student spends on school grounds before or after the school day for the purpose of participating in a school-sanctioned extracurricular activity or child care program.

(b) "Industrially produced trans fat" means vegetable shortening, margarine, or any type of partially hydrogenated vegetable oil that contains more than zero grams of trans fat per serving as labeled.

(c) "Public school" means a school of a school district, a district charter school, or a board of cooperative services.

(d) "School day" has the same meaning as set forth in section 22-32-136.

(2) On and after September 1, 2013, a public school shall not:

(a) Make available to a student any food or beverage that contains any amount of industrially produced trans fat; or

(b) Use a food that contains any industrially produced trans fat in the preparation of a food item or beverage that is intended for consumption by a student.

(3) The prohibition described in subsection (2) of this section applies to all food and beverages made available to a student on school grounds during each school day and extended school day, including but not limited to a food or beverage item made available to a student in a school cafeteria, school store, vending machine, or other food service entity existing upon school grounds.

(4) The prohibition described in subsection (2) of this section does not apply to:

(a) Any food or beverage that is made available to a student as part of a meal program of the United States department of agriculture;

(b) Any food or beverage that is made available to a student as part of a fundraising effort conducted by one or more students, teachers, or parents; or

(c) Any food or beverage that is donated to the school to be given to a student for consumption off of school premises and not during the school day.

(5) The state board of education may promulgate such rules as are necessary for the administration of this section.

**Source: L. 2012:** Entire section added, (SB 12-068), ch. 256, p. 1302, § 2, effective August 8.

**Cross references:** For the legislative declaration in the 2012 act adding this section, see section 1 of chapter 256, Session Laws of Colorado 2012.

**22-32-136.5. Children's wellness - physical activity requirement - legislative declaration.** (1) (a) The general assembly hereby finds that:

(I) Healthy children are more likely to be engaged learners, they do better in school, they have improved attendance, and they are less likely to have behavioral problems inside and outside of the classroom;

(II) Many studies have documented the link between the mind and body and the effect of movement on cognition and stimulated blood flow and oxygen to a child's brain;

(III) Studies also show that physical activity improves students' ability to focus and decreases the symptoms of attention deficit disorder and related conditions;

(IV) Children who engage in physical activity as part of the learning environment are healthier and process information better;

(V) The growing trend of childhood obesity is also beginning to affect the country's military preparedness. Recent reports show that, nationally, approximately one-third of all potential military recruits are ineligible to join because they are overweight and out of shape;

(VI) School is the only place that many children are exposed to physical activity;

(VII) According to the 2009 child health survey conducted by the department of public health and environment, one in four Colorado children are overweight or obese, and only fifty-three and five tenths percent of children meet daily physical activity recommendations; and

(VIII) Between 2003 and 2007, Colorado's child obesity national ranking dropped from third leanest in the country to twenty-third, and the number of obese children in Colorado ten to seventeen years of age increased from forty-eight thousand to seventy-two thousand.

(b) Therefore, the general assembly declares that, by supporting physical activity in public schools, Colorado will ensure that all children have access to activities that build their bodies and their brains and support their abilities to think, react, create, and learn.

(2) For purposes of this section, unless the context otherwise requires, "physical activity" may include, but need not be limited to:

(a) Exercise programs;

(b) Fitness breaks;

(c) Recess;

(d) Field trips that include physical activity;

(e) Classroom activities that include physical activity; and

(f) Physical education classes.

(3) (a) Each school district board of education shall adopt a physical activity policy that incorporates into the schedule of each student attending an elementary school the opportunity for the student to engage in:

(I) A minimum of six hundred minutes of physical activity per month if the classes at the school meet five days per week and the student attends school for a full day;

(II) A minimum of three hundred minutes of physical activity per month if the classes at the school meet five days per week and the student attends school for a half day;

(III) A minimum of thirty minutes of physical activity per day if the classes at the school meet fewer than five days per week and the student attends school for a full day; and

(IV) A minimum of fifteen minutes of physical activity per day if the classes at the school meet fewer than five days per week and the student attends school for a half day.

(b) The physical activity policy may include an exception for any month that includes a planned or unplanned full-day or half-day school closure.

(c) Each school district board of education shall implement the physical activity policy beginning with the 2011-12 school year.

(d) Each school district board of education may require the person or committee in each school designated to ensure that the school complies with the local wellness policy, as described in section 22-32-136, or the school district accountability committee and school accountability committees created pursuant to article 11 of this title to review and advise the school district or an individual school regarding the school district's or the individual school's physical activity policy and compliance with this section.

(e) The expectation that a school district adopt a policy concerning physical activity pursuant to this section is not intended to dictate instruction in the classroom.

(f) A school that, prior to January 1, 2011, provides more than the minimum minutes specified in paragraph (a) of this subsection (3) shall not decrease the amount of physical activity as a result of the policy specified in paragraph (a) of this subsection (3); except that the school may decrease its required minutes of physical activity in response to budgetary constraints, so long as the school complies with the requirements specified in paragraph (a) of this subsection (3).

(g) A school shall not substitute noninstructional physical activity for standards-based physical education instruction.

**Source: L. 2011:** Entire section added, (HB 11-1069), ch. 117, p. 364, § 1, effective April 20.

**22-32-137. Community service and service-learning.** Each school district shall consider and, if the school district board of education deems it appropriate, adopt a policy to encourage students to engage in community service or service-learning and to recognize students' contributions to their communities through community service or service-learning. Pursuant to the policy, a student who successfully meets the community service or service-learning program goals, as specified in the policy, may earn recognition in the manner described in the policy. The policy should specify the manner in which recognition of service may be

reflected on a student's diploma or transcript as an indication of the student's commitment to service within the community.

**Source: L. 2006:** Entire section added, p. 998, § 2, effective August 7.

**Cross references:** For the legislative declaration contained in the 2006 act enacting this section, see section 1 of chapter 217, Session Laws of Colorado 2006.

**22-32-138. Out-of-home placement students - school stability, transfer, and enrollment procedures - absences - exemptions - provision of academic supports - definitions.** (1) As used in this section and in section 22-32-138.5, unless the context otherwise requires:

(a) "Child placement agency" has the same meaning as provided in section 19-1-103 (21).

(b) "County department" has the same meaning as provided in section 19-1-103 (32).

(c) "Department of education" means the department of education created in section 24-1-115.

(d) "Department of human services" or "state department of human services" means the state department of human services created and existing pursuant to section 24-1-120.

(d.5) "Division of youth services placement" means a secure facility or contract community residential program of the division of youth services in the state department of human services.

(e) "Education provider" means a school, school district, the state charter school institute, or a board of cooperative services that operates a school.

(f) "School" means a public school of a school district, a school operated by a board of cooperative services pursuant to article 5 of this title 22, an institute charter school authorized pursuant to part 5 of article 30.5 of this title 22, a state-licensed day treatment facility, or an approved facility school as defined in section 22-2-402 (1).

(g) "School of origin" means the school in which a student was enrolled at the time of each placement into foster care. If the student's foster care placement changes, the school of origin is the school in which the student is enrolled at the time of the change in placement. If the student is enrolled in a facility school, including residential child care facilities and secure detention facilities, and the student will no longer be enrolled in the facility school, the school of origin is the last school the student attended within the previous two years for at least one complete semester or term prior to entering the facility school or another school where the student had a meaningful connection within the previous two years. "School of origin" includes the designated receiving school at the next grade level for feeder school or zone patterns when the student completes the final grade level served by the school of origin. When there is more than one potential school of origin, the student's input must be given strong consideration in determining which school to designate as the school of origin.

(h) "Student in out-of-home placement" means a child or youth who at any time during an academic semester or term is in foster care and receiving educational services through a state-licensed day treatment facility or who at any time during an academic semester or term is in placement out of the home, as that term is defined in section 19-1-103 (85), including but not limited to any child or youth who is in placement outside of the home at any time during an

academic semester or term as a result of an adjudication pursuant to article 2 of title 19. "Student in out-of-home placement" includes a child or youth who transfers enrollment as a result of being returned to his or her home at the conclusion of out-of-home placement.

(1.5) **Department of education foster care education coordinator - creation and duties.** Subject to available appropriations, the department of education shall hire a full-time foster care education coordinator who has the following duties beginning in the 2019-20 fiscal year:

(a) Providing training and professional development to address needs associated with implementation of state and federal mandates relating to foster care education;

(b) Collecting and disseminating child welfare education liaison contact information on the department of education's website;

(c) Coordinating with the department of human services and other agencies as necessary;

(d) Providing technical assistance to education providers for removing barriers to graduation pursuant to subsection (5) of this section;

(e) Serving as a point of contact to review compliance of education providers; and

(f) Acting as a liaison in coordination with the department of human services to review complaints related to disputes over transportation agreements between school districts and the state charter school institute and county departments.

(2) (a) Each school district and the state charter school institute, created pursuant to section 22-30.5-503, shall designate an employee of the school district or the institute to act as the child welfare education liaison for all district schools or for all state charter schools. In lieu of designating an employee, a school district or the state charter school institute may contract with an individual to act as the child welfare education liaison. Each school district and the state charter school institute shall report to the department of education by August 15, 2010, and by August 15 each year thereafter, the name and contact information of the child welfare education liaison. The department of education shall be responsible for posting that information on the department of education's website and providing the information to the department of human services.

(b) The child welfare education liaison shall be responsible for working with child placement agencies, county departments, and the state department of human services to facilitate services to maintain students in out-of-home placement in their schools of origin or, if the county department determines that it is not in the students' best interests to remain in the school of origin, facilitate the prompt and appropriate placement, transfer, and enrollment in school of students in out-of-home placement within the school district or who are enrolled or enrolling in institute charter schools. The child welfare education liaison's specific duties include but need not be limited to:

(I) Responding to a county department request for input from an education provider concerning the determination of whether it is in the best interest of the student in out-of-home placement to remain in the school of origin;

(II) Collaborating with the county department to ensure that any necessary transportation and services are provided for the student in out-of-home placement to remain in the student's school of origin;

(III) If a county department determines that it is not in the student's best interest to remain in the school of origin, working with county departments, juvenile probation officers, parents, guardian ad litems, and foster care parents to ensure that the student is enrolled in a new

school immediately with transition planning, and that the student's complete education information and records are requested immediately by the student's new school upon enrollment;

(IV) Upon receiving the required notification and invitation, participating in a transition planning meeting regarding the enrollment in a public school of a student in an out-of-home placement pursuant to section 22-2-139 from a state-licensed day treatment facility, facility school, or hospital, or having his or her designee participate in the meeting;

(V) Participating, or having his or her designee participate, in any interagency collaboration teams or threat-assessment teams centered on students in out-of-home placement, which teams the education provider may develop or on which teams the education provider may be invited to participate; and

(VI) Providing to the department of education, the department of human services, and the education committees of the house of representatives and the senate, or any successor committees, the information required pursuant to sections 22-2-139 and 26-1-138.

(c) Notwithstanding the provisions of subsection (2)(a) of this section, a board of cooperative services created pursuant to article 5 of this title 22 may designate an employee of the board to act as the child welfare education liaison for the school districts that are members of the board of cooperative services. A child welfare education liaison employed by a board of cooperative services has the duties specified in this subsection (2) and shall perform them on behalf of the school districts that are members of the board of cooperative services.

(3) (a) If a student in out-of-home placement is enrolled in one school and transfers enrollment to another school either in the same education provider or in another education provider, the sending education provider shall transfer the student's education information and records to the receiving school as soon as possible but not to exceed five school days after receiving a transfer request.

(b) Notwithstanding any provision of law to the contrary, without having to obtain a court order, the county department that has legal custody of a student in out-of-home placement may request that the education provider in which the student was enrolled release the student's education information and records to an employee of the county department. The education provider may comply with the requirements of subsection (3)(a) of this section by complying with the county department's request as soon as possible but not to exceed five school days after receiving the request.

(c) A school district or school shall not delay the transfer of the education information and records of a student in out-of-home placement for any reason, including but not limited to the existence of any unpaid fines or fees that the student may have outstanding at the school from which the student is transferring.

(d) If an education provider receives a transfer request pursuant to subsection (3)(a) of this section or a request for release of records pursuant to subsection (3)(b) of this section and the request involves a student who is receiving special education services pursuant to an individualized education program, the education provider shall notify the special education director for the education provider of the request as soon as possible following receipt of the request.

(4) (a) Notwithstanding any provision of law, other than subsection (4)(b) of this section, to the contrary, if a student who is in out-of-home placement is required to change schools, the education provider shall enroll the student in school immediately, regardless of whether:

(I) The education provider has received the student's educational information and records, including the certificate of immunization;

(II) The student can comply with any requirements pertaining to the use of school uniforms or other clothing restrictions; or

(III) The student can comply with any other preenrollment restrictions or requirements imposed by the school district or school.

(b) The provisions of paragraph (a) of this subsection (4) shall not be construed to prohibit a school district or school from denying enrollment to a student in out-of-home placement based on the circumstances specified in section 22-33-106 (2) and (3); except that the school district or school:

(I) May deny enrollment based on the student having been expelled from a school district in the preceding twelve months as provided in section 22-33-106 (3)(c) only if the student was expelled for having drugs or weapons at school or for being a danger to self or others; and

(II) May not deny enrollment based on failure to comply with the provisions of part 9 of article 4 of title 25, C.R.S., as provided in section 22-33-106 (3)(e).

(c) If an education provider enrolls a student in out-of-home placement without receiving the student's certificate of immunization, the education provider shall notify the county department that, unless the education provider receives the student's certificate of immunization or a written authorization for administration of immunizations within fourteen days after the student enrolls, the education provider shall suspend the student until such time as the education provider receives the certificate of immunization or the authorization.

(5) (a) When a student in out-of-home placement transfers from one school to another school or from a division of youth services placement to a school, the sending education provider or division of youth services placement shall certify to the receiving education provider the course work that the student has fully or partially completed while enrolled in the education provider. The receiving education provider shall accept the student's certified course work and the course work certified by previous education providers and division of youth services placements in which the student was enrolled, as reflected in the student's records, for comparable course credit, as if it had been completed at the receiving education provider. The receiving education provider shall apply all of the student's certified course work toward completion of the student's requirements for grade level promotion at the receiving education provider or for graduation from the receiving education provider if the student is enrolled in twelfth grade.

(b) When a student experiences out-of-home placement at any point during high school, an education provider may waive course or program prerequisites or other preconditions for placement in courses or programs under the jurisdiction of the education provider.

(c) An education provider may waive specific courses required for graduation if similar course work has been satisfactorily completed in another jurisdiction or the student has demonstrated competency in the content area. If the receiving school does not grant a waiver to a child who would qualify to graduate from the sending school, the education provider is encouraged to provide an alternative means of acquiring the required course work or competency requirements so that timely graduation may occur. The receiving education provider awarding the diploma may award elective credit for any portion of the student's certified course work that

is not aligned with core academic course descriptions of the receiving education provider or for demonstrated competencies that are not aligned with the receiving education provider.

(d) If a student in out-of-home placement who is transferring at the beginning of or during twelfth grade is ineligible to graduate from the receiving education provider, the education provider may request a diploma from a previously attended education provider, and the previously attended education provider may issue a diploma if the student meets the education provider's graduation requirements.

(6) A student in out-of-home placement shall receive an excused absence from the school district or school in which the student is enrolled for any time the student is out of school due to a required court appearance or participation in court-ordered activities, including but not limited to family visitation or therapy. The social worker who is assigned to the student shall verify to the school district or school each instance in which the student is out of school for a court appearance or for participation in a court-ordered activity.

(7) An education provider in which a student in out-of-home placement is enrolled shall waive all fees that would otherwise be assessed against the student, including but not limited to any general fees, fees for books, fees for lab work, fees for participation in in-school or extracurricular activities, and fees for before-school or after-school programs. The education provider shall not limit the opportunity of a student in out-of-home placement to participate in in-school and extracurricular activities and before-school and after-school programs due to waiver of the participation fees.

(8) A school district or school in which a student in out-of-home placement is enrolled shall provide a foster parent with access to education records and reports for a student who resides in the foster parent's home, including information and records available online. The foster parent shall maintain the confidentiality of any information obtained pursuant to this subsection (8).

(9) The department of education and the department of human services shall enter into a data-sharing agreement that ensures that individual data relevant to students in out-of-home placement is shared at the state level for purposes of accountability, program improvement, and research.

(10) School districts and the state charter school institute shall coordinate with county departments to establish systems-level plans for how necessary transportation to the school of origin is provided, arranged, and funded for the duration of a child's or youth's time as a student in out-of-home placement, including the equitable allocation of costs.

**Source: L. 2008:** Entire section added, p. 468, § 2, effective April 17. **L. 2009:** (1)(c) amended, (SB 09-292), ch. 369, p. 1963, § 62, effective August 5. **L. 2010:** (2)(a) amended, (HB 10-1274), ch. 271, p. 1248, § 3, effective May 25. **L. 2018:** (8) added, (HB 18-1348), ch. 325, p. 1961, § 2, effective May 30; (1) R&RE, (1.5), (9), and (10) added, and (2), (3)(a), (3)(b), (3)(d), IP(4)(a), (4)(a)(I), (4)(c), (5), and (7) amended, (HB 18-1306), ch. 364, p. 2173, § 2, effective August 8; (1)(d.5) added and (5) amended, (SB 18-213), ch. 301, p. 1827, § 1, effective August 8.

**Editor's note:** (1) Subsection (1)(d.5) was numbered as subsection (1)(b.5) in SB 18-213. That provision was harmonized with subsection (1) as it appears in HB 18-1306.

(2) Amendments to subsection (5) by SB 18-213 and HB 18-1306 were harmonized.

**Cross references:** For the legislative declaration contained in the 2008 act adding this section, see section 1 of chapter 147, Session Laws of Colorado 2008. For the legislative declaration contained in the 2010 act amending subsection (2)(a), see section 1 of chapter 271, Session Laws of Colorado 2010. For the legislative declaration in HB 18-1306, see section 1 of chapter 364, Session Laws of Colorado 2018.

**22-32-138.5. Educational stability grant program - application - grants - fund created - rules - report.** (1) There is created within the department of education the educational stability grant program, referred to in this section as the "grant program", to provide grant money to education providers to use in providing academic and social-emotional services and supports to highly mobile students. Subject to available appropriations, commencing with the 2019-20 fiscal year, the state board of education shall award educational stability grants to preschool, elementary, and secondary education providers from money appropriated from the educational stability grant program fund created in subsection (4) of this section.

(2) The state board of education shall adopt rules pursuant to the "State Administrative Procedure Act", article 4 of title 24, for implementation of the grant program. At a minimum, the rules shall include:

(a) Timelines and procedures by which an education provider may apply for a grant;

(b) The information to be included on grant applications, including at a minimum:

(I) The number of highly mobile students the education provider served in the previous school year, which shall include children or youth who at any time during the academic year were homeless, as defined in section 22-1-102.5; were in noncertified kinship care, as defined in section 19-1-103; were students in out-of-home placement, as defined in section 22-32-138; or were migrant children, as defined in section 22-23-103;

(II) A description of services to be provided through the grant, including a description of innovative practices to address barriers for students in out-of-home placement;

(III) A description of the need for the services to be provided through the grant;

(IV) An estimated cost to provide services through the grant;

(V) Criteria for measurement of the effectiveness of services provided through the grant;

(VI) A description of the education provider's existing policies and practices relating to the transfer of student records between education providers;

(VII) The education provider's collaboration with county departments to make best-interest determinations and to provide transportation, when needed;

(VIII) The provision of services for students in out-of-home placement who receive special education services;

(IX) Access to extracurricular activities for students in out-of-home placement; and

(X) Transition practices relating to school moves for students in out-of-home placement.

(3) Each education provider that seeks a grant pursuant to this section must submit an application to the department of education in accordance with the rules adopted by the state board of education. The department of education shall review the grant applications received and recommend grant recipients and grant amounts to the state board. The state board shall annually award grants through the grant program after considering the department's recommendations.

(4) (a) The educational stability grant program fund, referred to in this section as the "fund", is created in the state treasury. The fund consists of any money credited to the fund pursuant to subsection (4)(b) of this section and any money that the general assembly may

appropriate or transfer to the fund, including money from the marijuana tax cash fund created in section 39-28.8-501. Subject to annual appropriation by the general assembly, the department of education may expend money from the fund for the purposes of this section.

(b) The department of education may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this section. The department of education shall transmit all money received through gifts, grants, or donations to the state treasurer, who shall credit the money to the fund.

(c) The department of education may expend money annually appropriated from the fund for reasonable and necessary administrative expenses incurred in implementing this section and in evaluating and providing technical assistance to education providers that receive grants pursuant to this section.

(d) Any money in the fund not expended for the purposes of this section may be invested by the state treasurer as provided by law. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(e) The department of education is encouraged to direct to the fund any federal money received by the department that may be used for the purposes specified in this section.

(5) (a) On or before March 31, 2019, and on or before March 31 each year thereafter, the department of education shall evaluate the educational stability services provided by each education provider that received a grant pursuant to this section in the preceding fiscal year; except that the department of education need not provide an evaluation for any fiscal year in which grants were not awarded. At a minimum, the department of education shall review:

(I) The outcomes and effectiveness of the services provided as measured by the demonstrated degree of educational stability;

(II) The improvement in school attendance;

(III) The reduction in behavioral and discipline incidents;

(IV) The increase in grade-level promotion;

(V) The reduction in the dropout rate; and

(VI) The increase in the graduation and completion rates for the grant recipients' schools.

(b) (I) The department of education shall report the evaluation results to the education committees of the senate and of the house of representatives, or any successor committees, in conjunction with the report submitted pursuant to section 22-14-111.

(II) Notwithstanding the provisions of section 24-1-136 (11)(a)(I), the report required pursuant to subsection (5)(b)(I) of this section continues indefinitely.

**Source: L. 2018:** Entire section added, (HB 18-1306), ch. 364, p. 2178, § 3, effective August 8.

**Cross references:** (1) For definitions applicable to this section, see § 22-32-138 (1).

(2) For the legislative declaration in HB 18-1306, see section 1 of chapter 364, Session Laws of Colorado 2018.

**22-32-139. Food allergies and anaphylaxis policy required.** On or before July 1, 2010, each school district board of education shall adopt and implement a policy for the management of food allergies and anaphylaxis among students enrolled in the public schools of the school

district. The policy shall include, at a minimum, measures that satisfy the rules promulgated by the state board of education pursuant to section 22-2-135.

**Source: L. 2009:** Entire section added, (SB 09-226), ch. 245, p. 1106, § 5, effective August 5.

**Cross references:** For the legislative declaration contained in the 2009 act adding this section, see section 1 of chapter 245, Session Laws of Colorado 2009.

**22-32-140. Standardized immunization policy required.** On or before July 1, 2011, each school district board of education shall annually provide to the parent or legal guardian of each student enrolled in a school of the school district the standardized immunization document developed and updated by the department of public health and environment pursuant to section 25-4-902 (4), C.R.S. For purposes of this section, solely posting a copy of the standardized immunization document on a website or in a central area of the school is not sufficient to satisfy the notice requirements of this section; however, each school district is encouraged to post a copy of the standardized immunization document on its website.

**Source: L. 2010:** Entire section added, (SB 10-056), ch. 50, p. 192, § 3, effective August 11; entire section amended, (HB 10-1422), ch. 419, p. 2126, § 190, effective August 11.

**22-32-141. Student awaiting trial as adult - educational services - definitions.** (1) As used in this section, unless the context otherwise requires:

(a) "Federal IDEA act" means the federal "Individuals with Disabilities Education Act", 20 U.S.C. 1400 et seq., and the federal regulations for implementing said act regarding the provision of special education and related services to students with disabilities.

(b) "Juvenile" means a person:

(I) Against whom criminal charges are directly filed in district court pursuant to section 19-2-517, C.R.S., or for whom criminal charges are transferred to district court pursuant to section 19-2-518, C.R.S.;

(II) Who is under eighteen years of age at the time the offense is committed; and

(III) Who is less than twenty-one years of age.

(c) "Pupil enrollment count day" has the same meaning as set forth in section 22-54-103 (10.5).

(2) (a) Except as otherwise provided in subsections (2)(c) to (2)(g) of this section, if a juvenile is held in a jail or other facility for the detention of adult offenders pending criminal proceedings as an adult, the school district in which the jail or facility is located shall provide educational services for the juvenile upon request of the official in charge of the jail or facility, or his or her designee, pursuant to section 19-2-508 (4)(c)(I). A school district may provide educational services directly using one or more of its employees or may ensure that educational services are provided through a board of cooperative services, an administrative unit, or otherwise through contract with a person or entity.

(b) In addition to meeting the requirements specified in this section, for each juvenile in a jail or facility who is a student with disabilities, the school district shall comply with any applicable provisions of the federal IDEA act.

(c) A school district is not required to provide educational services pursuant to this section to a juvenile if the juvenile has already graduated from high school or if the juvenile received a general education development certificate, unless otherwise required by the federal IDEA act.

(d) A school district is not required to provide educational services pursuant to this section to a juvenile for more than four hours per week or during periods of the school year when students enrolled in the school district are not required to attend school, except as may otherwise be required by the federal IDEA act.

(e) If a school district or the official in charge of the jail or facility determines as provided in section 19-2-508 (4)(c)(II) that an appropriate and safe environment for school district employees or contractors is not available in which to provide educational services to a specific juvenile, the school district is exempt from the requirement of providing educational services to the juvenile until such time as both the school district and the official in charge of the jail or facility determine that an appropriate and safe environment for school district employees or contractors is available. If the school district will not be providing educational services to a juvenile because of the lack of an appropriate and safe environment for school district employees or contractors, the official in charge of the jail or facility shall notify the juvenile, his or her parent or legal guardian, the juvenile's defense attorney, and the court having jurisdiction over the juvenile's case.

(f) If a juvenile is violent toward or physically injures the school district employee or contractor who is providing educational services to the juvenile pursuant to this section, the school district shall not require the employee or contractor to continue providing educational services to the juvenile, and the school district may choose to cease providing educational services to the juvenile, unless otherwise required by the federal IDEA act. If a school district ceases to provide educational services to a juvenile pursuant to this paragraph (f), the school district shall notify the official in charge of the jail or facility, and the official shall notify the juvenile, the juvenile's parent or legal guardian, the juvenile's defense attorney, and the court having jurisdiction over the juvenile's case.

(g) If a juvenile refuses to accept or participate in educational services, including special education services, a school district shall not be required to provide educational services pursuant to this section. The official in charge of the jail or facility in which the juvenile is held shall offer, at least weekly, to arrange educational services for a juvenile who previously refused educational services. The school district shall be required to provide educational services pursuant to this section upon acceptance by the juvenile.

(3) (a) Each school district in which a jail or other facility for the detention of adult offenders is located shall designate a school district employee to act as the contact person for the jail or facility, which employee may be the child welfare education liaison designated pursuant to section 22-32-138 (2). The school district shall provide to the jail or facility the employee's name and contact information.

(b) Following a request for educational services pursuant to subsection (2) of this section, the designated employee shall determine whether the juvenile was held in a juvenile detention facility prior to transfer to the jail or facility and, if so, shall contact the juvenile detention facility to request the transfer of any educational or other information the juvenile facility may have concerning the juvenile. The designated employee shall ensure that the juvenile receives educational services pursuant to this section so long as the juvenile is held in

the jail or facility, unless the designated employee determines that the juvenile meets the conditions specified in paragraph (c) of subsection (2) of this section, or the school district is exempt as provided in paragraph (e) or (f) of subsection (2) of this section, or the juvenile refuses services as provided in paragraph (g) of subsection (2) of this section.

(4) (a) In any budget year in which a school district is providing educational services to a juvenile pursuant to this section on the pupil enrollment count day of said budget year, the school district may include the juvenile in its pupil enrollment, as defined in section 22-54-103 (10), for purposes of determining the school district's total program funding under the "Public School Finance Act of 1994", article 54 of this title.

(b) If the school district begins providing educational services pursuant to this section after the pupil enrollment count day, the school district may seek reimbursement for the costs incurred pursuant to this section from the school district or charter school that included said juvenile in its pupil enrollment for the applicable budget year. Any amount received as reimbursement may not exceed the reimbursing school district's or charter school's per pupil revenue for the applicable budget year, prorated for the period of time that the receiving school district provides educational services pursuant to this section.

(c) If a juvenile who receives educational services pursuant to this section was not included in the pupil enrollment for the state for a budget year in which a school district provides educational services for the juvenile, the school district may seek reimbursement from the department of education for the costs incurred pursuant to this section. Any amount received as reimbursement may not exceed the state average per pupil revenue for the applicable budget year, prorated for the period that the receiving school district provides educational services pursuant to this section. The department of education shall pay reimbursement pursuant to this paragraph (c) from moneys appropriated to the department for said purpose.

(d) (I) In addition to any moneys received pursuant to paragraph (a), (b), or (c) of this subsection (4), a school district that provides educational services pursuant to this section shall receive from the department of education an amount equal to the daily rate established pursuant to section 22-54-129 for educational services provided by approved facility schools, multiplied by the number of days, excluding Saturdays and Sundays, that the juvenile is held in a jail or facility, so long as the juvenile is receiving at least four hours of educational services per week.

(II) On or before the fifteenth day of each month in which a juvenile is held in a jail or facility, the official in charge of the jail or facility in which a juvenile is held, or his or her designee, shall report to the department of education in a manner to be determined by the department, the actual number of juveniles who received educational services at the jail or facility during the prior calendar month to whom the school district provided educational services at the jail or facility. The department of education may accept amended monthly reports from the jail or facility prior to making the distribution of funding for the applicable month pursuant to subparagraph (III) of this paragraph (d).

(III) On or before the fifteenth day of the month following the month in which a jail or facility reported the number of juveniles who received educational services at the jail or facility, the department of education shall pay the school district that provided the educational services the appropriate amount based on the daily rate established for approved facility schools pursuant to section 22-54-129 and the number of juveniles who received educational services.

(IV) In each applicable budget year, the general assembly shall appropriate to the department of education the amount required to reimburse school districts pursuant to this

paragraph (d) for educational services provided pursuant to this section. In any year in which the amount appropriated is insufficient to fully reimburse school districts pursuant to this section, the department of education may prorate the payments made pursuant to this paragraph (d).

(V) Notwithstanding any provision of this paragraph (d) to the contrary, a school district shall not receive reimbursement pursuant to this paragraph (d) for any period during which the school district was not providing educational services due to the circumstances described in any of paragraphs (c) to (g) of subsection (2) of this section. The official in charge of the jail or facility, or his or her designee, shall note any such period in the report submitted to the department of education pursuant to subparagraph (II) of this paragraph (d), and the department shall reduce the amount of reimbursement to the school district accordingly.

(e) In addition to any moneys received pursuant to paragraph (a), (b), (c), or (d) of this subsection (4), a school district or administrative unit that provides special education services pursuant to this section to a juvenile who has an individualized education program pursuant to section 22-20-108 may seek excess costs tuition from the juvenile's administrative unit of residence as provided in section 22-20-109.

**Source: L. 2010:** Entire section added, (SB 10-054), ch. 265, p. 1208, § 1, effective May 25. **L. 2012:** (4)(a) and (4)(b) amended and (1)(c) added, (HB 12-1090), ch. 44, p. 152, § 12, effective March 22. **L. 2019:** (2)(a) and (2)(e) amended, (SB 19-108), ch. 294, p. 2729, § 28, effective July 1.

**22-32-142. Parent engagement - policy - communications - incentives.** (1) (a) Each school district board of education shall adopt a district policy for increasing and supporting parent engagement in the public schools, including charter schools, of the school district. In adopting the policy, the board of education may take into account, but need not be limited to, the best practices and strategies identified pursuant to section 22-7-304 by the Colorado state advisory council for parent involvement in education and the national standards for family-school partnerships, as defined in section 22-7-302 (5). The board of education shall work with the parent members of the district accountability committee in creating, adopting, and implementing the policy.

(b) As part of the district parent engagement policy, a district is encouraged to provide training concerning best practices and skills for district and school personnel in working with parents.

(c) Each school district shall identify an employee of the district to act as the point of contact for parent engagement training and resources. The identified person shall also serve as the liaison between the district, the district accountability committee, the Colorado state advisory council for parent involvement in education, and the department of education and shall facilitate the district's efforts to increase parent involvement within the district. The school district shall submit to the department of education the name of the identified employee.

(d) Notwithstanding any provision of this subsection (1) to the contrary, a school district is not required to comply with the requirements specified in this subsection (1) if the department of education determines that the school district is rural, based on the geographic size of the school district and the distance of the school district from the nearest large, urbanized area, and the school district enrolls fewer than one thousand students in kindergarten through twelfth grade.

(2) (a) If the state board of education, pursuant to section 22-11-210, determines that a school of the school district is required to adopt and implement a school priority improvement plan as described in section 22-11-405 or a school turnaround plan as described in section 22-11-406, the school district, within thirty days after receiving the initial notice of the determination or, if the determination is appealed, the final notice of the determination, shall notify the parents of the students enrolled in the school of the required plan and the issues identified by the department of education as giving rise to the need for the required plan. The notice shall also include the timeline for developing and adopting the required plan and the dates, times, and locations of the public meeting described in paragraph (b) of this subsection (2) and the public hearing described in paragraph (c) of this subsection (2).

(b) The school accountability committee shall hold a public meeting to solicit input from parents concerning the contents of the required plan before the plan is written. At the school accountability committee's public meeting, the school principal shall review the school's progress in implementing its plan for the preceding year and in improving its performance.

(c) The school district board of education shall hold a public hearing after the plan is written to review the required plan prior to final adoption. The date of the public hearing shall be at least thirty days after the date on which the school district provides the written notice. A member of the school accountability committee is encouraged to attend the public hearing.

(3) Each school district board of education may solicit and accept public or private gifts, grants, or donations to implement all or a portion of the parent involvement programs implemented under a policy adopted pursuant to this section.

**Source: L. 2011:** Entire section added, (HB 11-1126), ch. 118, p. 368, § 1, effective August 10. **L. 2013:** (1) and (2) amended, (SB 13-193), ch. 355, p. 2075, § 8, effective May 28. **L. 2015:** (1)(d) added, (HB 15-1321), ch. 217, p. 797, § 1, effective May 22.

**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 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.

**Source: L. 2011:** Entire section added, (HB 11-1277), ch. 306, p. 1472, § 1, effective August 10.

**22-32-144. Restorative justice practices - legislative declaration.** (1) The general assembly hereby finds that:

(a) Conflicts and offenses arising during the school day interrupt learning, threaten school safety, and often lead to suspensions, expulsions, and an increase in the likelihood of a student dropping out of school;

(b) Students who drop out of high school face diminished job opportunities, lower lifetime earnings, and increased unemployment and more often require public assistance. They are more likely to participate in criminal activity, resulting in higher incarceration rates, and they face much greater challenges to becoming productive, contributing members of their communities.

(c) School conflicts can result in offenses that violate school rules and local laws and damage relationships among members of the school and surrounding community;

(d) Restorative justice, which requires the offender to accept responsibility and accountability for his or her actions, teaches conflict resolution, repairs the harm from the offense, reduces classroom disruptions, suspensions, expulsions, and consequent dropouts, promotes school safety, and enables victims, offenders, and community members to rebuild the community and restore relationships; and

(e) The general assembly has a vital interest in reducing classroom disruptions, suspensions, expulsions, and dropout rates and in assisting victims, reducing referrals to the justice system, and building safer, more cohesive school communities to promote learning.

(2) (a) Therefore, the general assembly supports and encourages the use of restorative justice as a school's first consideration to remediate offenses such as interpersonal conflicts, bullying, verbal and physical conflicts, theft, damage to property, class disruption, harassment and internet harassment, and attendance issues.

(b) The general assembly encourages each school district to implement training and education in the principles and practices of restorative justice to ensure that capable personnel and resources are available to successfully facilitate all steps of the restorative justice process.

(3) For purposes of this section, "restorative justice" means practices that emphasize repairing the harm to the victim and the school community caused by a student's misconduct. Restorative justice practices may include victim-initiated victim-offender conferences attended voluntarily by the victim, a victim advocate, the offender, school members, and supporters of the victim and the offender, which program provides an opportunity for the offender to accept responsibility for the harm caused to those affected by the act and to participate in setting consequences to repair the harm. Consequences recommended by the participants may include, but need not be limited to, apologies, community service, restitution, restoration, and counseling. The selected consequences shall be incorporated into an agreement that sets time limits for completion of the consequences and is signed by all participants.

(4) Each school district is encouraged to develop and utilize restorative justice practices that are part of the disciplinary program of each school in the district.

**Source: L. 2011:** Entire section added, (HB 11-1032), ch. 296, p. 1407, § 17, effective August 10.

**22-32-145. Native American language and culture instruction - general credit.** A school district board of education may adopt a policy to grant general education or world language credit for the successful completion of Native American language course work for languages of federally recognized tribes. A person instructing a Native American language course shall meet the requirements set forth in section 22-60.5-111 (15).

**Source: L. 2012:** Entire section added, (SB 12-057), ch. 120, p. 409, § 2, effective August 8.

**22-32-146. School use of on-site peace officers as school resource officers.** (1) If a school resource officer or other law enforcement officer acting in his or her official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event arrests a student of the school, the officer shall notify the principal of the school or his or her designee of the arrest within twenty-four hours after the arrest.

(2) If a school resource officer or other law enforcement officer acting in his or her official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event issues a summons, ticket, or other notice requiring the appearance of a student of the school in court or at a police station for investigation relating to an offense allegedly committed on school grounds, in a school vehicle, or at a school activity or sanctioned event, the officer shall notify the principal of the school or his or her designee of the issuance of the summons, ticket, or other notice within ten days after the issuance of the summons, ticket, or other notice.

(3) A school resource officer shall be familiar with the provisions of the conduct and discipline code of the school to which he or she is assigned.

(4) Commencing August 1, 2013, and continuing through August 1, 2014, each law enforcement agency employing or contracting with any law enforcement officer who is acting or has acted in his or her official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event shall report to the division of criminal justice created in section 24-33.5-502, C.R.S., in aggregate form without personal identifying information, data about the cases handled by the agency on school grounds, in a school vehicle, or at a school activity or sanctioned event. Failure to submit a timely report to the division of criminal justice pursuant to this subsection (4) does not relieve a law enforcement agency of its responsibility to file the report required by this subsection (4). A law enforcement agency that has failed to file a timely report shall file all such reports with the division of criminal justice no later than August 15, 2015. Each such report must include, at a minimum, the following information:

(a) The number of students investigated by the officer for delinquent offenses, including the number of students investigated for each type of delinquent offense for which the officer investigated at least one student;

(b) The number of students arrested by the officer, including the offense for which each such arrest was made;

(c) The number of summonses or tickets issued by the officer to students; and

(d) The age, gender, school, and race or ethnicity of each student whom the officer arrested or to whom the officer issued a summons, ticket, or other notice requiring the

appearance of the student in court or at a police station for investigation relating to an offense allegedly committed on school grounds, in a school vehicle, or at a school activity or sanctioned event.

(5) (a) On or before August 1, 2015, each law enforcement agency that is acting or has acted in its official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event shall report to the division of criminal justice, in the formats developed by the division in conjunction with local law enforcement agencies, the information required pursuant to paragraph (c) of this subsection (5) that is related to all student tickets, summons, or arrests that occurred during the 2014-15 academic year, excluding incidents that occurred during the summer of 2014, at a public elementary school, middle or junior high school, or high school; in a school vehicle; or at a school activity or sanctioned event.

(b) Notwithstanding the provisions of section 19-1-303 (5), C.R.S., on or before August 1, 2016, and every August 1 thereafter, each law enforcement agency that is acting or has acted in its official capacity on school grounds, in a school vehicle, or at a school activity or sanctioned event shall report to the division of criminal justice, in formats developed by the division in conjunction with local law enforcement agencies, the information required pursuant to paragraph (c) of this subsection (5) that is related to all student tickets, summons, or arrests that occurred for the previous academic year, including incidents that occurred during the previous summer months, at a public elementary school, middle or junior high school, or high school; in a school vehicle; or at a school activity or sanctioned event.

(c) For each report required pursuant to paragraph (a) or (b) of this subsection (5), the law enforcement agency shall report:

(I) The student's full name;

(II) The student's date of birth;

(III) The student's race, ethnicity, and gender;

(IV) The name of the school where the incident occurred or the name of the school that operated the vehicle or held the activity or event;

(V) The date of the arrest or taking of a student into custody;

(VI) The date of the issuance of the summons or ticket;

(VII) The arrest or incident report number as recorded by the law enforcement agency;

(VIII) The single most serious offense for which a student is arrested, issued a summons, or issued a ticket using the national crime information center (NCIC) crime code;

(IX) The type of weapon involved, if any, for offenses classified as group A offenses under the national incident-based reporting system; and

(X) The law enforcement agency's originating reporting identifier.

(d) A law enforcement agency may report the information required pursuant to this subsection (5) on a monthly, quarterly, or annual basis. The law enforcement agency shall inform the division of criminal justice of the reporting schedule it will follow.

**Source: L. 2012:** Entire section added, (HB 12-1345), ch. 188, p. 738, § 23, effective May 19. **L. 2015:** IP(4) amended and (5) added, (HB 15-1273), ch. 323, p. 1320, § 3, effective June 5. **L. 2016:** (5)(b) amended, (HB 16-1098), ch. 103, p. 298, § 4, effective April 15.

**22-32-147. Use of restraints on students - certain restraints prohibited - reports and review process - definitions - rules.** (1) As used in this section, unless the context otherwise requires:

(a) "Chemical restraint" has the same meaning as set forth in section 26-20-102 (2).

(b) "Mechanical restraint" has the same meaning as set forth in section 26-20-102 (4).

(c) "Prone position" means a face-down position.

(d) "Prone restraint" means a restraint in which the individual being restrained is secured in a prone position.

(e) "Restraint" has the same meaning as set forth in section 26-20-102 (6).

(2) Pursuant to section 26-20-111, the use of a chemical, mechanical, or prone restraint upon a student in a school or charter school of a school district or board of cooperative services is prohibited.

(3) (a) On and after August 9, 2017, each school district shall require any school employee or volunteer who uses any type of restraint on a student of the school district to submit a written report of the incident to the administration of the school not later than one school day after the incident occurred.

(b) On and after August 9, 2017, each school district shall establish a review process, conduct the review process at least annually, and document the results of each review process in writing. Each annual review process must include a review of each incident in which restraint was used on a student during the preceding year. The purpose of each annual review process is to ensure that the school district is properly administering restraint, identifying additional training needs, minimizing and preventing the use of restraint by increasing the use of positive behavior interventions, and reducing the incidence of injury to students and staff. Each annual review process must include but is not limited to:

(I) Analysis of incident reports, including consideration of procedures used during the restraint, preventative or alternative techniques attempted, documentation, and follow-up;

(II) Training needs of staff;

(III) Staff-to-student ratios; and

(IV) Environmental considerations, including physical space, student seating arrangements, and noise levels.

(c) Not more than five calendar days after the use of restraint on a student, the school administration shall mail, fax, or e-mail a written report of the incident to the parent or legal guardian of the student. The written report must be placed in the student's confidential file and include:

(I) The antecedent of the student's behavior, if known;

(II) A description of the incident;

(III) Any efforts made to de-escalate the situation;

(IV) Any alternatives to the use of restraints that were attempted;

(V) The type and duration of the restraint used;

(VI) Any injuries that occurred; and

(VII) The staff members who were present and staff members who were involved in administering the restraint.

(4) On or before November 1, 2017, the state board shall promulgate rules establishing a process by which a student or a parent or legal guardian of a student may formally complain about the use of restraint or seclusion by any employee or volunteer of any school or charter

school of a school district or board of cooperative services. To the extent practicable, the process must reflect the complaint process for filing a state complaint under the federal "Individuals with Disabilities Education Act", 20 U.S.C. sec. 1400 et seq., as amended.

**Source: L. 2017:** Entire section added, (HB 17-1276), ch. 270, p. 1488, § 4, effective August 9.

**Cross references:** For the legislative declaration in HB 17-1276, see section 1 of chapter 270, Session Laws of Colorado 2017.

**22-32-148. Food donations to nonprofit organizations encouraged.** Each school district is encouraged to donate apparently wholesome food to one or more local nonprofit organizations for distribution to needy or poor individuals.

**Source: L. 2020:** Entire section added, (SB 20-090), ch. 127, p. 550, § 4, effective September 14.

## ARTICLE 32.5

Innovation Schools and Innovation School Zones
Within School Districts

**22-32.5-101. Short title.** This article shall be known and may be cited as the "Innovation Schools Act of 2008".

**Source: L. 2008:** Entire article added, p. 1420, § 1, effective May 28.

**22-32.5-102. Legislative declaration.** (1) The general assembly hereby finds that:

(a) The constitutional provisions regarding the public education system direct the general assembly to establish a thorough and uniform statewide system of public education, but they also recognize the importance of preserving local flexibility by granting to each school district board of education the control of instruction in the schools of the school district;

(b) The constitution's requirement that each school district board of education is responsible for controlling the instruction in its schools is based on the belief that the delivery of educational services must be tailored to the specific population of students they are intended to serve and that the parents of those students should have great opportunity for input regarding the educational services their children receive;

(c) In tailoring the delivery of educational services, it is also important that the persons delivering those services, the principal of the public school and the faculty employed at that school, have the maximum degree of flexibility possible to determine the most effective and efficient manner in which to meet their students' needs;

(d) To further the goals of high-quality public education throughout the state, therefore, each school district board of education should have the authority to grant public schools of the school district the maximum degree of flexibility possible to meet the needs of individual students and the communities in which they live; and

(e) While the ultimate responsibility for controlling the instruction in public schools continues to lie with the school district board of education of each public school, each school district board of education is strongly encouraged to delegate to each public school a high degree of autonomy in implementing curriculum, making personnel decisions, organizing the school day, determining the most effective use of resources, and generally organizing the delivery of high-quality educational services, thereby empowering each public school to tailor its services most effectively and efficiently to meet the needs of the population of students it serves.

(2) The general assembly therefore finds that it is in the best interests of the people of Colorado to enact the "Innovation Schools Act of 2008" to achieve the following purposes:

(a) To grant to Colorado's school districts and public schools greater ability to meet the educational needs of a diverse and constantly changing student population;

(b) To encourage intentionally diverse approaches to learning and education within individual school districts;

(c) To improve educational performance through greater individual school autonomy and managerial flexibility;

(d) To encourage school districts, where appropriate, to create and manage a portfolio of schools that meet a variety of education needs, including identifying elementary, middle or junior high, and high schools to collectively operate as a vertically integrated innovation zone of schools;

(e) To encourage innovation in education by providing local school communities and principals with greater control over levels of staffing, personnel selection and evaluation, scheduling, and educational programming with the goal of achieving improved student achievement;

(f) To encourage school districts and public schools to find new ways to allocate resources, including through implementation of specialized school budgets, for the benefit of the students they serve; and

(g) To hold public schools that receive greater autonomy under this article accountable for student academic achievement, as measured by the Colorado student assessment program, other more specifically tailored accountability measures, and the federal requirements of adequate yearly progress.

**Source: L. 2008:** Entire article added, p. 1420, § 1, effective May 28.

**22-32.5-103. Definitions.** As used in this article 32.5, unless the context otherwise requires:

(1) "Commissioner" means the commissioner of education appointed by the state board of education pursuant to section 22-2-110.

(1.5) "Community school" means a public school that implements the following:

(a) An annual asset and needs assessment of and by both the school and the community that engages at least seventy-five percent of families, students, and educators in the community;

(b) A strategic plan that includes the creation of problem-solving teams who are dedicated to continuous school improvement and define how educators and community partners use all available assets to meet specific student needs and achieve better results and utilize key tools and lessons from improvement science in the continuous improvement process;

(c) A process to engage partners who bring assets and expertise to implement the school's goals; and

(d) A community school coordinator who is a school staff member at the community school site and who:

(I) Has the primary responsibility to facilitate the problem-solving teams implemented pursuant to subsection (1.5)(b) of this section; and

(II) In consultation with school leadership, shall assemble relevant stakeholders to solve problems identified by the assessment performed pursuant to subsection (1.5)(a) of this section.

(2) "District of innovation" means a school district that is designated as a district of innovation pursuant to section 22-32.5-107.

(3) "Innovation school" means a school in which a local school board implements an innovation plan pursuant to section 22-32.5-104.

(4) "Innovation school zone" means a group of schools of a school district that share common interests, such as geographical location or educational focus, or that sequentially serve classes of students as they progress through elementary and secondary education and in which a local school board implements a plan for creating an innovation school zone pursuant to section 22-32.5-104.

(5) "Local school board" means the board of education of a school district.

(6) "State board" means the state board of education created pursuant to section 1 of article IX of the state constitution.

**Source: L. 2008:** Entire article added, p. 1422, § 1, effective May 28. **L. 2019:** IP amended and (1.5) added, (SB 19-102), ch. 82, p. 293, § 1, effective August 2.

**22-32.5-104. Innovation plans - submission - contents.** (1) (a) A public school of a school district may submit to its local school board an innovation plan as described in subsection (3) of this section. A group of public schools of a school district that share common interests, such as geographical location or educational focus, or that sequentially serve classes of students as they progress through elementary and secondary education may jointly submit to their local school board a plan to create an innovation school zone as described in subsection (4) of this section.

(b) A local school board shall receive and review each innovation plan or plan for creating an innovation school zone submitted pursuant to paragraph (a) of this subsection (1). The local school board shall either approve or disapprove the innovation plan or plan for creating an innovation school zone within sixty days after receiving the plan.

(c) If the local school board rejects the plan, it shall provide to the public school or group of public schools that submitted the plan a written explanation of the basis for its decision. A public school or group of public schools may resubmit an amended innovation plan or amended plan for creating an innovation school zone at any time after denial.

(d) If the local school board approves the plan, it may proceed to seek designation of the school district as a district of innovation pursuant to section 22-32.5-107.

(2) A local school board may initiate and collaborate with one or more public schools of the school district to create one or more innovation plans, as described in subsection (3) of this section, or one or more plans to create innovation school zones, as described in subsection (4) of this section. In creating an innovation plan or a plan to create an innovation school zone, the

local school board shall ensure that each public school that would be affected by the plan has opportunity to participate in creation of the plan. A local school board may approve or create a plan to create an innovation school zone that includes all of the public schools of the school district. If the local school board creates an innovation plan or a plan for creating an innovation school zone, the local school board may seek designation of the school district as a district of innovation pursuant to section 22-32.5-107.

(3) Each innovation plan, whether submitted by a public school or created by a local school board through collaboration between the local school board and a public school, must include the following information:

(a) A statement of the public school's mission and why designation as an innovation school would enhance the school's ability to achieve its mission;

(b) A description of the innovations the public school would implement, which may include, but need not be limited to, innovations in school staffing; curriculum and assessment; class scheduling; use of financial and other resources; faculty recruitment, employment, evaluation, and compensation; whether the school will operate as a community school; and implementation of transformational school strategies such as shared leadership, culturally relevant curriculum, student and family supports, positive discipline practices, and family and community engagement;

(c) A listing of the programs, policies, or operational documents within the public school that would be affected by the public school's identified innovations and the manner in which they would be affected. The programs, policies, or operational documents may include, but need not be limited to:

(I) The research-based educational program the public school would implement;

(II) The length of school day and school year at the public school;

(III) The student promotion and graduation policies to be implemented at the public school;

(IV) The public school's assessment plan;

(V) The proposed budget for the public school; and

(VI) The proposed staffing plan for the public school.

(d) An identification of the improvements in academic performance that the public school expects to achieve in implementing the innovations;

(e) An estimate of the cost savings and increased efficiencies, if any, the public school expects to achieve in implementing its identified innovations;

(f) Evidence that a majority of the administrators employed at the public school, a majority of the teachers employed at the public school, and a majority of the school accountability committee for the public school consent to designation as an innovation school;

(g) A statement of the level of support for designation as an innovation school demonstrated by the other persons employed at the public school, the students and parents of students enrolled in the public school, and the community surrounding the public school;

(h) A description of any statutory sections included in this title or any regulatory or district policy requirements that would need to be waived for the public school to implement its identified innovations;

(i) A description of any provision of the collective bargaining agreement in effect for the personnel at the public school that would need to be waived for the public school to implement its identified innovations; and

(j) Any additional information required by the local school board of the school district in which the innovation plan would be implemented.

(4) Each plan for creating an innovation school zone, whether submitted by a group of public schools or created by a local school board through collaboration with a group of public schools, shall include the information specified in subsection (3) of this section for each public school that would be included in the innovation school zone. A plan for creating an innovation school zone shall also include the following additional information:

(a) A description of how innovations in the public schools in the school innovation zone would be integrated to achieve results that would be less likely to be accomplished by each public school working alone;

(b) An estimate of any economies of scale that would be achieved by innovations implemented jointly by the public schools within the innovation school zone;

(c) Evidence that a majority of the administrators and a majority of the teachers employed at each public school that would be included in the innovation school zone and a majority of the school accountability committee for each public school that would be included in the innovation school zone consent to creating the innovation school zone; and

(d) A statement of the level of support for creating an innovation school zone demonstrated by the other persons employed at each public school that would be included in the zone, the students and parents of students enrolled in each public school that would be included in the zone, and the community in which the local school board would approve the innovation school zone. In determining the level of support, each public school shall specifically solicit input concerning the selection of public schools included in the innovation school zone and the strategies and procedures that would be used in implementing and integrating the innovations within the public schools in the zone.

**Source: L. 2008:** Entire article added, p. 1422, § 1, effective May 28. **L. 2009:** (3)(f) and (4)(c) amended, (SB 09-163), ch. 293, p. 1542, § 44, effective May 21; (3)(f) and (4)(c) amended, (SB 09-090), ch. 291, p. 1444, § 17, effective August 5. **L. 2018:** IP(3) and (3)(b) amended, (HB 18-1355), ch. 324, p. 1954, § 18, effective May 30. **L. 2019:** (3)(b) amended, (SB 19-102), ch. 82, p. 294, § 2, effective August 2.

**22-32.5-105. Suggested innovations.** (1) In considering or creating an innovation plan or a plan for creating an innovation school zone, each local school board is strongly encouraged to consider innovations in the following areas:

(a) Curriculum and academic standards and assessments;

(b) Accountability measures, including but not limited to expanding the use of a variety of accountability measures to more accurately present a complete measure of student learning and accomplishment. The accountability measures adopted by an innovation school or an innovation school zone may include, but need not be limited to:

(I) Use of graduation or exit examinations;

(II) Use of end-of-course examinations;

(III) Use of student portfolio reviews;

(IV) Use of national and international accountability measures such as the national assessment of educational progress and the program for international student assessment;

(V) Measuring the percentage of students continuing into higher education; and

(VI) Measuring the percentage of students simultaneously obtaining a high school diploma and an associate's degree or a career and technical education certificate.

(c) Provision of services, including but not limited to special education services; services for gifted and talented students; services for English language learners; educational services for students at risk of academic failure, expulsion, or dropping out; and support services provided by the state department of human services or county departments or agencies of human or social services;

(d) Teacher recruitment, training, preparation, and professional development;

(e) Teacher employment;

(f) Performance expectations and evaluation procedures for teachers and principals;

(g) Compensation for teachers, principals, and other school building personnel, including but not limited to performance pay plans, total compensation plans, and other innovations with regard to retirement and other benefits;

(h) School governance and the roles, responsibilities, and expectations of principals in innovation schools or schools within an innovation school zone; and

(i) Preparation and counseling of students for transition to higher education or the work force.

**Source: L. 2008:** Entire article added, p. 1425, § 1, effective May 28. **L. 2010:** (1)(c) amended, (SB 10-062), ch. 168, p. 595, § 12, effective April 29. **L. 2014:** (1)(c) amended, (HB 14-1298), ch. 244, p. 937, § 22, effective May 21. **L. 2018:** (1)(c) amended, (SB 18-092), ch. 38, p. 438, § 92, effective August 8.

**Cross references:** For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of Colorado 2018.

**22-32.5-106. Innovation planning - financial support.** Each public school and each local school board is authorized and encouraged to seek and accept public and private gifts, grants, and donations to offset the costs of developing and implementing innovation plans and plans for creating innovation school zones.

**Source: L. 2008:** Entire article added, p. 1426, § 1, effective May 28.

**22-32.5-107. District of innovation - designation.** (1) Each local school board may seek for its school district designation by the state board as a district of innovation. A local school board may seek the designation on the basis of innovation plans or plans for creating innovation school zones approved or collaboratively created by the local school board pursuant to section 22-32.5-104.

(2) A local school board that seeks designation as a district of innovation shall submit one or more innovation plans or plans for creating an innovation school zone to the commissioner for review and comment by the commissioner and the state board. Within sixty days after receiving a local school board's plan, the commissioner and the state board shall respond to the local school board with any suggested changes or additions to the plan, including but not limited to suggestions for further innovations or for measures to increase the likelihood that the innovations will result in greater academic achievement within the innovation schools or

innovation school zones. Based on the commissioner's and the state board's comments, the local school board may choose to withdraw and resubmit its innovation plan or plan for creating an innovation school zone.

(3) (a) Within sixty days after receiving a local school board's innovation plan or plan for creating an innovation school zone, the state board shall designate the local school board's school district as a district of innovation if the state board concludes that the submitted plan:

(I) Is likely to enhance educational opportunity, standards, and quality within the innovation schools or innovation school zones; and

(II) Is fiscally feasible.

(b) If the state board does not designate a school district as a district of innovation, it shall provide to the local school board a written explanation of the basis for its decision. The local school board may resubmit an amended innovation plan or plan for creating an innovation school zone and seek designation of its school district as a school district of innovation at any time after denial.

(4) It is the intent of the general assembly that the department of education receive a one-time appropriation to offset the costs incurred by the department and the state board in adopting rules and otherwise establishing the procedures for implementation of this section. The general assembly finds, however, that the department of education and the state board may implement this section in future years without additional state funding.

**Source: L. 2008:** Entire article added, p. 1426, § 1, effective May 28. **L. 2017:** (3)(a) amended, (HB 17-1271), ch. 343, p. 1813, § 1, effective August 9.

**22-32.5-108. District of innovation - waiver of statutory and regulatory requirements.** (1) Upon designation of a district of innovation, the state board shall waive any statutes or rules specified in the school district's innovation plan as they pertain to the innovation schools or innovation school zones of the district of innovation; except that the state board shall not waive:

(a) Any statutes specified in section 22-2-117 (1)(b);

(b) Any provision of article 64 of this title; or

(c) Any statutes that are not included in this title, including but not limited to article 51 of title 24, C.R.S.

(2) Each district of innovation continues to be subject to all statutes and rules that are not waived by the state board pursuant to subsection (1) of this section, including but not limited to all statutes and rules concerning implementation of:

(a) The state assessment requirements specified in section 22-7-1006.3;

(b) Article 11 of this title; and

(c) The requirements of the federal "No Child Left Behind Act of 2001", 20 U.S.C. sec. 6301 et seq.

(3) Designation as a district of innovation shall not affect a school district's:

(a) Total program funding calculated pursuant to the "Public School Finance Act of 1994", article 54 of this title; or

(b) Eligibility for funding under, or the amount received through, a categorical program, as defined in section 22-55-102 (4).

(4) Each district of innovation that receives a waiver pursuant to this section shall specify the manner in which the innovation school or the schools within the innovation school zone shall comply with the intent of the waived statutes or rules and shall be accountable to the state for such compliance.

(5) (a) If the local school board for a district of innovation revises an innovation plan as provided in section 22-32.5-110, the local school board may request additional waivers or changes to existing waivers as necessary to accommodate the revisions to the innovation plan, and the state board shall grant the additional waivers or changes to existing waivers if it determines that the new or changed waivers would enhance educational opportunity, standards, and quality within the innovation schools or innovation school zones of the district of innovation and are fiscally feasible. In requesting a new waiver or a change to an existing waiver, the local school board shall demonstrate the consent of a majority of the teachers and a majority of the administrators employed at and a majority of the school advisory committee for each public school that is affected by the new or changed waiver.

(b) Except as otherwise provided in paragraph (a) of this subsection (5), a waiver that is granted pursuant to this section shall continue to apply to a public school so long as the public school continues to be designated as an innovation school or included in an innovation school zone.

**Source: L. 2008:** Entire article added, p. 1427, § 1, effective May 28. **L. 2009:** (2)(b) amended, (SB 09-163), ch. 293, p. 1543, § 45, effective May 21. **L. 2015:** IP(2) and (2)(a) amended, (HB 15-1323), ch. 204, p. 725, § 35, effective May 20. **L. 2017:** (5)(a) amended, (HB 17-1271), ch. 343, p. 1813, § 2, effective August 9.

**22-32.5-109. District of innovation - collective bargaining agreements.** (1) (a) On and after the date on which the state board designates a school district as a district of innovation, any collective bargaining agreement initially entered into or renewed by the local school board of the district of innovation shall include a term that allows each innovation school and each innovation school zone in the school district to waive any provisions of the collective bargaining agreement identified in the innovation plan as needing to be waived for the innovation school or the innovation school zone to implement its identified innovations.

(b) For an innovation school, waiver of one or more of the provisions of the collective bargaining agreement shall be based on obtaining the approval, by means of a secret ballot vote, of at least sixty percent of the members of the collective bargaining unit who are employed at the innovation school.

(c) For an innovation school zone, waiver of one or more of the provisions of the collective bargaining agreement shall be based on obtaining, at each school included in the innovation school zone, the approval of at least sixty percent of the members of the collective bargaining unit who are employed at the school. The innovation school zone shall seek to obtain approval of the waivers through a secret ballot vote of the members of the collective bargaining unit at each school included in the innovation school zone. The local school board for the innovation school zone may choose to revise the plan for creating an innovation school zone to remove from the zone any school in which at least sixty percent of the members of the collective bargaining unit employed at the school do not vote to waive the identified provisions of the collective bargaining agreement.

(d) If a local school board, in collaboration with the innovation school or the public schools included in the innovation school zone, revises the innovation plan as provided in section 22-32.5-110 and the revisions include changes to the identified provisions of the collective bargaining agreement that need to be waived to implement the innovations that are included in the innovation plan, the local school board shall seek such additional waivers or revision or revocation of the existing waivers of provisions of the collective bargaining agreement as are necessary to implement the revised innovation plan. Any changes to waivers, or additional waivers, of the identified provisions of the collective bargaining agreement shall be subject to approval in the same manner as provided in paragraphs (b) and (c) of this subsection (1) for the initial approval of waivers of provisions of the collective bargaining agreement.

(e) Except as otherwise provided in paragraph (d) of this subsection (1), waiver of identified provisions of a collective bargaining agreement for an innovation school or the public schools within an innovation school zone pursuant to this subsection (1) shall continue so long as the innovation school remains an innovation school or a public school remains a part of the innovation school zone. A waiver approved pursuant to this subsection (1) shall continue to apply to any substantially similar provision that is included in a new or renewed collective bargaining agreement for the schools of the district of innovation.

(2) A district of innovation shall not be required to seek a waiver by an innovation school or a public school in an innovation school zone of any provision of the collective bargaining agreement. Each district of innovation shall include in its innovation plan a statement as to whether it will seek a waiver by an innovation school or the public schools included in an innovation school zone of any of the provisions of the collective bargaining agreement.

(3) A person who is a member of the collective bargaining unit and is employed by an innovation school or by a school included in an innovation school zone may request a transfer to another public school of the district of innovation. The local school board shall make every reasonable effort to accommodate the person's request.

**Source: L. 2008:** Entire article added, p. 1428, § 1, effective May 28.

**22-32.5-110. District of innovation - review of innovation schools and innovation school zones.** (1) Three years after the local school board of a district of innovation approves an innovation plan or a plan for creating an innovation school zone, and every three years thereafter, the local school board shall review the level of performance of the innovation school and each public school included in the innovation school zone and determine whether the innovation school or innovation school zone is achieving or making adequate progress toward achieving the academic performance results identified in the school's or zone's innovation plan. The local school board, in collaboration with the innovation school or the innovation school zone, may revise the innovation plan, including but not limited to revising the identification of the provisions of the collective bargaining agreement that need to be waived to implement the innovations, as necessary to improve or continue to improve academic performance at the innovation school or innovation school zone. Any revisions to the innovation plan shall require the consent of a majority of the teachers and a majority of the administrators employed at and a majority of the school accountability committee for each affected public school.

(2) (a) Following review of an innovation school's performance, if a local school board finds that the academic performance of students enrolled in the innovation school is not improving at a sufficient rate, the local school board may revoke the school's innovation status.

(b) Following review of the performance of an innovation school zone, if a local school board finds that the academic performance of students enrolled in one or more of the public schools included in the innovation school zone is not improving at a sufficient rate, the local school board may remove the underperforming public school or schools from the innovation school zone or may revoke the designation of the innovation school zone.

**Source: L. 2008:** Entire article added, p. 1430, § 1, effective May 28. **L. 2009:** (1) amended, (SB 09-163), ch. 293, p. 1543, § 46, effective May 21; (1) amended, (SB 09-090), ch. 291, p. 1444, § 18, effective August 5.

**22-32.5-111. Reporting.** (1) Notwithstanding section 24-1-136 (11)(a)(I), on or before March 1, 2010, and on or before March 1 each year thereafter, the commissioner and the state board shall submit to the governor and to the education committees of the senate and the house of representatives, or any successor committees, a report concerning the districts of innovation. At a minimum, the report shall include:

(a) The number of school districts designated as districts of innovation in the preceding academic year and the total number of districts of innovation in the state;

(b) The number of innovation schools and the number of innovation school zones, including the number of schools in the zone, in each district of innovation and the number of students served in the innovation schools and innovation school zones, expressed as a total number and as a percentage of the students enrolled in the district of innovation;

(c) An overview of the innovations implemented in the innovation schools and the innovation school zones in the districts of innovation;

(d) An overview of the academic performance of the students served in innovation schools and innovation school zones in each district of innovation, including a comparison between the students' academic performance before and since implementation of the innovations;

(e) Any recommendations for legislative changes based on the innovations implemented or to further enhance the ability of local school boards to implement innovations; and

(f) Any additional information requested by the governor or a member of the general assembly.

(2) The commissioner shall ensure that the annual report submitted pursuant to this section is promptly posted on the department of education website.

**Source: L. 2008:** Entire article added, p. 1430, § 1, effective May 28. **L. 2017:** IP(1) amended, (HB 17-1267), ch. 242, p. 997, § 14, effective August 9.

## ARTICLE 33

School Attendance Law of 1963

**Law reviews:** For article, "The Evolution of Colorado's School Attendance Laws: Moving Toward Prevention and Restoration", see 43 Colo. Law. 63 (July 2014).

PART 1

SCHOOL ATTENDANCE LAW OF 1963

**22-33-101. Short title.** This article shall be known and may be cited as the "School Attendance Law of 1963".

**Source: L. 63:** p. 861, § 1. **C.R.S. 1963:** § 123-20-1.

**22-33-102. Definitions.** As used in this article 33, unless the context otherwise requires:

(1) "Academic year" means that portion of the school year during which the public schools are in regular session, beginning about the first week in September and ending about the first week in June of the next year, or that portion of the school year which constitutes the minimum period during which a pupil must be enrolled.

(2) "Adult" means a person who has reached the age of twenty-one years.

(3) "Board of education" means the school board, board of directors, and board of education of a school district.

(3.5) "Child who is habitually truant" means a child who is six years of age on or before August 1 of the year in question and is under seventeen years of age and who has four unexcused absences from public school in any one month or ten unexcused absences from public school during any academic year. Absences due to suspension or expulsion of a child are considered excused absences for purposes of this article 33.

(4) "Dangerous weapon" means:

(a) A firearm, as defined in section 18-1-901 (3)(h), C.R.S.;

(b) Any pellet gun, BB gun, or other device, whether operational or not, designed to propel projectiles by spring action or compressed air;

(c) A fixed-blade knife with a blade that exceeds three inches in length;

(d) A spring-loaded knife or a pocket knife with a blade exceeding three and one-half inches in length; or

(e) Any object, device, instrument, material, or substance, whether animate or inanimate, that is used or intended to be used to inflict death or serious bodily injury.

(5) "Delinquent act" means a violation of any statute, ordinance, or order enumerated in section 19-2-104 (1)(a). If a juvenile is alleged to have committed or is found guilty of a delinquent act, the classification and degree of the offense is determined by the statute, ordinance, or order that the petition alleges was violated. "Delinquent act" does not include truancy or habitual truancy.

(6) "Executive officer" means the superintendent of schools or the head administrative officer designated by a board of education to execute its policy decisions.

(7) Repealed.

(8) "Habitually disruptive student" has the same meaning as set forth in section 22-33-106 (1)(c.5).

(8.5) "High school equivalency examination" means the state-board-approved battery of tests that are designed to measure the major outcomes and concepts generally associated with four years of high school education and that are administered at a testing center that has been approved by the department of education based on geographic need and testing volume.

(9) "Informal hearing" means an opportunity for a child to explain his or her position regarding a disruption or an incident that occurred on school grounds, in a school vehicle, or at a school activity or sanctioned event and that constituted grounds for discipline.

(10) "Parent" means the mother or father of a child or any other person having custody of a child.

(10.5) "Pupil enrollment count day" has the same meaning as set forth in section 22-54-103 (10.5).

(11) "School vehicle" has the same meaning as set forth in section 42-1-102 (88.5), C.R.S.

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

**Source: L. 63:** p. 861, § 2. **C.R.S. 1963:** § 123-20-2. **L. 64:** p. 571, § 1. **L. 73:** pp. 1254, 1314, §§ 4, 5. **L. 77:** (1) amended, p. 1071, § 3, effective May 24. **L. 80:** (1) amended, p. 551, § 1, effective April 30. **L. 86:** (1) amended, p. 801, § 3, effective July 1. **L. 92:** (4.5) added, p. 476, § 3, effective April 24. **L. 96:** (4.7) added, p. 1804, § 1, effective July 1. **L. 2012:** (10.5) added, (HB 12-1090), ch. 44, p. 152, § 13, effective March 22; entire section amended, (HB 12-1345), ch. 188, p. 739, § 24, effective May 19. **L. 2014:** (7) repealed and (8.5) added, (SB 14-058), ch. 102, p. 380, § 10, effective April 7. **L. 2018:** IP and (5) amended and (3.5) added, (HB 18-1156), ch. 378, p. 2285, § 2, effective August 8.

**Editor's note:** Subsection (5.5), as enacted in House Bill 12-1090, was harmonized with House Bill 12-1345 and relocated to subsection (10.5).

**Cross references:** For the legislative declaration in HB 18-1156, see section 1 of chapter 378, Session Laws of Colorado 2018.

**22-33-103. Free education - tuition may be charged, when.** Any resident of this state who has attained the age of six years and is under the age of twenty-one years is entitled to attend public school in the school district of which he is a resident, during the academic year when the schools of the district are in regular session, and without the payment of tuition, subject only to the limitations of sections 22-33-105 and 22-33-106. Tuition may be charged for a pupil who is not a resident of the school district in which the pupil attends school if the school district of residence agrees to pay such tuition as provided in section 22-32-115. In no event shall the parents or guardian of such pupil be required to pay tuition on behalf of such pupil. Tuition may be charged to pupils whose parents or guardian are not residents of the state and to resident or nonresident adult pupils, as otherwise provided by law.

**Source: L. 63:** p. 861, § 3. **C.R.S. 1963:** § 123-20-3. **L. 64:** p. 571, § 2. **L. 94:** Entire section amended, p. 559, § 5, effective April 6.

**Cross references:** For district liability for tuition and limitations concerning same, see § 22-32-115.

**22-33-103.5. Attendance of homeless children and youth - definitions.** (1) **Equal access to school.** Nothing in this article 33 shall be construed to prohibit a child or youth from

attending a public school without the payment of tuition solely because the child or youth is a homeless child as defined in section 22-1-102.5.

(2) **Place of residence of a homeless child or youth.** A child or youth found to be homeless pursuant to the provisions of section 22-1-102.5 may be deemed by the school districts described in this subsection (2), taking into consideration the best interests of the child or youth, to reside in:

(a) The school district where the child or youth presently seeks shelter or is located; or

(b) For so long as the child or youth remains homeless, the school district in which the child's or youth's school of origin is located; except that a child or youth who, subsequent to becoming homeless, becomes permanently housed in the same school year may be deemed to reside in the school district of the school of origin, but only for the remainder of the school year.

(3) **School stability.** In determining the best interests of a homeless child for purposes of subsection (2) of this section, the school districts described in subsection (2) of this section shall:

(a) To the extent feasible and except when it is against the wishes of the homeless child's parent or legal guardian or against the wishes of an unaccompanied homeless child, keep the homeless child in the homeless child's school of origin;

(b) Provide a written explanation in a manner and form understandable to the parent, legal guardian, or unaccompanied homeless child, including a statement regarding the right to appeal pursuant to subsection (4) of this section, to the parent or legal guardian of the homeless child, if the school districts send the homeless child to a school other than the child's or youth's school of origin or to a school other than the school requested by the parent or legal guardian;

(c) In the case of an unaccompanied homeless child, assure that the homeless education liaison designated by one of the school districts pursuant to subsection (7) of this section assists in the placement or enrollment decisions, considers the school preference of the unaccompanied homeless child, and provides notice of the right to appeal pursuant to subsection (4) of this section to the unaccompanied homeless child.

(4) **Disputes.** (a) If a homeless child's parent or legal guardian or an unaccompanied homeless child disagrees with the decision of the school districts pursuant to subsection (2) of this section, the homeless child shall be immediately enrolled in the school selected by the homeless child's parent or legal guardian or, in the case of an unaccompanied homeless child, by the child or youth, pending resolution of the dispute through the appeal process created by the department of education pursuant to subsection (4)(b) of this section.

(b) Consistent with federal requirements, the department of education shall create an appeal process for a parent or legal guardian of a homeless child or an unaccompanied homeless child to pursue if the parent or legal guardian or the unaccompanied homeless child disagrees with the decision of the school districts pursuant to subsection (2) of this section.

(5) **Enrollment and full participation.** (a) The school selected for a homeless child pursuant to this section shall immediately enroll the homeless child, even if the child or youth has missed application or enrollment deadlines during any period of homelessness or the child or youth lacks records normally required prior to enrollment. Once enrolled, the child or youth must have a full and equal opportunity to succeed at the school.

(b) The enrolling school shall immediately contact the school last attended by the homeless child to obtain any records necessary for enrollment.

(c) If the homeless child's immunizations are incomplete or if the homeless child's immunization records are unavailable, the enrolling school shall arrange for such immunizations as may be necessary.

(6) **Transportation.** (a) If it is determined pursuant to subsection (2) of this section that the best interest of a homeless child is to continue his or her education at the school of origin, including preschool, and the homeless child presently seeks shelter or is located in another school district, and the homeless child's parent or legal guardian or the homeless education liaison, on behalf of an unaccompanied homeless child, requests transportation to and from school, the school district where the homeless child presently seeks shelter or is located and the school district in which the school of origin is located shall agree upon a method to apportion cost and responsibility for the transportation of the homeless child to the school district where the homeless child is attending, or, in the alternative, each school district shall share equally in the cost and responsibility for transportation.

(b) If a homeless child continues to reside in the school district in which the school of origin is located, such school district, upon request of the homeless child's parent or legal guardian or upon request of the homeless education liaison, on behalf of an unaccompanied homeless child, shall arrange or provide for transportation of the homeless child to and from school.

(7) **Liaison.** The board of education of each school district in the state shall designate one or more of the employees of the school district to act as a homeless education liaison. The homeless education liaison shall facilitate a homeless child's access to and success in school. The homeless education liaison shall also assist in the mediation of any disputes concerning school enrollment, assist in making arrangements for transportation of the homeless child to and from school, assist in requesting school and immunization records, and assist any unaccompanied homeless child in making enrollment decisions. On or before the pupil enrollment count day, the homeless education liaison in each school district shall report to the department of education the number of homeless children enrolled in the school district.

(8) **Credit accrual and college readiness.** (a) The homeless education liaison must ensure that a homeless child or youth and an unaccompanied homeless child or youth have the opportunity to meet the same state academic achievement standards as other children and youth by removing barriers that prevent a homeless child or youth and an unaccompanied homeless child or youth from receiving credit for full or partial coursework.

(b) Counseling shall be provided to a homeless child or youth and to an unaccompanied homeless child or youth to assist the homeless child or youth and unaccompanied homeless child or youth by advising, preparing, and improving access to postsecondary options.

(9) **Definitions.** As used in this section, unless the context otherwise requires:

(a) "School of origin" means the school a child or youth attended at the time the child or youth became homeless, or, if the child or youth became homeless during a period that he or she was not attending school, the last school the child or youth attended prior to becoming homeless.

(b) "Unaccompanied homeless child" means a child or youth who meets the requirements of section 22-1-102.5 who is not in the physical custody of a parent or legal guardian.

**Source: L. 90:** Entire section added, p. 1041, § 4, effective April 3. **L. 97:** Entire section amended, p. 982, § 3, effective May 22. **L. 2002:** Entire section amended, p. 202, § 1, effective

July 1. **L. 2012:** (7) amended, (HB 12-1090), ch. 44, p. 153, § 14, effective March 22. **L. 2018:** Entire section amended, (HB 18-1306), ch. 364, p. 2183, § 6, effective August 8.

**Cross references:** For the legislative declaration in HB 18-1306, see section 1 of chapter 364, Session Laws of Colorado 2018.

**22-33-104. Compulsory school attendance.** (1) (a) Except as otherwise provided in subsection (2) of this section, every child who has attained the age of six years on or before August 1 of each year and is under the age of seventeen years, except as provided by this section, shall attend public school for at least the following number of hours during each school year:

(I) One thousand fifty-six hours if a secondary school pupil;

(II) Nine hundred sixty-eight hours if an elementary school pupil in a grade other than kindergarten;

(III) Nine hundred hours if a full-day kindergarten pupil; or

(IV) Four hundred fifty hours if a half-day kindergarten pupil.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (1), a school or schools shall not be in session for fewer than one hundred sixty days without the specific prior approval of the commissioner of education.

(c) A student who participates in an online program or online school pursuant to the provisions of article 30.7 of this title shall be deemed to attend school in accordance with the requirements of this subsection (1).

(d) Nothing in this section shall be interpreted to require a child who begins attending preschool or kindergarten at five or six years of age to advance to first grade in the following school year. A parent of a child who began attending preschool or kindergarten at five or six years of age may notify the child's school of the parent's wish that the child not advance to first grade in the following school year, and a school that receives such notice shall not advance the child to first grade in the following school year.

(1.5) (Deleted by amendment, L. 2006, p. 1211, § 2, effective July 1, 2007.)

(2) The provisions of subsection (1) of this section shall not apply to a child:

(a) Who is temporarily ill or injured or whose absence is approved by the administrator of the school of attendance;

(b) Who is enrolled for a minimum of one hundred seventy-two days in an independent or parochial school which provides a basic academic education. "Basic academic education" for the purpose of this article means the sequential program of instruction provided by an independent or parochial school. Such program shall include, but not be limited to, communication skills of reading, writing, and speaking, mathematics, history, civics, literature, and science.

(c) Who is absent for an extended period due to a physical disability or a mental or behavioral health disorder;

(d) Who has been suspended, expelled, or denied admission in accordance with the provisions of this article; except that, when a pupil is expelled for the remainder of the school year, the parent, guardian, or legal custodian is responsible for seeing that either the provisions of subsection (1) of this section are complied with during the period of expulsion from the school district or that the pupil meets the conditions for exemption specified in paragraph (b) or (i) of this subsection (2);

(e) To whom a current age and school certificate or work permit has been issued pursuant to the "Colorado Youth Employment Opportunity Act of 1971", article 12 of title 8, C.R.S.;

(f) Who is in the custody of a court or law enforcement authorities;

(g) Who is pursuing a work-study program under the supervision of a public school;

(h) Who has graduated from the twelfth grade;

(i) Who is being instructed at home:

(I) By a teacher licensed pursuant to article 60.5 or 61 of this title; or

(II) Under a nonpublic home-based educational program pursuant to section 22-33-104.5.

(III) (Deleted by amendment, L. 2003, p. 2131, § 24, effective May 22, 2003.)

(j) Who is enrolled in a school where the state board of education has approved a lesser number of days.

(3) Unless within one of the exceptions listed in subsection (2) of this section, a child who is deaf or blind, and who has attained the age of six years and is under the age of seventeen, shall attend, for at least one hundred seventy-two days during the school year, a school which provides suitable specialized instruction. The provisions of this subsection (3) shall not apply to a child if the Colorado school for the deaf and the blind refuses him admission and it is impractical to arrange for attendance at a special education class, as provided in article 20 of this title, within daily commuting distance of the child's home. If any school providing instruction for deaf or blind children offers fewer than the necessary one hundred seventy-two days of instruction, the school shall file with the school district in which it is located a report showing the number of days classes were held and the names and ages of the children enrolled.

(4) (a) The board of education shall adopt a written policy setting forth the district's attendance requirements. The policy must provide for excused absences, including those listed as exclusions from compulsory school attendance in accordance with subsection (2) of this section, as well as temporary absences due to behavioral health concerns. An attendance policy developed pursuant to this section may include appropriate penalties for nonattendance due to unexcused absence.

(b) The attendance policy adopted pursuant to this subsection (4) shall specify the maximum number of unexcused absences a child may incur before the attorney for the school district, the attendance officer, or the local board of education may initiate judicial proceedings pursuant to section 22-33-108. Calculation of the number of unexcused absences a child has incurred includes all unexcused absences occurring during any calendar year or during any school year.

(b.5) Each board of education is encouraged to establish attendance procedures for identifying students who are chronically absent and to implement best practices and research-based strategies to improve the attendance of students who are chronically absent.

(c) On or before January 1, 2009, the state board shall adopt rules establishing a standardized calculation for counting unexcused absences of students, including the circumstance in which a student is absent for part of a school day, and the format for reporting the information to the department pursuant to section 22-33-107.

(5) (a) The general assembly hereby declares that two of the most important factors in ensuring a child's educational development are parental involvement and parental responsibility. The general assembly further declares that it is the obligation of every parent to ensure that every

child under such parent's care and supervision receives adequate education and training. Therefore, every parent of a child who has attained the age of six years on or before August 1 of each year and is under the age of seventeen years shall ensure that such child attends the public school in which such child is enrolled in compliance with this section.

(b) Parents whose children are enrolled in an independent or parochial school or a non-public home-based educational program pursuant to the provisions of subsection (2) of this section shall be exempt from the requirements of this subsection (5).

**Source: L. 63:** p. 862, § 5. **C.R.S. 1963:** § 123-20-5. **L. 73:** pp. 1254, 1314, §§ 5, 6. **L. 74:** (2)(j) added, p. 363, § 1, effective March 19. **L. 77:** (1) amended, p. 1071, § 4, effective May 24. **L. 80:** (1) amended, p. 551, § 2, effective April 30. **L. 83:** (2)(b) amended, p. 755, § 1, effective June 3. **L. 84:** (4) added, p. 597, § 2, effective April 5. **L. 86:** (1) amended, p. 801, § 4, effective July 1. **L. 87:** (2)(i) amended, p. 829, § 1, effective July 1. **L. 88:** (2)(j) amended, p. 768, § 2, effective July 1. **L. 93:** (5) added, p. 457, § 1, effective April 19; (2)(d) amended, p. 454, § 6, effective July 1. **L. 94:** (4) amended, p. 678, § 3, effective April 19. **L. 97:** (1.5) added, p. 41, § 1, effective July 1. **L. 98:** (1), (2)(d), and (2)(i) amended, p. 654, § 1, effective August 5. **L. 2000:** (2)(i)(I) amended, p. 1857, § 60, effective August 2. **L. 2003:** (1) and (2)(i)(III) amended, p. 2131, § 24, effective May 22. **L. 2006:** (1), (1.5), and (5)(a) amended, p. 1211, § 2, effective July 1, 2007. **L. 2007:** (1)(c) amended, p. 1089, § 15, effective July 1; IP(1)(a) and (5)(a) amended and (1)(d) added, p. 70, § 1, effective July 1, 2008. **L. 2008:** (4)(c) added, p. 517, § 1, effective August 5. **L. 2009:** (4)(a) amended, (HB 09-1243), ch. 290, p. 1423, § 3, effective May 21. **L. 2012:** (1)(c) amended, (HB 12-1240), ch. 258, p. 1330, § 44, effective June 4. **L. 2013:** (4)(b.5) added, (HB 13-1021), ch. 335, p. 1947, § 1, effective August 7. **L. 2020:** (2)(c) and (4)(a) amended, (SB 20-014), ch. 62, p. 213, § 1, effective March 23.

**Cross references:** For the legislative declaration contained in the 2006 act amending subsections (1), (1.5), and (5)(a), see section 1 of chapter 265, Session Laws of Colorado 2006.

**22-33-104.5. Home-based education - legislative declaration - definitions - guidelines.** (1) The general assembly hereby declares that it is the primary right and obligation of the parent to choose the proper education and training for children under his care and supervision. It is recognized that home-based education is a legitimate alternative to classroom attendance for the instruction of children and that any regulation of nonpublic home-based educational programs should be sufficiently flexible to accommodate a variety of circumstances. The general assembly further declares that nonpublic home-based educational programs shall be subject only to minimum state controls which are currently applicable to other forms of nonpublic education.

(2) As used in this section:

(a) "Nonpublic home-based educational program" means the sequential program of instruction for the education of a child which takes place in a home, which is provided by the child's parent or by an adult relative of the child designated by the parent, and which is not under the supervision and control of a school district. This educational program is not intended to be and does not qualify as a private and nonprofit school.

(b) "Parent" includes a parent or guardian.

(c) "Qualified person" means an individual who is selected by the parent of a child who is participating in a nonpublic home-based educational program to evaluate such child's progress and who is a teacher licensed pursuant to article 60.5 of this title, a teacher who is employed by an independent or parochial school, a licensed psychologist, or a person with a graduate degree in education.

(3) The following guidelines apply to a nonpublic home-based educational program:

(a) A parent or an adult relative designated by a parent to provide instruction in a nonpublic home-based educational program shall not be subject to the requirements of the "Colorado Educator Licensing Act of 1991", article 60.5 of this title, nor to the provisions of article 61 of this title relating to teacher employment.

(b) A child who is participating in a nonpublic home-based educational program is not subject to compulsory school attendance as provided in this article 33; except that any child who is habitually truant, as defined in section 22-33-102 (3.5), at any time during the last six months that the child attended school before proposed enrollment in a nonpublic home-based educational program may not be enrolled in the program unless the child's parents first submit a written description of the curricula to be used in the program along with the written notification of establishment of the program required in subsection (3)(e) of this section to any school district within the state.

(c) A nonpublic home-based educational program shall include no less than one hundred seventy-two days of instruction, averaging four instructional contact hours per day.

(d) A nonpublic home-based educational program shall include, but need not be limited to, communication skills of reading, writing, and speaking, mathematics, history, civics, literature, science, and regular courses of instruction in the constitution of the United States as provided in section 22-1-108.

(e) Any parent establishing a nonpublic home-based educational program shall provide written notification of the establishment of said program to a school district within the state fourteen days prior to the establishment of said program and each year thereafter if the program is maintained. The parent in charge and in control of a nonpublic home-based educational program shall certify, in writing, only a statement containing the name, age, place of residence, and number of hours of attendance of each child enrolled in said program. Notwithstanding the provisions of section 22-33-104 (1), a parent who intends to establish a nonpublic home-based educational program is not required to:

(I) Provide written notification of the program to a school district within the state until the parent's child is six years of age;

(II) Establish the program until the parent's child is seven years of age; or

(III) Continue the program or provide the notification after the child is sixteen years of age.

(f) Each child participating in a nonpublic home-based educational program shall be evaluated when such child reaches grades three, five, seven, nine, and eleven. Each child shall be given a nationally standardized achievement test to evaluate the child's academic progress, or a qualified person shall evaluate the child's academic progress. The test or evaluation results, whichever is appropriate, shall be submitted to the school district that received the notification required by paragraph (e) of this subsection (3) or an independent or parochial school within the state of Colorado. If the test or evaluation results are submitted to an independent or parochial school, the name of such school shall be provided to the school district that received the

notification required by paragraph (e) of this subsection (3). The purpose of such tests or evaluations shall be to evaluate the educational progress of each child. No scores for a child participating in a nonpublic home-based educational program shall be considered in measuring school performance or determining accreditation pursuant to article 11 of this title.

(g) The records of each child participating in a nonpublic home-based educational program shall be maintained on a permanent basis by the parent in charge and in control of said program. The records shall include, but need not be limited to, attendance data, test and evaluation results, and immunization records, as required by sections 25-4-901, 25-4-902, and 25-4-903, C.R.S. Such records shall be produced to the school district that received the notification required by paragraph (e) of this subsection (3) upon fourteen days' written notice if the superintendent of said school district has probable cause to believe that said program is not in compliance with the guidelines established in this subsection (3).

(4) Any child who has participated in a nonpublic home-based educational program and who subsequently enrolls in the public school system may be tested by the school district in which the child has enrolled for the purpose of placing the child in the proper grade and shall then be placed at the grade level deemed most appropriate by said school district, with the consent of the child's parent or legal guardian. The school district shall accept the transcripts for credit from the non-public home-based educational program for any such child; except that the school district may reject such transcripts if the school district administers testing to such child and the testing does not verify the accuracy of such transcripts.

(5) (a) (I) If test results submitted to the appropriate school district pursuant to the provisions of paragraph (f) of subsection (3) of this section show that a child participating in a nonpublic home-based educational program received a composite score on said test which was above the thirteenth percentile, such child shall continue to be exempt from the compulsory school attendance requirement of this article. If the child's composite score on said test is at or below the thirteenth percentile, the school district shall require the parents to place said child in a public or independent or parochial school until the next testing period; except that no action shall be taken until the child is given the opportunity to be retested using an alternate version of the same test or a different nationally standardized achievement test selected by the parent from a list of approved tests supplied by the state board.

(II) If evaluation results submitted to the appropriate school district pursuant to the provisions of paragraph (f) of subsection (3) of this section show that the child is making sufficient academic progress according to the child's ability, the child will continue to be exempt from the compulsory school attendance requirement of this article. If the evaluation results show that the child is not making sufficient academic progress, the school district shall require the child's parents to place the child in a public or independent or parochial school until the next testing period.

(b) If the child's test or evaluation results are submitted to an independent or parochial school, said school shall notify the school district that received the notification pursuant to paragraph (e) of subsection (3) of this section if the composite score on said test was at or below the thirteenth percentile or if the evaluation results show that the child is not making sufficient academic progress. The school district shall then require the parents to proceed in the manner specified in paragraph (a) of this subsection (5).

(6) (a) If a child is participating in a nonpublic home-based educational program but also attending a public school for a portion of the school day, the school district of the public school

shall be entitled to count such child in accordance with the provisions of section 22-54-103 (10) for purposes of determining pupil enrollment under the "Public School Finance Act of 1994", article 54 of this title.

(b) (I) For purposes of this subsection (6), a child who is participating in a nonpublic home-based educational program has the same rights as a student enrolled in a public school of the school district in which the child resides or is enrolled and may participate on an equal basis in any extracurricular or interscholastic activity offered by a public school or offered by a private school, at the private school's discretion, as provided in section 22-32-116.5 and is subject to the same rules of any interscholastic organization or association of which the student's school of participation is a member. A school district, a public school, or an interscholastic organization or association shall not require a child who is participating in a nonpublic home-based educational program and who chooses to participate in an extracurricular activity at a public school selected by the district to enroll in a course or to complete any course credits as an eligibility requirement or other condition for participating in the extracurricular activity at the district-selected school of participation; except that the school district, public school, or interscholastic organization may require the student to enroll in a course if the extracurricular activity is an extension of the course, such as a performing arts group.

(II) (A) Except as provided for in sub-subparagraph (B) of this subparagraph (II), for purposes of section 22-32-116.5, the school district of attendance for a child who is participating in a nonpublic home-based educational program shall be deemed to be the school district that received the notification pursuant to paragraph (e) of subsection (3) of this section.

(B) For purposes of section 22-32-116.5, the school district of attendance for a child who withdraws from a public or private school more than fifteen days after the start of the school year and enters a non-public home-based educational program shall be the school district or private school from which the child withdrew for the remainder of that school year. If, during the remainder of that academic year, the child chooses to participate in extracurricular or interscholastic activities at the same school and was eligible for participation prior to withdrawing from the school, the child remains eligible to participate at such school.

(c) No child participating in an extracurricular or interscholastic activity pursuant to paragraph (b) of this subsection (6) shall be considered attending the public school district where the child participates in such activity for purposes of determining pupil enrollment under paragraph (a) of this subsection (6).

(d) As used in this subsection (6), "extracurricular or interscholastic activities" shall have the same meaning as "activity" as set forth in section 22-32-116.5 (10).

(e) If any fee is collected pursuant to this subsection (6) for participation in an activity, the fee shall be used to fund the particular activity for which it is charged and shall not be expended for any other purpose.

**Source: L. 88:** (6) amended, p. 812, § 12, effective May 24; entire section added, p. 766, § 1, effective July 1. **L. 93:** (6) amended, p. 457, § 2, effective April 19. **L. 94:** (2)(c) added and (3)(e), (3)(f), and (5) amended, p. 618, §§ 1, 2, effective April 14; (3)(b), IP(6)(b), (6)(b)(II), and (6)(b)(V) amended, p. 677, § 2, effective April 19; (6)(a) amended, p. 813, § 29, effective April 27; (6)(e) added, p. 1283, § 8, effective May 22; (6)(b) and (6)(c) amended and (6)(d) added, p. 2837, § 2, effective June 7. **L. 96:** (6)(b) and (6)(d) amended, p. 1022, § 2, effective May 23. **L. 2000:** (3)(b), (3)(e), (3)(f), (3)(g), (4), (5), (6)(a), and (6)(b) amended, p. 369, § 22, effective

April 10; (2)(c) and (3)(a) amended, p. 1857, § 61, effective August 2. **L. 2001:** (3)(b), (3)(f), (4), and (6)(b)(I) amended, p. 1494, § 17, effective June 8. **L. 2006:** (3)(e) amended, p. 1213, § 4, effective July 1, 2007. **L. 2007:** (3)(e) amended, p. 71, § 2, effective July 1, 2008. **L. 2009:** (3)(f) amended, (SB 09-163), ch. 293, p. 1543, § 47, effective May 21. **L. 2013:** (6)(b)(I) amended, (HB 13-1095), ch. 144, p. 466, § 1, effective April 26. **L. 2018:** IP(3) and (3)(b) amended, (HB 18-1156), ch. 378, p. 2285, § 3, effective August 8.

**Editor's note:** Subsection (6)(d) was numbered as subsection (6)(f) in House Bill 94-1094 but was renumbered on revision for ease of location.

**Cross references:** (1) For further provisions concerning student participation in interscholastic activities in a school in which they do not attend, see § 22-32-116.5.

(2) For the legislative declaration contained in the 2006 act amending subsection (3)(e), see section 1 of chapter 265, Session Laws of Colorado 2006. For the legislative declaration in HB 18-1156, see section 1 of chapter 378, Session Laws of Colorado 2018.

**22-33-104.6. On-line program - legislative declaration - authorized - definitions. (Repealed)**

**Source: L. 98:** Entire section added, p. 655, § 2, effective August 5. **L. 2002:** (2)(b), (2)(d), IP(3), (3)(d), (3)(e)(II), (3)(g), (3)(h), and IP(4)(a) amended and (5) added, p. 1746, § 20, effective June 7. **L. 2003:** (2)(b.5), (2)(c.5), (4.5), (6), and (7) added and (3)(a), (4)(a), and (5)(b) amended, pp. 2130, 2128, §§ 22, 21, effective May 22. **L. 2006:** (4)(a)(II) amended and (4)(a)(III) added, p. 1212, § 3, effective July 1, 2007. **L. 2007:** (6)(a) amended, p. 744, § 26, effective May 9; entire section repealed, p. 1084, § 2, effective July 1.

**Cross references:** For current provisions concerning online education programs, see article 30.7 of this title.

**22-33-104.7. Eligibility for the general educational development tests.** (1) A student who is sixteen years of age and who submits written evidence of a need to take the high school equivalency examination to be eligible for an educational or vocational program is eligible to sit for the high school equivalency examination after complying with all statutory and regulatory requirements in regard to high school equivalency examination testing.

(2) (a) A student who is sixteen years of age and who is subject to the jurisdiction of the juvenile court is eligible to sit for the high school equivalency examination if the judicial officer or administrative hearing officer who has responsibility for the student's case finds that sitting for the high school equivalency examination is in the student's best interests based on:

(I) The number of credits that the student has earned toward high school graduation and the number needed to graduate;

(II) The outcome of previous credit recovery and school reengagement plans, if any, created for the student by the school in which the student was most recently enrolled; and

(III) The desires of the student and the student's parent concerning returning to school or sitting for the high school equivalency examination.

(b) Before sitting for the high school equivalency examination, a student who is eligible pursuant to paragraph (a) of this subsection (2) shall comply with all statutory and regulatory requirements in regard to high school equivalency examination testing.

**Source: L. 92:** Entire section added, p. 476, § 2, effective April 24. **L. 2013:** Entire section amended, (HB 13-1021), ch. 335, p. 1950, § 4, effective August 7. **L. 2014:** Entire section amended, (SB 14-058), ch. 102, p. 381, § 11, effective April 7.

**22-33-105. Suspension, expulsion, and denial of admission.** (1) No child who has attained the age of six years and is under the age of twenty-one shall be suspended or expelled from or be denied admission to the public schools, except as provided by this article.

(2) In addition to the powers provided in section 22-32-110, the board of education of each district may:

(a) Delegate to any school principal within the school district or to a person designated in writing by the principal the power to suspend a pupil in his school for not more than five school days on the grounds stated in section 22-33-106 (1)(a), (1)(b), (1)(c), or (1)(e) or not more than ten school days on the grounds stated in section 22-33-106 (1)(d);

(b) Suspend, on the grounds stated in section 22-33-106, a pupil from school for not more than another ten school days, or may delegate such power to its executive officer; except that the latter may extend a suspension to an additional ten school days if necessary in order to present the matter to the next meeting of the board of education, but the total period of suspension pursuant to this paragraph (b) and paragraph (a) of this subsection (2) shall not exceed twenty-five school days; and

(c) Deny admission to, or expel for any period not extending beyond one year, any child whom the board of education, in accordance with the limitations imposed by this article, shall determine does not qualify for admission to, or continued attendance at, the public schools of the district. A board of education may delegate such powers to its executive officer or to a designee who shall serve as a hearing officer. If the hearing is conducted by a designee acting as a hearing officer, the hearing officer shall forward findings of fact and recommendations to the executive officer at the conclusion of the hearing. The executive officer shall render a written opinion within five days after a hearing conducted by the executive officer or by a hearing officer. The executive officer shall report on each case acted upon at the next meeting of the board of education, briefly describing the circumstances and the reasons for the executive officer's action. A child who is denied admission or expelled as an outcome of the hearing shall have ten days after the denial of admission or expulsion to appeal the decision of the executive officer to the board of education, after which time the decision to grant or deny the appeal shall be at the discretion of the board of education. The appeal shall consist of a review of the facts that were presented and that were determined at the hearing conducted by the executive officer or by a designee acting as a hearing officer, arguments relating to the decision, and questions of clarification from the board of education. No board of education shall deny admission to, or expel, any child without a hearing, if one is requested by the parent, guardian, or legal custodian of the child, at which evidence may be presented in the child's behalf. If the child is denied admission or expelled, the child shall be entitled to a review of the decision of the board of education in accordance with section 22-33-108.

(2.5) Each board of education shall annually report to the state board the number of students expelled from schools within the district pursuant to this section and pursuant to section 25-4-907, C.R.S. Any pupil who is expelled pursuant to this section shall not be included in calculating the dropout rate for the school from which such student is expelled or in calculating the dropout rate for the school district in which such pupil was enrolled prior to being expelled.

(3) (a) If a pupil is suspended pursuant to subsection (2) of this section, the suspending authority shall immediately notify the parent, guardian, or legal custodian of the pupil that the pupil has been suspended and of the grounds for the suspension, the period of the suspension, and the time and place for the parent, guardian, or legal custodian to meet with the suspending authority to review the suspension.

(b) Except as provided in paragraph (c) of this subsection (3), a suspended pupil shall:

(I) Be required to leave the school building and the school grounds immediately, following a determination by the parent, guardian, or legal custodian and the school of the best way to transfer custody of the pupil to the parent, guardian, or legal custodian; and

(II) Not be readmitted to a public school until a meeting between the parent, guardian, or legal custodian and the suspending authority has taken place or until, in the discretion of the suspending authority, the parent, guardian, or legal custodian of the suspended pupil has substantially agreed to review the suspension with such suspending authority; except that, if the suspending authority cannot contact the parent, guardian, or legal custodian of such pupil or if such parent, guardian, or legal custodian repeatedly fails to appear for scheduled meetings, the suspending authority may readmit the pupil. The meeting shall address whether there is a need to develop a remedial discipline plan for the pupil in an effort to prevent further disciplinary action.

(c) A pupil suspended for a period of ten days or less shall receive an informal hearing by the school principal or the principal's designee prior to the pupil's removal from school, unless an emergency requires immediate removal from school, in which case an informal hearing shall follow as soon after the pupil's removal as practicable. Any pupil suspended for more than ten days shall be given the opportunity to request a review of the suspension before an appropriate official of the school district.

(d) The suspending authority shall:

(I) Make every reasonable effort to meet with the parent, guardian, or legal custodian of the pupil during the period of suspension;

(II) Not extend a period of suspension because of the failure of the suspending authority to meet with the parent, guardian, or legal custodian during the period of suspension;

(III) Provide an opportunity for a pupil to make up school work during the period of suspension for full or partial academic credit to the extent possible. The intent of this provision is to provide an opportunity for the pupil to reintegrate into the educational program of the district and to help prevent the pupil from dropping out of school because of an inability to reintegrate into the educational program following the period of suspension. The school district should take this intent into consideration when determining the amount of credit a student will receive for this makeup work.

(4) The board of education of each district shall establish, as an alternative to suspension, a policy that allows the pupil to remain in school by encouraging the parent, guardian, or legal custodian, with the consent of the pupil's teacher or teachers, to attend class with the pupil for a period of time specified by the suspending authority. If the parent, guardian, or legal custodian does not agree to attend class with the pupil or fails to attend class with the

pupil, the pupil shall be suspended in accordance with the conduct and discipline code of the district.

(5) (a) Whenever a petition filed in juvenile court alleges that a child at least twelve years of age but under eighteen years of age has committed an offense that would constitute unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S., or a crime of violence, as defined in section 18-1.3-406, C.R.S., if committed by an adult or whenever charges filed in district court allege that a child has committed such an offense, basic identification information concerning such child and the details of the alleged delinquent act or offense shall be provided immediately to the school district in which the child is enrolled in accordance with the provisions of section 19-1-304 (5), C.R.S. Upon receipt of such information, the board of education of the school district or its designee shall determine whether the student has exhibited behavior that is detrimental to the safety, welfare, and morals of the other students or of school personnel in the school and whether educating the student in the school may disrupt the learning environment in the school, provide a negative example for other students, or create a dangerous and unsafe environment for students, teachers, and other school personnel. The determination may be made in executive session to the extent allowed by section 24-6-402 (4)(h), C.R.S. If the board of education or its designee, in accordance with the provisions of this subsection (5), makes a determination that the student should not be educated in the school, it may proceed with suspension or expulsion in accordance with subsection (2) of this section and section 22-33-106. Alternatively, the board of education or its designee may determine that it will wait until the conclusion of the juvenile proceedings to consider the expulsion matter, in which case it shall be the responsibility of the district to provide the student with an appropriate alternate education program, including but not limited to an online program or online school authorized pursuant to article 30.7 of this title, or a home-based education program during the period pending the resolution of the juvenile proceedings. Information made available to the school district and not otherwise available to the public pursuant to the provisions of section 19-1-304, C.R.S., shall remain confidential.

(b) No student who is being educated in an alternate education program or a home-based education program pursuant to paragraph (a) of this subsection (5) shall be allowed to return to the education program in the public school until there has been a disposition of the charge. If the student pleads guilty, is found guilty, or is adjudicated a delinquent juvenile, the school district may proceed in accordance with section 22-33-106 to expel the student. The time that a student spends in an alternate education program pursuant to paragraph (a) of this subsection (5) shall not be considered a period of expulsion.

(c) No court which has jurisdiction over the charges against a student who is subject to the provisions of this subsection (5) shall issue an order requiring the student to be educated in the education program in the school in contradiction of the provisions of this subsection (5).

(6) When a pupil is expelled by a school district, the pupil's parent, guardian, or legal custodian is responsible for seeing that the pupil complies with the provisions of this article during the period of expulsion.

(7) Notwithstanding any other provision of this part 1 to the contrary:

(a) An institute charter school authorized pursuant to part 5 of article 30.5 of this title may carry out the functions of a suspending authority pursuant to this section; and

(b) The state charter school institute created in part 5 of article 30.5 of this title may carry out the functions of a school district and its board of education with respect to the suspension, expulsion, or denial of admission of a student to an institute charter school.

**Source: L. 63:** p. 863, § 6. **C.R.S. 1963:** § 123-20-6. **L. 75:** (2)(a) amended, p. 702, § 1, effective July 1. **L. 79:** (3) added, p. 786, § 1, effective July 1. **L. 93:** (2.5) added, p. 379, § 2, effective April 12; (2)(a) and (2)(c) amended, p. 458, § 3, effective April 19; (3) amended and (4) to (6) added, p. 451, § 3, effective July 1. **L. 94:** (2)(c) amended, p. 446, § 1, effective July 1. **L. 96:** (2)(b), (3), (5)(a), and (5)(b) amended, p. 1804, § 2, effective July 1; (5)(a) amended, p. 1174, § 12, effective January 1, 1997. **L 97:** (2.5) amended, p. 410, § 4, effective July 1. **L. 98:** (5)(a) amended, p. 657, § 3, effective August 5. **L. 2000:** (5)(a) amended, p. 321, § 11, effective April 7. **L. 2002:** (5)(a) amended, p. 1188, § 29, effective July 1; (5)(a) amended, p. 1528, § 233, effective October 1. **L. 2004:** (7) added, p. 1636, § 40, effective July 1. **L. 2007:** (5)(a) amended, p. 1089, § 16, effective July 1. **L. 2012:** (2)(c), (3)(d)(III), and (6) amended, (HB 12-1345), ch. 188, p. 740, § 25, effective May 19; (5)(a) amended, (HB 12-1240), ch. 258, p. 1330, § 45, effective June 4. **L. 2014:** (2)(a) amended, (HB 14-1363), ch. 302, p. 1266, § 16, effective May 31.

**Editor's note:** Amendments to subsection (5)(a) in House Bill 96-1203 and House Bill 96-1017 were harmonized, effective January 1, 1997. Amendments to subsection (5)(a) by House Bill 02-1046 and Senate Bill 02-010 were harmonized.

**22-33-106. Grounds for suspension, expulsion, and denial of admission.** (1) The following may be grounds for suspension or expulsion of a child from a public school during a school year:

(a) Continued willful disobedience or open and persistent defiance of proper authority;

(b) Willful destruction or defacing of school property;

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

(c.5) (I) Declaration as a habitually disruptive student.

(II) For purposes of this paragraph (c.5), "habitually disruptive student" means a child who has caused a material and substantial disruption on school grounds, in a school vehicle, or at a school activity or sanctioned event three or more times during the course of a school year. Any

student who is enrolled in a public school may be subject to being declared a habitually disruptive student.

(III) The student and the parent, legal guardian, or legal custodian shall have been notified in writing of each disruption counted toward declaring the student as habitually disruptive pursuant to this paragraph (c.5), and the student and parent, legal guardian, or legal custodian shall have been notified in writing and by telephone or other means at the home or the place of employment of the parent or legal guardian of the definition of "habitually disruptive student".

(IV) (Deleted by amendment, L. 2000, p. 1971, § 12, effective June 2, 2000.)

(d) Committing one of the following offenses on school grounds, in a school vehicle, or at a school activity or sanctioned event:

(I) Possession of a dangerous weapon without the authorization of the school or the school district;

(II) The use, possession, or sale of a drug or controlled substance as defined in section 18-18-102 (5), C.R.S.; or

(III) The commission of an act that, if committed by an adult, would be robbery pursuant to part 3 of article 4 of title 18, C.R.S., or assault pursuant to part 2 of article 3 of title 18, C.R.S., other than the commission of an act that would be third degree assault under section 18-3-204, C.R.S., if committed by an adult.

(e) Repeated interference with a school's ability to provide educational opportunities to other students.

(f) Carrying, using, actively displaying, or threatening with the use of a firearm facsimile that could reasonably be mistaken for an actual firearm in a school building or in or on school property. Each school district shall develop a policy that shall authorize a student to carry, bring, use, or possess a firearm facsimile on school property for either a school-related or a nonschool-related activity. Such policy shall also consider student violations under this section on a case-by-case basis using the individual facts and circumstances to determine whether suspension, expulsion, or any other disciplinary action, if any, is necessary.

(g) Pursuant to section 22-12-105 (3), making a false accusation of criminal activity against an employee of an educational entity to law enforcement authorities or school district officials or personnel.

(1.2) Each school district is encouraged to consider each of the following factors before suspending or expelling a student pursuant to a provision of subsection (1) of this section:

(a) The age of the student;

(b) The disciplinary history of the student;

(c) Whether the student has a disability;

(d) The seriousness of the violation committed by the student;

(e) Whether the violation committed by the student threatened the safety of any student or staff member; and

(f) Whether a lesser intervention would properly address the violation committed by the student.

(1.5) Notwithstanding any other provision of law, in accordance with the provisions of 20 U.S.C. sec. 7961, a student who is determined to have brought a firearm to a school, or to have possessed a firearm at a school, shall be expelled for a period of not less than one year;

except that the superintendent of the student's school district may modify this requirement for a student on a case-by-case basis if such modification is in writing.

(2) Subject to the district's responsibilities under article 20 of this title, the following may be grounds for expulsion from or denial of admission to a public school, or diversion to an appropriate alternate program:

(a) Physical or mental disability such that the child cannot reasonably benefit from the programs available;

(b) Physical or mental disability or disease causing the attendance of the child suffering therefrom to be inimical to the welfare of other pupils.

(3) The following may constitute additional grounds for denial of admission to a public school:

(a) Graduation from the twelfth grade of any school or receipt of any document evidencing completion of the equivalent of a secondary curriculum;

(b) Failure to meet the requirements of age, by a child who has reached the age of six at a time after the beginning of the school year, as fixed by the board of education of the district in which the child applies for enrollment, as provided in section 22-1-115;

(c) Having been expelled from any school district during the preceding twelve months;

(d) Not being a resident of the district, unless otherwise entitled to attend under the provisions of article 23, 32, or 36 of this title;

(e) Failure to comply with the provisions of part 9 of article 4 of title 25, C.R.S. Any suspension, expulsion, or denial of admission for such failure to comply shall not be recorded as a disciplinary action but may be recorded with the student's immunization record with an appropriate explanation.

(f) Behavior in another school district during the preceding twelve months that is detrimental to the welfare or safety of other pupils or of school personnel.

(4) (a) Except as provided in paragraph (b) of this subsection (4), a school district shall prohibit any student who is expelled from a public school of the school district pursuant to paragraph (c) or (d) of subsection (1) of this section or pursuant to subsection (1.5) of this section from enrolling or reenrolling in the same school in which the victim of the offense or member of a victim's immediate family is enrolled or employed. If the school district has no actual knowledge of the name of the victim of the offense for which the student was expelled, the provisions of this subsection (4) shall be implemented only upon request of the victim or a member of the victim's immediate family.

(b) In any school district that has only one school in which the expelled student can enroll, the school district shall either:

(I) Prohibit the student expelled from the school district pursuant to paragraph (c) or (d) of subsection (1) of this section or pursuant to subsection (1.5) of this section from enrolling or reenrolling in the same school in which the victim of the offense or member of a victim's immediate family is enrolled or employed; or

(II) Design a schedule for the expelled student that, to the extent possible, avoids contact between the expelled student and the victim or a member of the victim's immediate family.

(c) The provisions of this subsection (4) shall not apply to an offense that constitutes a crime against property.

(d) The provisions of this subsection (4) shall apply only if the expelled student is convicted, is adjudicated a juvenile delinquent, receives a deferred judgment, or is placed in a

diversion program as a result of committing the offense for which the student was expelled. Prior to implementation of the provisions of this subsection (4), the school district shall contact the appropriate court to determine whether the provisions of this subsection (4) apply to an expelled student. The school district shall be authorized by the provisions of section 19-1-303 (1)(b), C.R.S., to obtain such information.

(e) (I) Notwithstanding any other provision of law to the contrary, any county or district court shall have original concurrent jurisdiction to issue a temporary or permanent civil restraining order that enjoins the expelled student from enrolling or reenrolling in the same school in which the victim of the offense or member of a victim's immediate family is enrolled or employed.

(II) A motion for a temporary civil restraining order pursuant to this paragraph (e) shall be set for hearing, which hearing shall be ex parte, at the earliest possible time and shall take precedence over all matters except those matters of the same character that have been on the court docket for a longer period of time. The court shall hear all such motions as expeditiously as possible.

**Source: L. 63:** p. 864, § 7. **C.R.S. 1963:** § 123-20-7. **L. 73:** p. 1280 § 2. **L. 78:** (3)(e) added, p. 429, § 2, effective April 4. **L. 79:** (2) amended, p. 788, § 1, effective June 16; (1)(c) amended, p. 787, § 1, effective July 1; (3)(a) amended, p. 789, § 1, effective July 1. **L. 84:** (1)(d) amended, p. 598, § 3, effective April 5. **L. 93:** (1)(c), (1)(d), and (3)(c) amended and (1)(e) and (3)(f) added, p. 459, §§ 4, 5, effective April 19; (1)(c) amended, p. 2111, § 1, effective June 9; (1)(c.5) added and (1)(d) amended, p. 453, § 5, effective July 1. **L. 94:** (3)(d) amended, p. 560, § 6, effective April 6; (1)(c) amended, p. 1633, § 40, effective May 31; (1)(d) amended, p. 447, § 2, effective July 1. **L. 96:** (1)(c.5) and (1)(d) amended, p. 1806, § 3, effective July 1. **L. 98:** (1)(d)(II)(A) amended and (1)(d)(III) added, p. 460, § 1, effective April 21; (1)(c.5)(IV) amended, p. 572, § 7, effective April 30. **L. 99:** (4) added, p. 394, § 1, effective July 1. **L. 2000:** (1)(c.5) amended, p. 1971, § 12, effective June 2. **L. 2007:** (1)(c) amended, p. 1568, § 14, effective May 31. **L. 2009:** (1)(d)(II)(A) amended and (1)(f) added, (SB 09-237), ch. 154, p. 666, §§ 1, 2, effective April 21; (1)(c.5)(I) and (1)(c.5)(III) amended, (HB 09-1243), ch. 290, p. 1424, § 4, effective May 21. **L. 2010:** (1)(c.5)(II) amended, (HB 10-1232), ch. 163, p. 571, § 8, effective April 28; (1)(c) amended, (HB 10-1422), ch. 419, p. 2077, § 43, effective August 11. **L. 2012:** IP(1), (1)(c.5)(I), (1)(c.5)(II), (1)(c.5)(III), (1)(d), IP(2), IP(3), (4)(a), and (4)(b)(I) amended and (1)(g), (1.2), and (1.5) added, (HB 12-1345), ch. 188, p. 741, § 26, effective May 19; (1)(d)(I) amended, (HB 12-1311), ch. 281, p. 1626, § 65, effective July 1. **L. 2017:** (1.5) amended, (SB 17-294), ch. 264, p. 1396, § 48, effective May 25.

**Editor's note:** Amendments to subsection (1)(c) in Senate Bill 93-140 and House Bill 93-1095 were harmonized. Amendments to subsection (1)(d) in Senate Bill 93-140 and House Bill 93-1093 were harmonized. Amendments to subsection (1)(d) by House Bill 12-1311 and House Bill 12-1345 were harmonized.

**22-33-106.1. Suspension - expulsion - preschool through second grade - definitions.** (1) As used in this section, unless the context otherwise requires:

(a) "Charter school" means a charter school that is authorized by a school district board of education pursuant to part 1 of article 30.5 of this title 22 or an institute charter school that is authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title 22.

(b) "Enrolling entity" means:

(I) A community-based preschool program that includes students who are funded through the "Colorado Preschool Program Act", article 28 of this title 22, or students who are funded with state or federal money to educate children with disabilities;

(II) A school district; or

(III) A charter school.

(2) Notwithstanding any provision of this article 33 to the contrary, an enrolling entity may impose an out-of-school suspension or expel a student enrolled in preschool, kindergarten, first grade, or second grade only if:

(a) The enrolling entity determines that the student has engaged in conduct on school grounds, in a school vehicle, or at a school activity or sanctioned event that:

(I) Involves the possession of a dangerous weapon without the authorization of the public school or enrolling entity, if different;

(II) Involves the use, possession, or sale of a drug or controlled substance, as defined in section 18-18-102 (5); or

(III) Endangers the health or safety of others;

(b) The enrolling entity determines that failure to remove the student from the school building would create a safety threat that cannot otherwise be addressed; and

(c) The enrolling entity, on a case-by-case basis, considers each of the factors set forth in section 22-33-106 (1.2) before suspending or expelling the student. The enrolling entity shall document any alternative behavioral and disciplinary interventions that it employs before suspending or expelling the student.

(3) If an enrolling entity imposes an out-of-school suspension on a student who meets the criteria specified in subsection (2) of this section, the out-of-school suspension shall not exceed three school days unless the executive officer or chief administrative officer of the enrolling entity, or designee of either, determines that a longer period of suspension is necessary to resolve the safety threat or recommends that the student be expelled in accordance with section 22-33-105 (2)(c).

(4) This section does not prevent an enrolling entity from excluding, removing, or disenrolling a student for reasons unrelated to student discipline.

(5) For purposes of this section, if an enrolling entity requests that a parent remove a child for disciplinary reasons from the school grounds for any length of time during a school day, the request constitutes a suspension and is subject to the requirements of this section.

(6) The state board shall annually review the data concerning the number of students who are suspended or expelled pursuant to this section and, if available, the reasons for the suspensions and expulsions.

**Source: L. 2019:** Entire section added, (HB 19-1194), ch. 160, p. 1886, § 2, effective July 1, 2020.

**Cross references:** For the legislative declaration in HB 19-1194, see section 1 of chapter 160, Session Laws of Colorado 2019.

**22-33-106.3. Disciplinary investigations - parental presence - student statements.** (1) A public school employee shall not use a student's statement concerning an act alleged to have been committed by the student that results in mandatory expulsion pursuant to section 22-33-106 (1)(d), in the expulsion hearing, unless the statement is signed by the student and a parent, guardian, or legal or physical custodian is present when the student signs the statement or admission or a reasonable attempt was made to contact the parent, guardian, or legal or physical custodian to have the parent, guardian, or legal or physical custodian present when the student signed the statement. The school shall be deemed to have made a reasonable attempt to contact the parent, guardian, or legal or physical custodian if the school calls each of the phone numbers the parent, guardian, or legal or physical custodian provides to the school and all phone numbers the student provides to the school for the parent, guardian, or legal or physical custodian.

(2) Notwithstanding the provisions of subsection (1) of this section, the student and his or her parent, guardian, or legal or physical custodian may expressly waive the requirement that the parent, guardian, or legal or physical custodian be present when a student signs a statement or admission. This express waiver shall be in writing and shall be obtained only after full advisement of the student and his or her parent, guardian, or legal or physical custodian of the student's rights prior to the signing of the statement or admission by the student.

(3) The requirements of subsection (1) of this section shall not apply if the student makes any deliberate misrepresentations affecting the applicability or requirements of this section and a school official, acting in good faith and in reasonable reliance on such deliberate misrepresentation, obtains a signed statement or admission of the student that does not comply with the requirements of subsection (1) of this section.

(4) Nothing in this section shall be construed to prevent or interfere with a fact-finding or information-gathering investigation by a school or school employee.

(5) For the purposes of this section, "physical custodian" shall have the same meaning as that term is defined in section 19-1-103 (84), C.R.S.

**Source: L. 2004:** Entire section added, p. 272, § 1, effective August 4.

**22-33-106.5. Information concerning offenses committed by students.** (1) Upon adjudication or conviction of a person under the age of eighteen years for an offense specified in section 22-33-106 (1)(d), the adjudicating juvenile court or the convicting district court, whichever is applicable, shall notify the school district in which the person is enrolled that the person is subject to mandatory expulsion based on the adjudication or conviction.

(2) Upon adjudication or conviction of a person under the age of eighteen years for an offense that constitutes a crime of violence, as defined in section 18-1.3-406, C.R.S., or for an offense involving controlled substances, or, for a person under eighteen years of age but at least twelve years of age, for an offense that would constitute unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S., if committed by an adult the adjudicating or convicting court shall notify the school district in which the person is enrolled of the person's adjudication or conviction.

**Source: L. 96:** Entire section added, p. 432, § 3, effective April 22. **L. 2000:** (2) amended, p. 322, § 12, effective April 7. **L. 2002:** (2) amended, p. 1189, § 30, effective July 1; (2) amended, p. 1528, § 234, effective October 1.

**Editor's note:** Amendments to subsection (2) by House Bill 02-1046 and Senate Bill 02-010 were harmonized.

**Cross references:** For the legislative declaration contained in the 2002 act amending subsection (2), see section 1 of chapter 318, Session Laws of Colorado 2002.

**22-33-107. Enforcement of compulsory school attendance - definitions.** (1) The board of education of each school district shall designate one or more of the employees of the district to act as attendance officer for the district. It is the attendance officer's duty in appropriate cases to counsel with students and parents and investigate the causes of nonattendance and report to the local board of education so as to enforce the provisions of this article which relate to compulsory attendance.

(2) The commissioner of education shall designate an employee of the department of education whose duty it is to assist the individual school districts and to supervise the enforcement of compulsory school attendance for the entire state.

(3) (a) As used in this subsection (3):

(I) Repealed.

(II) "Local community services group" means the local juvenile services planning committee created pursuant to section 19-2-211, C.R.S., the local collaborative management group created by a memorandum of understanding entered into pursuant to section 24-1.9-102, C.R.S., or another local group of public agencies that collaborate with the school district to identify and provide support services for students.

(b) The board of education of each school district shall adopt and implement policies and procedures concerning elementary and secondary school attendance, including but not limited to policies and procedures to work with children who are habitually truant. The policies and procedures must include provisions for the development of a plan. The plan must be developed with the goal of assisting the child to remain in school and, when practicable, with the full participation of the child's parent, guardian, or legal custodian. Appropriate school personnel shall make all reasonable efforts to meet with the parent, guardian, or legal custodian of the child to review and evaluate the reasons for the child's truancy. The appropriate school personnel are encouraged to work with the local community services group to develop the plan. The plan must be in compliance with section 22-33-108 (7) and include appropriate sanctions other than placement in a juvenile detention facility for a child who is habitually truant and who has refused to comply with the plan. The policies and procedures may also include but need not be limited to the following:

(I) (Deleted by amendment, L. 96, p. 1808, § 4, effective July 1, 1996.)

(I.5) Procedures to monitor the attendance of each child enrolled in the school district to identify each child who has a significant number of unexcused absences and to work with the local community services group and the child's parent to identify and address the likely issues underlying the child's truancy, including any nonacademic issues;

(II) Annually at the beginning of the school year and upon any enrollment during the school year, notifying the parent of each child enrolled in the public schools in writing of such parent's obligations pursuant to section 22-33-104 (5) and requesting that the parent acknowledge in writing awareness of such obligations;

(III) Annually at the beginning of the school year and upon any enrollment during the school year, obtaining from the parent of each child a telephone number or other means of contacting such parent during the school day; and

(IV) Establishing a system of monitoring individual unexcused absences of children which shall provide that, whenever a child who is enrolled in a public school fails to report to school on a regularly scheduled school day and school personnel have received no indication that the child's parent is aware of the child's absence, school personnel or volunteers under the direction of school personnel shall make a reasonable effort to notify by telephone such parent. Any person who, in good faith, gives or fails to give notice pursuant to this subparagraph (IV) shall be immune from any liability, civil or criminal, which might otherwise be incurred or imposed and shall have the same immunity with respect to any judicial proceeding which results from such notice or failure to give such notice.

(4) On or before September 15, 2010, and on or before September 15 each year thereafter, the board of education of each school district shall report to the department of education the number of children who are habitually truant, as defined in section 22-33-102 (3.5), for the preceding academic year. The department shall post this information for each school district on its website for the public to access and may post additional information reported by school districts related to truancy.

(5) The department of education may post on its website information concerning effective, research-based, truancy- and dropout-prevention programs for the benefit of school districts.

**Source: L. 63:** p. 864, § 8. **C.R.S. 1963:** § 123-20-8. **L. 84:** (1) amended, p. 601, § 1, effective April 5. **L. 93:** (3) added, p. 460, § 6, effective April 19. **L. 96:** IP(3)(b) and (3)(b)(I) amended, p. 1808, § 4, effective July 1. **L. 2006:** (3)(a) amended, p. 1213, § 5, effective July 1, 2007. **L. 2007:** (3)(a) amended, p. 71, § 3, effective July 1, 2008. **L. 2008:** (4) and (5) added, p. 517, § 2, effective August 5. **L. 2013:** (3)(a) and IP(3)(b) amended and (3)(b)(I.5) added, (HB 13-1021), ch. 335, p. 1947, § 2, effective August 7. **L. 2015:** (1) amended, (SB 15-099), ch. 99, p. 290, § 4, effective August 5. **L. 2018:** (3)(a)(I) repealed and IP(3)(b) and (4) amended, (HB 18-1156), ch. 378, p. 2286, § 4, effective August 8.

**Cross references:** For the legislative declaration contained in the 2006 act amending subsection (3)(a), see section 1 of chapter 265, Session Laws of Colorado 2006. For the legislative declaration in HB 18-1156, see section 1 of chapter 378, Session Laws of Colorado 2018.

**22-33-107.1. Parental notice of dropout status. (Repealed)**

**Source: L. 2005:** Entire section added, p. 393, § 1, effective April 27. **L. 2009:** Entire section repealed, (HB 09-1243), ch. 290, p. 1424, § 5, effective May 21.

**Cross references:** For current provisions concerning notice to parent of dropout status, see § 22-14-108.

**22-33-107.5. Notice of failure to attend.** (1) Except as otherwise provided in subsection (2) of this section, a school district shall notify the appropriate court or parole board if a student fails to attend all or any portion of a school day where the school district has received notice from the court or parole board:

(a) Pursuant to section 19-2-508 (3)(a)(X) that the student is required to attend school as a condition of release pending an adjudicatory trial;

(b) Pursuant to section 17-22.5-404, 18-1.3-204 (2.3), 19-2-907 (4), 19-2-925 (9), or 19-2-1002 (1) or (3) that the student is required to attend school as a condition of or in connection with any sentence imposed by the court, including a condition of probation or parole; or

(c) Pursuant to section 13-10-113 (8), C.R.S., that the student is required to attend school as a condition of or in connection with any sentence imposed by a municipal court.

(2) If the school district has notice that a student who is required to attend school as a condition of release or as a condition of or in connection with any sentence imposed by a court, including a condition of probation or parole, has enrolled in a nonpublic home-based educational program, pursuant to section 22-33-104.5, or in an independent or parochial school, the school district shall notify the appropriate court or parole board and shall no longer be required to notify the court or parole board, pursuant to subsection (1) of this section, if the student fails to attend.

**Source: L. 96:** Entire section added, p. 1683, § 11, effective January 1, 1997. **L. 99:** Entire section amended, p. 62, § 6, effective July 1. **L. 2000:** (1) amended, p. 322, § 13, effective April 7. **L. 2002:** (1)(b) amended, p. 1528, § 235, effective October 1. **L. 2010:** (1)(b) amended, (HB 10-1374), ch. 261, p. 1187, § 8, effective May 25. **L. 2019:** (1)(a) and (1)(b) amended, (SB 19-108), ch. 294, p. 2730, § 29, effective July 1.

**Cross references:** For the legislative declaration contained in the 2002 act amending subsection (1)(b), see section 2 of chapter 318, Session Laws of Colorado 2002.

**22-33-108. Judicial proceedings.** (1) Those courts having jurisdiction over juvenile matters in a judicial district shall have original jurisdiction over all matters arising out of the provisions of this article.

(1.5) (a) All proceedings brought under this article shall be commenced in the judicial district in which the child resides or is present.

(b) When proceedings commence under this article in a judicial district other than that of the child's residence or when the child changes his or her judicial district of residence after a proceeding under this article commences, the court in which proceedings commenced may, on its own motion or on the motion of any interested party, transfer the case to the court in the judicial district where the child resides.

(c) When a court transfers venue pursuant to paragraph (b) of this subsection (1.5), the court shall transmit all documents and reports, or certified copies thereof, to the receiving court, which court shall proceed with the case as if the petition had been originally filed in that court.

(2) If a child or his parent desires court review of an order of the board of education issued pursuant to this article, he shall notify the board in writing within five days after receiving official notification of the board's action. The board of education shall thereupon issue, or cause to be issued, to the child or his parent a statement of the reasons for the board's action. Within ten days thereafter the child or his parents may file with the court a petition requesting that the

order of the board of education be set aside, to which shall be appended the statement of the board of education. No docket or other fees shall be collected by the court in connection with this proceeding.

(3) After the petition is filed, the court shall notify the board and shall hold a hearing on the matter. The court shall conduct judicial review of a hearing decision pursuant to rule 106 (a)(4) of the Colorado rules of civil procedure and rule 3.8 of the Colorado rules of juvenile procedure.

(4) It is the duty of the attorney for the school district, an employee authorized by the local board of education pursuant to section 13-1-127 (7), C.R.S., to represent the school district in truancy proceedings, the attendance officer designated by the local board of education, or the local board of education to initiate, when appropriate, proceedings for the enforcement of the compulsory attendance provisions of this article upon request by the attendance officer of the district or of the state.

(5) (a) It is the intent of the general assembly that, in enforcing the compulsory school attendance requirements of this article, a school district shall employ best practices and research-based strategies to minimize the need for court action and the risk that a court will issue detention orders against a child or parent.

(b) A school district shall initiate court proceedings to compel a child and the child's parent to comply with the attendance requirements specified in this article but only as a last-resort approach to address the child's truancy and only if a child continues to be habitually truant after school or school district personnel have created and implemented a plan pursuant to section 22-33-107 (3) to improve the child's school attendance.

(c) Before initiating court proceedings to compel compliance with the attendance requirements specified in this article, the school district shall give the child and the child's parent written notice that the school district will initiate proceedings if the child does not comply with the attendance requirements of this article. The school district may combine the notice and summons. If combined, the petition must state the date on which the school district will initiate proceedings, which date must not be less than five days after the date of the notice and summons. The notice must state the provisions of this article with which compliance is required and must state that the school district will not initiate proceedings if the child complies with the identified provisions before the proceedings are filed.

(d) If a school district initiates court proceedings pursuant to this subsection (5), the school district, at a minimum, must submit to the court evidence of:

(I) The child's attendance record prior to and after the point at which the child was identified as habitually truant;

(II) Whether the child was identified as chronically absent and, if so, the strategies the school district used to improve the child's attendance;

(III) The interventions and strategies used to improve the child's attendance before school or school district personnel created the child's plan described in section 22-33-107 (3); and

(IV) The child's plan and the efforts of the child, the child's parent, and school or school district personnel to implement the plan.

(6) The court before which a proceeding to compel attendance is brought may issue, in its discretion, an order against the child or the child's parent or both compelling the child to attend school as provided by this article or compelling the parent to take reasonable steps to

assure the child's attendance. The order must require the child and parent to cooperate with the school district in complying with the plan created for the child pursuant to section 22-33-107 (3).

(7) (a) If the child or youth does not comply with the valid court order issued against the child or youth or against both the parent and the child or youth, the court may order that an assessment for neglect as described in section 19-3-102 (1) be conducted as provided in section 19-3-501. In addition, the court may order the child or youth to show cause why he or she should not be held in contempt of court. When instituting contempt of court proceedings pursuant to this subsection (7), the court shall provide all procedural protections mandated in rule 107 of the Colorado rules of civil procedure, or any successor rule, concerning punitive sanctions for contempt.

(a.5) A judge or magistrate of any court may issue a warrant that authorizes the taking into temporary custody of a child or youth who has failed to appear for a court hearing for a truancy or contempt action; except that any such warrant must provide for release of the child or youth from temporary custody on an unsecured personal recognizance bond that is cosigned by the child's or youth's parent or legal guardian or, if the child or youth is in the custody of the department of human services, cosigning may be accomplished by a representative of the department of human services. In the alternative, the warrant may direct that the child or youth must only be arrested while court is in session and that he or she be taken directly to court for an appearance rather than booked into secure confinement.

(b) The court may impose sanctions after a finding of contempt that may include, but need not be limited to, community service to be performed by the child or youth, supervised activities, participation in services for at-risk students, as described by section 22-33-204, and other activities having the goal of ensuring that the child or youth has an opportunity to obtain a quality education.

(c) (I) If the court finds that the child or youth has refused to comply with the plan created for the child or youth pursuant to section 22-33-107 (3), the court may impose on the child or youth, as a sanction for contempt of court, a sentence of detention for no more than forty-eight hours in a juvenile detention facility operated by or under contract with the department of human services pursuant to section 19-2-402 and any rules promulgated by the Colorado supreme court. The court shall not sentence a child or youth to detention as a sanction for contempt of court unless the court finds that detention is in the best interest of the child or youth as well as the public. In making such a finding, the court shall consider the following factors, including that:

(A) The child or youth has violated a valid court order;

(B) National and Colorado-specific evidence shows that detaining children and youth for truancy alone is counterproductive and harmful to children and youth;

(C) The legislative intent is that a child or youth who is truant must not be placed in secure confinement for truancy alone;

(D) Detention is likely to have a detrimental effect on the child's or youth's school attendance; and

(E) Detention is likely to have an effect on the child's or youth's future involvement with the criminal justice system.

(II) There is a rebuttable presumption that a child or youth must receive credit for time served if he or she is sentenced to detention pursuant to subsection (7)(c)(I) of this section for

violating a valid court order to attend school. If the court rebuts this presumption, it shall explain its reasoning on the record.

(8) If the parent refuses or neglects to obey the order issued against the parent or against both the parent and the child, the court may order the parent to show cause why he or she should not be held in contempt of court, and, if the parent fails to show cause, the court may impose a fine of up to but not more than twenty-five dollars per day or confine the parent in the county jail until the order is complied with.

**Source: L. 63:** p. 865, § 9. **C.R.S. 1963:** § 123-20-9. **L. 67:** p. 1054, § 15. **L. 81:** (5) and (7) amended, p. 1066, § 1, effective May 27. **L. 84:** (4) and (8) amended, p. 601, § 2, effective July 1. **L. 87:** (5) and (7) amended, p. 829, § 2, effective July 1. **L. 90:** (7) amended, p. 1019, § 7, effective April 20; (7) amended, p. 1847, § 40, effective May 31. **L. 94:** (1.5) added, p. 677, § 1, effective April 19; (3) amended, p. 447, § 3, effective July 1; (7) amended, p. 2691, § 221, effective July 1. **L. 96:** (7) amended, p. 1693, § 31, effective January 1, 1997. **L. 97:** (6) to (8) amended, p. 41, § 2, effective July 1. **L. 2001:** (1) and (1.5) amended, p. 871, § 3, effective June 1. **L. 2002:** (7) amended, p. 248, § 1, effective April 12. **L. 2006:** (3) amended, p. 257, § 4, effective March 31. **L. 2007:** (4) amended, p. 165, § 4, effective March 22. **L. 2011:** (5) and (7)(a) amended, (HB 11-1053), ch. 58, p. 154, § 2, effective March 25. **L. 2013:** (5), (6), and (7) amended, (HB 13-1021), ch. 335, p. 1948, § 3, effective August 7. **L. 2018:** (7) amended, (HB 18-1156), ch. 378, p. 2286, § 5, effective August 8.

**Cross references:** For the legislative declaration contained in the 1994 act amending subsection (7), see section 1 of chapter 345, Session Laws of Colorado 1994. For the legislative declaration contained in the 2011 act amending subsections (5) and (7)(a), see section 1 of chapter 58, Session Laws of Colorado 2011. For the legislative declaration in HB 18-1156, see section 1 of chapter 378, Session Laws of Colorado 2018.

**22-33-109. Regulations.** The state board may prescribe necessary rules and regulations for the administration of this article.

**Source: L. 63:** p. 866, § 10. **C.R.S. 1963:** § 123-20-10.

**22-33-110. Jurisdiction - board of education.** Nothing in this article, except for the provisions of section 22-33-104 (2)(b) and the attendance records required under section 22-1-114, shall be construed to give the state board of education or any board of education jurisdiction over the internal affairs of any nonstate independent or parochial school in this state.

**Source: L. 83:** Entire section added, p. 755, § 2, effective June 3.

**22-33-111. School discipline study - legislative declaration - task force appointed - report - repeal. (Repealed)**

**Source: L. 2011:** Entire section added, (SB 11-133), ch. 210, p. 908, § 1, effective May 23.

**Editor's note:** Subsection (7) provided for the repeal of this section, effective July 1, 2012. (See L. 2011, p. 908.)

PART 2

EXPULSION PREVENTION PROGRAMS

**22-33-201. Legislative declaration.** The general assembly hereby finds that except when a student's behavior would cause imminent harm to others in the school or when an incident requires automatic expulsion as defined by state law or a school's conduct and discipline code, expulsion should be the last step taken after several attempts to deal with a student who has discipline problems. The general assembly further finds that school districts should work with the student's parent or guardian and with state agencies and community-based nonprofit organizations to develop alternatives to help students who are at risk of expulsion before expulsion becomes a necessary step and to support students who are unable to avoid expulsion.

**Source: L. 96:** Entire part added, p. 432, § 4, effective April 22. **L. 2000:** Entire part amended, p. 1966, § 11, effective June 2. **L. 2014:** Entire section amended, (HB 14-1363), ch. 302, p. 1266, § 17, effective May 31.

**22-33-201.5. Definitions.** For purposes of this part 2, unless the context otherwise requires:

(1) "Educational services" means any of the following types of services to provide instruction in the academic areas of reading, writing, mathematics, science, and social studies:

(a) Tutoring services;

(b) Alternative educational programs;

(c) Career and technical education programs.

(2) "Facility school" means an approved facility school as defined in section 22-2-402 (1).

**Source: L. 98:** Entire section added, p. 568, § 1, effective April 30. **L. 2000:** Entire part amended, p. 1966, § 11, effective June 2. **L. 2008:** Entire section amended, p. 1399, § 38, effective May 27. **L. 2017:** (1)(c) amended, (SB 17-294), ch. 264, p. 1396, § 49, effective May 25.

**22-33-202. Identification of at-risk students.** (1) Each school district shall adopt policies to identify students who are at risk of suspension or expulsion from school. Students identified may include those who are truant, who have been or are likely to be declared habitually truant, or who are likely to be declared habitually disruptive. The school district shall provide students who are identified as at risk of suspension or expulsion with a plan to provide the necessary support services to help them avoid expulsion. The school district shall work with the student's parent or guardian in providing the services and may provide the services through agreements with appropriate local governmental agencies, appropriate state agencies, community-based organizations, and institutions of higher education entered into pursuant to section 22-33-204. The failure of the school district to identify a student for participation in an

expulsion-prevention program or the failure of such program to remediate a student's behavior shall not be grounds to prevent school personnel from proceeding with appropriate disciplinary measures or used in any way as a defense in an expulsion proceeding.

(2) Each school district may provide educational services to students who are identified as at risk of suspension or expulsion from school. Any school district that provides educational services to students who are at risk of suspension or expulsion may apply for moneys through the expelled and at-risk student services grant program established in section 22-33-205 to assist in providing such educational services.

**Source: L. 96:** Entire part added, p. 432, § 4, effective April 22. **L. 2000:** Entire part amended, p. 1966, § 11, effective June 2. **L. 2008:** (1) amended, p. 518, § 3, effective August 5.

**22-33-203. Educational alternatives for expelled students.** (1) Upon expelling a student, the school district shall provide information to the student's parent or guardian concerning the educational alternatives available to the student during the period of expulsion. If the parent or guardian chooses to provide a home-based educational program for the student, the school district shall assist the parent in obtaining appropriate curricula for the student if requested by the parent or guardian.

(2) (a) Except as otherwise provided in paragraph (b) of this subsection (2), upon request of a student or the student's parent or guardian, the school district shall provide, for any student who is expelled from the school district, any educational services that are deemed appropriate for the student by the school district. The educational services provided must be designed to enable the student to return to the school in which he or she was enrolled prior to expulsion, to successfully complete the high school equivalency examination, or to enroll in a nonpublic, nonparochial school or in an alternative school, including but not limited to a charter school or a pilot school established pursuant to article 38 of this title. The expelling school district shall determine the amount of credit the student must receive toward graduation for the educational services provided pursuant to this section.

(b) The educational services provided pursuant to this section are designed to provide a second chance for the student to succeed in achieving an education. While receiving educational services, a student may be suspended or expelled pursuant to the conduct and discipline code of the school district providing the educational services and the provisions of part 1 of this article. Except as required by federal law, the expelling school district is not required to provide educational services to any student who is suspended or expelled while receiving educational services pursuant to this section until the period of the suspension or expulsion is completed.

(c) (I) Educational services provided pursuant to this section shall be provided by the expelling school district; except that the expelling school district may provide educational services either directly or in cooperation with one or more other school districts, boards of cooperative services, charter schools, nonpublic, nonparochial schools, or pilot schools established pursuant to article 38 of this title under contract with the expelling school district. Any program of educational services provided by a nonpublic, nonparochial school shall be subject to approval by the state board of education pursuant to section 22-2-107.

(II) Educational services may be provided by the school district through agreements entered into pursuant to section 22-33-204. The expelling school district need not provide the educational services on school district property. Any expelled student receiving educational

services shall be included in the expelling school district's pupil enrollment as defined in section 22-54-103 (10).

(d) If an expelled student is receiving educational services delivered by a school district other than the expelling school district, by a charter school in a school district other than the expelling school district, by a board of cooperative services, by a nonpublic, nonparochial school, or by a pilot school pursuant to an agreement entered into pursuant to subparagraph (I) of paragraph (c) of this subsection (2), the expelling school district shall transfer ninety-five percent of the district per pupil revenues, as defined in section 22-30.5-112 (2)(a.5)(II) to the school district, charter school, nonpublic, nonparochial school, board of cooperative services, or pilot school that is providing educational services, reduced in proportion to the amount of time remaining in the school year at the time the student begins receiving educational services.

(e) Any school district, charter school, nonpublic, nonparochial school, board of cooperative services, or pilot school that is providing educational services to expelled students pursuant to this subsection (2) may apply for moneys through the expelled student services grant program established in section 22-33-205 to assist in providing educational services.

(3) If a student is expelled and the student is not receiving educational services pursuant to this section, the school district shall contact the expelled student's parent or guardian at least once every sixty days until the beginning of the next school year to determine whether the student is receiving educational services from some other source; except that the school district need not contact a student's parent or guardian after the student is enrolled in another school district or in an independent or parochial school or if the student is committed to the department of human services or is sentenced pursuant to article 2 of title 19, C.R.S.

(4) In addition to the educational services required under this section, a student who is at risk of suspension or expulsion or has been suspended or expelled, or the student's parent or guardian, may request any of the services provided by the school district through an agreement entered into pursuant to section 22-33-204, and the school district may provide such services.

**Source: L. 96:** Entire part added, p. 433, § 4, effective April 22. **L. 97:** (2) amended, p. 589, § 24, effective April 30. **L. 98:** (2) and (3) amended and (4) added, p. 568, § 2, effective April 30. **L. 2000:** Entire part amended, p. 1967, § 11, effective June 2. **L. 2012:** (2)(b) and (3) amended, (HB 12-1345), ch. 188, p. 749, § 41, effective May 19. **L. 2014:** (2)(a) amended, (SB 14-058), ch. 102, p. 381, § 12, effective April 7.

**22-33-204. Services for at-risk students - agreements with state agencies and community organizations.** (1) Each school district, regardless of the number of students expelled by the district, may enter into agreements with appropriate local governmental agencies and, to the extent necessary, with the managing state agencies, including the department of human services and the department of public health and environment; with community-based nonprofit and faith-based organizations; with nonpublic, nonparochial schools; with the department of military and veterans affairs; and with public and private institutions of higher education to work with the student's parent or guardian to provide services to any student, or the student's family, who is identified as being at risk of suspension or expulsion or who has been suspended or expelled. Any services provided pursuant to an agreement with a nonpublic, nonparochial school are subject to approval by the state board of education pursuant to section 22-2-107. Services provided through such agreements may include, but are not limited to:

(a) Educational services required to be provided under section 22-33-203 (2) and any educational services provided to at-risk students identified pursuant to section 22-33-202;

(b) Counseling services;

(c) Substance use disorder treatment programs;

(d) Family preservation services.

(e) and (f) (Deleted by amendment, L. 98, p. 570, § 3, effective April 30, 1998.)

(2) At a minimum, each agreement entered into pursuant to this section shall specify the services to be provided under the agreement, the entity that will coordinate and oversee provision of the services, and the responsibilities of each entity entering into the agreement. In addition, each agreement shall require each entity entering into the agreement to contribute the services or funds for the provision of the services specified in the agreement. The agreement shall specify the services or the amount and source of funds that each entity will provide and the mechanism for providing said services or funds.

(3) Each school district shall use a portion of its per pupil revenues to provide services under agreements entered into pursuant to this section for each student who is at risk of suspension or expulsion or who is suspended or expelled. In addition, the school district may use federal moneys, moneys received from any other state appropriation, and moneys received from any other public or private grant to provide said services.

**Source: L. 96:** Entire part added, p. 433, § 4, effective April 22. **L. 98:** (1) amended, p. 570, § 3, effective April 30. **L. 2000:** Entire part amended, p. 1968, § 11, effective June 2. **L. 2002:** IP(1) amended, p. 355, § 7, effective July 1. **L. 2010:** (3) amended, (HB 10-1013), ch. 399, p. 1913, § 39, effective June 10. **L. 2017:** IP(1) and (1)(c) amended, (SB 17-242), ch. 263, p. 1319, § 172, effective May 25.

**Cross references:** For the legislative declaration contained in the 2002 act amending the introductory portion to subsection (1), see section 1 of chapter 121, Session Laws of Colorado 2002. For the legislative declaration in SB 17-242, see section 1 of chapter 263, Session Laws of Colorado 2017.

**22-33-204.5. Legislative declaration.** The general assembly finds that a student who is placed in a residential child care facility or other facility licensed by the department of human services or in a hospital or who is receiving educational services through a day treatment center is, in most cases, dealing with significant behavioral and emotional issues. These issues make it difficult, if not impossible, for the student to function within a regular school and often severely impact the student's ability to participate in a facility school. The general assembly further finds that, although a student who is placed in a facility cannot be expelled due to the nature of the placement, the student is at risk of being unable to prosper academically and should be considered an at-risk student for purposes of section 22-33-205.

**Source: L. 2008:** Entire section added, p. 1399, § 39, effective May 27.

**22-33-205. Services for expelled and at-risk students - grants - criteria.** (1) (a) There is hereby established in the department of education the expelled and at-risk student services grant program, referred to in this section as the "program". The program shall provide grants to

school districts, to charter schools, to alternative schools within school districts, to nonpublic, nonparochial schools, to boards of cooperative services, to facility schools, and to pilot schools established pursuant to article 38 of this title to assist them in providing educational services, and other services provided pursuant to section 22-33-204, to expelled students pursuant to section 22-33-203 (2), to students at risk of expulsion as identified pursuant to section 22-33-202 (1), and to truant students.

(b) In addition to school districts, charter schools, alternative schools within school districts, nonpublic, nonparochial schools, boards of cooperative services, facility schools, and pilot schools, the department of military and veterans affairs may apply for a grant pursuant to the provisions of this section to assist the department with a program to provide educational services to expelled students; except that nonpublic, nonparochial schools may only apply for a grant pursuant to the provisions of this section to fund educational services that have been approved by the state board pursuant to section 22-2-107. The department shall follow application procedures established by the department of education pursuant to subsection (2) of this section. The department of education shall determine whether to award a grant to the department of military and veterans affairs and the amount of the grant.

(c) Grants awarded pursuant to this section shall be paid for out of any moneys appropriated to the department of education for implementation of the program.

(2) (a) The state board by rule shall establish application procedures by which a school district, a charter school, an alternative school within a school district, a nonpublic, nonparochial school, a board of cooperative services, a facility school, or a pilot school may annually apply for a grant under the program. At a minimum, the application shall include a plan for provision of educational services, including the type of educational services to be provided, the estimated cost of providing such educational services, and the criteria that will be used to evaluate the effectiveness of the educational services provided.

(b) The state board shall determine which of the applicants shall receive grants and the amount of each grant. In awarding grants, the state board shall consider the following criteria:

(I) The costs incurred by the applicant in providing educational services to expelled or at-risk students pursuant to the provisions of this part 2 during the school year preceding the school year for which the grant is requested;

(II) (Deleted by amendment, L. 98, p. 570, § 4, effective April 30, 1998.)

(III) The number of expelled, at-risk, or truant students who are receiving educational services through the applicant under agreements entered into pursuant to the provisions of this part 2 during the school year preceding the year for which the grant is requested;

(IV) The quality of educational services to be provided by the applicant under the plan;

(V) The cost-effectiveness of the educational services to be provided under the plan;

(VI) The amount of funding received by the applicant in relation to the cost of the educational services provided under the plan; and

(VII) If the applicant is seeking to renew a grant or has been awarded a grant pursuant to this section in the previous five years, the demonstrated effectiveness of the educational services funded by the previous grant.

(3) The state board shall annually award at least forty-five percent of any moneys appropriated for the program to applicants that provide educational services to students from more than one school district and at least one-half of any increase in the appropriation for the program for the 2009-10 fiscal year to applicants that provide services and supports that are

designed to reduce the number of truancy cases requiring court involvement and that also reflect the best interests of students and families. The services and supports shall include, but need not be limited to, alternatives to guardian ad litem representation in truancy proceedings.

(4) The department of education is authorized to retain up to one percent of any money appropriated for the program for the purpose of annually evaluating the program. The department of education is authorized and encouraged to retain up to an additional two percent of any money appropriated for the program for the purpose of partnering with organizations or agencies that provide services and supports that are designed to reduce the number of truancy cases requiring court involvement and that also reflect the best interests of students and families. The services and supports shall include, but need not be limited to, alternatives to guardian ad litem representation in truancy proceedings. Notwithstanding section 24-1-136 (11)(a)(I), on or before January 1, 2006, and on or before January 1 each year thereafter, the department of education shall report to the education committees of the house of representatives and the senate, or any successor committees, the evaluation findings on the outcomes and the effectiveness of the program related to school attendance, attachment, and achievement. The report shall also include specific information on the efficacy of services and supports that provide alternatives to court involvement and guardian ad litem representation in truancy proceedings.

**Source: L. 97:** Entire section added, p. 590, § 25, effective April 30. **L. 98:** Entire section amended, p. 570, § 4, effective April 30; (1) amended, p. 976, § 24, effective May 27. **L. 2000:** Entire part amended, p. 1969, § 11, effective June 2. **L. 2002:** (1)(b) amended, p. 356, § 8, effective July 1. **L. 2005:** (4) added, p. 997, § 1, effective June 2. **L. 2008:** (1)(a), (1)(b), (2)(a), and IP(2)(b) amended, p. 1399, § 40, effective May 27; (1)(a) and (2)(b)(III) amended, p. 518, § 4, effective August 5. **L. 2009:** (3) and (4) amended, (SB 09-256), ch. 294, p. 1558, § 18, effective May 21. **L. 2017:** (4) amended, (HB 17-1267), ch. 242, p. 997, § 15, effective August 9.

**Editor's note:** Amendments to subsection (1)(a) by House Bill 08-1204 and House Bill 08-1336 were harmonized.

**Cross references:** For the legislative declaration contained in the 2002 act amending subsection (1)(b), see section 1 of chapter 121, Session Laws of Colorado 2002.

## ARTICLE 34

High School Fast Track Program

### 22-34-101. (Repealed)

**Source: L. 2009:** Entire article repealed, (HB 09-1319), ch. 286, p. 1322, § 13, effective May 21.

**Editor's note:** This article was added in 1981. For amendments to this article prior to its repeal in 2009, consult the Colorado statutory research explanatory note and the table itemizing

the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

## ARTICLE 35

Concurrent Enrollment
Programs Act

**Editor's note:** This article was added in 1988. This article was repealed and reenacted in 2009, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 2009, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

**22-35-101. Short title.** This article shall be known and may be cited as the "Concurrent Enrollment Programs Act".

**Source: L. 2009:** Entire article R&RE, (HB 09-1319), ch. 286, p. 1299, § 1, effective May 21.

**22-35-102. Legislative declaration.** (1) The general assembly hereby finds that:

(a) Creating pathways between high schools and institutions of higher education is essential to fulfilling the Colorado promise of doubling the number of postsecondary degrees earned by Coloradans and reducing by half the number of students who drop out of high schools in the state;

(b) Concurrent enrollment programs have the potential to help advance the vision for an aligned system of high school and postsecondary standards and assessments, as described in the "Preschool to Postsecondary Education Alignment Act", part 10 of article 7 of this title;

(c) Concurrent enrollment programs have existed for many years but with little state coordination, limited attention to quality and consistency, and no accountability. As a result, access has been necessarily limited.

(d) Historically, the beneficiaries of concurrent enrollment programs have often been high-achieving students. The expanded mission of concurrent enrollment programs is to serve a wider range of students, particularly those who represent communities with historically low college participation rates.

(e) The state should improve teachers', administrators', and parents' access to information concerning concurrent enrollment programs;

(f) The emerging economic reality is that a postsecondary credential of some kind is the minimum educational requirement for a job that earns a living wage in Colorado. In spite of this, the number of students in Colorado who earn a postsecondary credential is disproportionately low when compared to other states.

(g) All of the state's high schools should eventually develop equitable access to concurrent enrollment programs to provide the infrastructure necessary to improve high school

retention, to motivate young people to take seriously the need to become postsecondary- and workforce-ready, and to accelerate students' progress toward a postsecondary credential.

(2) The general assembly further finds and declares that, for purposes of section 17 of article IX of the state constitution, providing funding for concurrent enrollment programs is a permissible use of the moneys in the state education fund because the moneys are being used for accountable school reform, for accountable programs to meet state academic standards, and for class size reduction.

(3) The general assembly further finds and declares its intention that the administrative costs incurred by the department of education in its implementation of the accelerating students through concurrent enrollment program created in section 22-35-108 shall be supported by federal funds available for government services pursuant to section 14002 of Title XIV of the federal "American Recovery and Reinvestment Act of 2009", Public Law 111-5 of the one hundred eleventh United States Congress.

(4) Now, therefore, to broaden access to and improve the quality of concurrent enrollment programs, the general assembly concludes that it is appropriate and in the best interests of the state to support policies designed to improve coordination between institutions of secondary education and institutions of higher education and to ensure financial transparency and accountability.

**Source: L. 2009:** Entire article R&RE, (HB 09-1319), ch. 286, p. 1299, § 1, effective May 21.

**Editor's note:** This section is similar to former § 22-35-102 as it existed prior to 2009.

**22-35-103. Definitions.** As used in this article 35, unless the context otherwise requires:

(1) "Apprenticeship program" means a Colorado-based apprenticeship program that is registered with the United States department of labor, office of apprenticeship.

(1.5) "ASCENT program" means the accelerating students through concurrent enrollment program created in section 22-35-108.

(2) Repealed.

(3) "Board" means the concurrent enrollment advisory board created in section 22-35-107.

(4) "Board of cooperative services" or "BOCES" means a board of cooperative services created and operating pursuant to article 5 of this title that operates one or more public schools.

(5) "Commission" means the Colorado commission on higher education created pursuant to section 23-1-102, C.R.S.

(6) (a) "Concurrent enrollment" means the simultaneous enrollment of a qualified student in a local education provider and in one or more postsecondary courses, including academic or career and technical education courses, which may include course work related to apprenticeship programs or internship programs, at an institution of higher education pursuant to the provisions of this article 35, at no tuition cost to the qualified student or the qualified student's parent or legal guardian, except as provided in section 22-35-105 (4)(c). As provided in section 22-35-104 (5) and (6)(b)(II), upon successfully completing a concurrent enrollment postsecondary course, the qualified student must receive credit that applies to completion of high school graduation requirements and postsecondary credit that applies toward completion of

developmental education courses, applies toward earning a certificate or degree awarded through an approved postsecondary career and technical education program, is approved by the department of higher education for transfer from a two-year institution to a four-year institution in satisfaction of prerequisite courses for a specific major, is approved for statewide transfer pursuant to section 23-1-125, or is part of a statewide degree transfer agreement pursuant to section 23-1-108 (7)(a).

(b) "Concurrent enrollment" does not include a student's simultaneous enrollment in:

(I) A local education provider and in one or more secondary career and technical education courses, advanced placement courses, or international baccalaureate courses;

(II) An early college and a postsecondary course, which enrollment is not subject to the provisions of this article 35;

(III) A p-tech school, as defined in section 22-35.3-102, and a postsecondary course, which enrollment is subject to the provisions of article 35.3 of this title 22; or

(IV) A local education provider and a postsecondary course that does not meet the requirements specified in subsection (6)(a) of this section.

(7) "Cooperative agreement" means an agreement entered into by a local education provider and an institution of higher education pursuant to section 22-35-104 (6).

(8) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(8.5) "Developmental education course" has the same meaning as set forth in section 23-1-113 (11)(b).

(9) "District charter school" means a charter school authorized by a school district pursuant to part 1 of article 30.5 of this title that serves any of grades nine through twelve.

(10) (a) "Early college" means a secondary school that provides only a curriculum that requires each student to enroll in and complete secondary and postsecondary courses while enrolled in the four years of high school such that, upon successful completion of the curriculum, the student will have completed the requirements of a high school diploma and an associate's degree or other postsecondary credential or at least sixty credits toward the completion of a postsecondary credential. The curriculum must be designed to be completed within four years. "Early college" includes only the following:

(I) Dolores Huerta preparatory high school in Pueblo;

(II) Southwest early college charter high school in Denver;

(III) Front range early college in Denver;

(IV) Colorado Springs early colleges in Colorado Springs;

(V) Early college high school in Arvada;

(VI) A secondary school that satisfies the provisions of this subsection (10) and identifies itself as an "early college" on May 21, 2009; and

(VII) A secondary school that is designated, after May 21, 2009, as an early college by the state board of education.

(b) As soon as practicable after June 6, 2018, the state board shall review the secondary schools described in subsection (10)(a)(VI) of this section and the secondary schools designated as provided in subsection (10)(a)(VII) of this section and confirm whether each secondary school meets the curriculum requirements specified in subsection (10)(a) of this section, as amended on June 6, 2018. Effective July 1, 2018, a secondary school that the state board determines does not meet the curriculum requirements specified in subsection (10)(a) of this section is no longer

designated as an early college. In reviewing a school's designation, the state board shall not require the school to submit documentation beyond the minimum necessary to confirm that the school's curriculum meets the requirements specified in subsection (10)(a) of this section.

(11) "Institute charter school" means a charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title that serves any of grades nine through twelve.

(12) "Institution of higher education" means:

(a) A state university or college, community college, local district college, or area technical college described in title 23, C.R.S.;

(a.5) A postsecondary career and technical education program; or

(b) An educational institution operating in this state that:

(I) Does not receive state general fund moneys in support of its operating costs;

(II) Admits as regular students only persons having a high school diploma or the recognized equivalent of such a certificate;

(III) Is accredited by a regional accrediting agency or association;

(IV) Provides an educational program for which it awards a bachelor's degree or a graduate degree;

(V) Is authorized by the department of higher education to do business in Colorado pursuant to section 23-2-103.3, C.R.S.;

(VI) Maintains a physical campus or instructional facility in Colorado; and

(VII) Has been determined by the United States department of education to be eligible to administer federal financial aid programs pursuant to Title IV of the federal "Higher Education Act of 1965", as amended.

(13) "Local education provider" means a school district, a board of cooperative services, a district charter school, or an institute charter school.

(13.5) "Postsecondary career and technical education program" means a career and technical education program that offers postsecondary courses and is approved by the state board for community colleges and occupational education pursuant to section 23-8-103, C.R.S.

(14) "Postsecondary education" means all formal public education that requires as a prerequisite the acquisition of a high school diploma, its equivalent, or the achievement of a minimum score on a placement assessment that is administered by an institution of higher education, which minimum score is determined by the institution. "Postsecondary education" includes programs resulting in the acquisition of a certificate, an associate degree of applied sciences, an associate degree of general studies, an associate degree of arts, or an associate degree of science and all baccalaureate degree programs.

(15) "Qualified student" means a person who is less than twenty-one years of age and is enrolled in the ninth grade or a higher grade level in a local education provider.

(16) "State board" means the state board of education created pursuant to section 1 of article IX of the state constitution.

(17) "Student group" has the same meaning as provided in section 22-11-103.

**Source: L. 2009:** Entire article R&RE, (HB 09-1319), ch. 286, p. 1301, § 1, effective May 21; (6) and (12)(a) amended and (12)(a.5) and (13.5) added, (SB 09-285), ch. 425, pp. 2370, 2371, §§ 1, 2, effective June 4. **L. 2010:** (10)(f) amended, (HB 10-1422), ch. 419, p. 2077, § 44, effective August 11. **L. 2012:** (2) amended, (HB 12-1155), ch. 255, p. 1280, § 6, effective

August 8. **L. 2015:** (1) and (6)(a) amended and (1.5) added, (HB 15-1275), ch. 223, p. 814, § 1, effective May 22. **L. 2016:** (12)(a) amended, (HB 16-1082), ch. 58, p. 141, § 5, effective August 10. **L. 2018:** IP and (10) amended, (SB 18-225), ch. 397, p. 2360, § 1, effective June 6. **L. 2019:** (2) repealed and (8.5) added, (HB 19-1206), ch. 133, p. 602, § 11, effective April 25; (6) amended and (17) added, (SB 19-176), ch. 244, p. 2379, § 1, effective August 2. **L. 2020:** (1) amended, (HB 20-1402), ch. 216, p. 1049, § 39, effective June 30.

**Cross references:** (1) For the "Higher Education Act of 1965", see Pub.L. 89-329, codified at 20 U.S.C. sec. 1001 et seq.

(2) For the legislative declaration in HB 19-1206, see section 1 of chapter 133, Session Laws of Colorado 2019.

**22-35-104. Enrollment in an institution of higher education - cooperative agreement.** (1) (a) (I) Beginning in the 2020-21 school year and in each school year thereafter, each local education provider that enrolls students in grades nine through twelve shall provide qualified students the opportunity to concurrently enroll in postsecondary courses, including academic courses and career and technical education courses, which may include course work related to apprenticeship programs or internship programs, as provided in this article 35. The local education provider may determine the manner in which concurrent enrollment opportunities are provided.

(II) A qualified student enrolled in a high school of a school district who applies to and receives approval from the superintendent of the school district or the superintendent's designee, or a qualified student enrolled in a district charter school, an institute charter school, or a high school of a BOCES who applies to and receives approval from the chief administrator of the district charter school, an institute charter school, or a high school of a BOCES, pursuant to subsection (2) of this section may register with and concurrently enroll in an institution of higher education in accordance with the provisions of this article 35. A superintendent, the superintendent's designee, or the chief administrator of a school shall not unreasonably deny a qualified student approval to concurrently enroll in postsecondary courses pursuant to this article 35. A local education provider may expand its ability to provide access to concurrent enrollment opportunities as provided in section 23-1-109 (6).

(III) Except as described in subsections (1)(c) and (1)(d) of this section and sections 22-35-108 and 22-35-109, a local education provider shall not limit the number of postsecondary courses, including academic courses and career and technical education courses, which may include course work related to apprenticeship programs or internship programs, in which a qualified student may concurrently enroll during the ninth, tenth, eleventh, or twelfth grade, except to the degree that the local education provider is unable to provide access to the postsecondary courses due to technological capacity.

(b) (I) Each local education provider shall annually notify all students and parents or legal guardians of students enrolled in the local education provider of the opportunity for concurrent enrollment by qualified students in postsecondary courses, including academic courses and career and technical education courses, including course work related to apprenticeship programs and internship programs. The notice provided pursuant to this subsection (1)(b)(I) must include the local education provider's timelines affecting student eligibility for concurrent enrollment courses and a statement informing students that they may

significantly reduce their college expenses, increase the likelihood that they will complete college, and earn marketable workforce skills by taking concurrent enrollment courses. In providing notice of concurrent enrollment opportunities, a local education provider and an institution of higher education shall not refer to enrollment in a program or course as concurrent enrollment if the program or course does not meet the definition of concurrent enrollment or if the conditions of enrollment do not meet the requirements specified in this section.

(II) At least six weeks prior to the beginning of the enrollment period for postsecondary concurrent enrollment courses, the local education provider shall provide to each student and the parent or legal guardian of the student written notice, which notice may be sent electronically, of all postsecondary courses offered for concurrent enrollment at no tuition cost to the qualified student or the qualified student's parent or legal guardian at the local education provider's facility, options for enrolling in concurrent enrollment courses at no tuition cost to the qualified student or the qualified student's parent or legal guardian at an institution of higher education's facility, any anticipated cost to the qualified student for fees or books for those courses, and the number and transferability of course credits that a qualified student may earn by enrolling in the concurrent enrollment courses.

(III) At the time of enrollment, each local education provider shall notify the qualified student and the qualified student's parent or legal guardian of the number and transferability of the postsecondary credits the qualified student may earn by completing the concurrent enrollment course, including whether the credits apply toward completion of developmental education courses, whether the credits apply to one or more approved postsecondary career and technical education programs, whether the credits are approved by the department of higher education for transfer from a two-year institution to a four-year institution in satisfaction of prerequisite courses for a specific major, whether the credits are approved for statewide transfer pursuant to section 23-1-125, and whether the credits are part of a statewide degree transfer agreement pursuant to section 23-1-108 (7)(a).

(IV) The notice described in subsection (1)(b)(III) of this section must include information about other postsecondary courses available to the qualified student through concurrent enrollment at no cost to the qualified student that are credit-bearing and applicable toward earning a degree or certificate at the institution of higher education offering the course or at another institution of higher education if the course is approved for statewide transfer pursuant to section 23-1-125.

(V) The institution of higher education that offers a postsecondary course through concurrent enrollment shall inform the local education provider as to the number and transferability of the course credits and any anticipated costs for fees or books for the course.

(b.5) In addition to the notice requirements specified in subsection (1)(b) of this section, beginning in the 2021-22 school year, each local education provider shall collaborate with the community college system in providing concurrent enrollment information as described in section 23-60-202.7 (4) to the parents of students enrolled in grades six through eight.

(c) Notwithstanding the provisions of subsection (1)(a) of this section, beginning with the 2022-23 school year and for school years thereafter, a qualified student may concurrently enroll in a developmental education course only if the student is included within the enrolling institution's developmental education enrollment limitation specified in section 23-1-113.3 (1)(a)(I). A qualified student may enroll in gateway courses in English or mathematics, as

defined in section 23-1-113 (11)(b.5), with additional supports, if needed, through supplemental academic instruction, as defined in section 23-1-113 (11)(e).

(d) Notwithstanding the provisions of subsection (1)(a) of this section, if a qualified student is not a participant in the ASCENT program and has not satisfied the minimum requirements for graduation established by his or her local education provider by the end of his or her twelfth-grade year and is therefore retained by the local education provider for additional instruction, the qualified student shall not concurrently enroll in postsecondary courses, including academic or career and technical education courses, which may include course work related to apprenticeship programs or internship programs, that are worth more than a total of nine credit hours, including gateway courses, as defined in section 23-1-113 (11)(b.5), with additional supports through supplemental academic instruction, as defined in section 23-1-113 (11)(e). Furthermore, the qualified student shall not concurrently enroll in more than:

(I) Six credit hours of postsecondary courses, including academic courses and career and technical education courses, which may include course work related to apprenticeship programs or internship programs, in any academic semester if the student is registered as a full-time pupil in his or her local education provider; or

(II) Three credit hours of postsecondary courses, including academic courses and career and technical education courses, which may include course work related to apprenticeship programs or internship programs, in any academic semester if the student is registered as a part-time pupil in his or her local education provider.

(e) Except as described in paragraphs (c) and (d) of this subsection (1) and sections 22-35-108 and 22-35-109, the state board by rule shall not limit the number of postsecondary courses, including academic courses and career and technical education courses, which may include course work related to apprenticeship programs or internship programs, in which a qualified student may concurrently enroll during the ninth, tenth, eleventh, or twelfth grade.

(2) (a) (I) A qualified student enrolled in a high school of a school district who seeks to concurrently enroll in an institution of higher education shall apply to the superintendent of the student's school district, or the superintendent's designee, for approval of concurrent enrollment not later than sixty days before the end of the academic term that immediately precedes the intended term of concurrent enrollment; except that a superintendent or superintendent's designee may waive the time limitation at his or her discretion.

(II) A qualified student enrolled in a district charter school, an institute charter school, or a high school of a BOCES who seeks to concurrently enroll in an institution of higher education shall apply to the chief administrator of the district charter school, institute charter school, or high school of a BOCES for approval of concurrent enrollment no later than sixty days before the end of the academic term that immediately precedes the intended term of concurrent enrollment; except that the chief administrator may waive the time limitation at his or her discretion.

(III) In applying for concurrent enrollment approval, a qualified student shall use the standard application form created and made publicly available by his or her local education provider pursuant to paragraph (c) of this subsection (2).

(b) If a superintendent of a school district, the superintendent's designee, or a chief administrator of a district charter school, institute charter school, or high school of a BOCES receives a timely application from a qualified student pursuant to subsection (2)(a) of this section, the superintendent, superintendent's designee, or chief administrator of a district charter

school, institute charter school, or high school of a BOCES shall approve or disapprove the application and notify the student of the decision. In considering applications, the superintendent, designee, or chief administrator shall give priority consideration to qualified students who, by the time they would concurrently enroll, will have completed the high school graduation requirements and are applying for concurrent enrollment to begin earning credits toward a postsecondary degree or certificate.

(c) On or before July 1, 2011, and thereafter, each local education provider that has entered into a cooperative agreement shall create and make publicly available a standard concurrent enrollment application form for use by a qualified student pursuant to this subsection (2). In creating the application form, the local education provider shall refer to the guidelines established by rules promulgated by the state board pursuant to section 22-35-111 (1)(a). The application form shall require, at a minimum, a qualified student to specify the courses in which he or she seeks to concurrently enroll.

(3) A qualified student who seeks to concurrently enroll in an institution of higher education shall establish, in consultation with the administration of his or her local education provider, an academic plan of study that describes all of the courses that the student intends to complete to satisfy his or her remaining requirements for graduation from the local education provider. Prior to the qualified student's concurrent enrollment in the institution of higher education, the principal, a counselor, or a teacher advisor of the qualified student's local education provider shall approve the academic plan of study. In approving an academic plan of study, a principal, counselor, or teacher advisor shall apply the guidelines established by rules promulgated by the state board pursuant to section 22-35-111 (1)(b).

(4) (a) A qualified student who intends to concurrently enroll in a postsecondary course, including an academic course or a career and technical education course, at an institution of higher education shall satisfy the minimum prerequisites for the course prior to his or her enrollment in the course.

(b) If a qualified student who has applied for concurrent enrollment in a postsecondary course, including an academic course or a career and technical education course, has not satisfied the minimum prerequisites for the course, he or she may concurrently enroll in a gateway course, as defined in section 23-1-113 (11)(b.5), with additional supports through supplemental academic instruction, as defined in section 23-1-113 (11)(e).

(c) An institution of higher education that refuses to allow a qualified student to concurrently enroll in a course for which the student has not satisfied the minimum prerequisites may allow the student to concurrently enroll in another course for which the student appears to be prepared.

(5) A course, including course work related to an apprenticeship program or internship program, successfully completed by a qualified student through concurrent enrollment at an institution of higher education counts for credit toward the qualified student's high school graduation requirements at his or her local education provider.

(6) (a) A local education provider that seeks to allow students to concurrently enroll in postsecondary courses, including academic courses and career and technical education courses, which may include course work related to apprenticeship programs and internship programs, at an institution of higher education shall enter into a cooperative agreement with the institution of higher education.

(b) A cooperative agreement must include, but need not be limited to:

(I) The amount and transferability of academic credit to be granted for course work successfully completed by a qualified student concurrently enrolled in the institution of higher education;

(II) A requirement that course work completed by a qualified student through concurrent enrollment at the institution of higher education qualify as a gateway course, as defined in section 23-1-113 (11)(b.5), with academic instruction credit or academic credit that applies toward completion of developmental education courses, toward earning a certificate or degree awarded through an approved postsecondary career and technical education program, is approved by the department of higher education for transfer from a two-year institution to a four-year institution in satisfaction of prerequisite courses for a specific major, is approved for statewide transfer pursuant to section 23-1-125, or is part of a statewide degree transfer agreement pursuant to section 23-1-108 (7)(a);

(III) A requirement that the local education provider pay the tuition for each course completed by a qualified student through concurrent enrollment at the institution of higher education in an amount that shall be negotiated by the local education provider and the institution pursuant to the provisions of section 22-35-105 (3);

(IV) A requirement that the local education provider and the institution of higher education establish an academic program of study for each qualified student who concurrently enrolls in the institution, which academic program of study shall include the academic plan of study established pursuant to subsection (3) of this section and a plan by which the local education provider shall make available to the student ongoing counseling and career planning;

(IV.5) Provisions pursuant to which the local education provider and the institution of higher education may share student contact and academic information to facilitate the qualified student's concurrent enrollment and the recording of the qualified student's academic performance in the concurrent enrollment course;

(V) A confirmation by the local education provider of the qualified student's uniquely identifying student number, which shall be retained by the institution of higher education for the purposes described in section 23-18-202 (5)(c)(I)(B), C.R.S.;

(VI) Language authorizing the payment of stipends from the college opportunity fund program, part 2 of article 18 of title 23, C.R.S., on behalf of the qualified student; except that a cooperative agreement need not include this language if the institution of higher education that is a party to the cooperative agreement does not receive stipends from the college opportunity fund program;

(VII) Consideration and identification of ways in which qualified students who concurrently enroll in postsecondary courses, including academic courses or career and technical education courses, which may include course work related to apprenticeship programs and internship programs, can remain eligible for interscholastic high school activities; and

(VIII) Other financial provisions that the local education provider and the institution of higher education may elect to include in the agreement pursuant to the provisions of section 22-35-105 (5).

(c) An institution of higher education that enters into a cooperative agreement with a local education provider shall provide a copy of the cooperative agreement to the department of higher education, which shall retain the copy. If the cooperative agreement contemplates the provision of career and technical education courses, which may include course work related to apprenticeship programs or internship programs, to qualified students, the institution shall also

provide a copy of the cooperative agreement to the state board for community colleges and occupational education, which shall retain the copy.

(7) A postsecondary instructor shall not be required to hold a teacher's license or authorization issued pursuant to the provisions of article 60.5 of this title in order to instruct a qualified student who is concurrently enrolled in a course offered by an institution of higher education.

(8) (a) A district charter school may elect to allow a qualified student of the district charter school to concurrently enroll pursuant to the provisions of a cooperative agreement that is entered into by either:

(I) The school district of the district charter school and an institution of higher education; or

(II) The district charter school and an institution of higher education.

(b) If a district charter school elects to allow a qualified student of the district charter school to concurrently enroll pursuant to the provisions of a cooperative agreement that is entered into by the school district of the district charter school and an institution of higher education:

(I) The district charter school shall be responsible for paying the tuition for each course that is completed by the qualified student pursuant to the cooperative agreement; and

(II) The qualified student of the district charter school shall not concurrently enroll unless, not later than sixty days before the end of the academic term that immediately precedes the intended term of concurrent enrollment, he or she applies for approval of concurrent enrollment from the superintendent of the school district or his or her designee, and the superintendent or his or her designee grants such approval or waives this time limitation, as described in subsection (2) of this section.

(c) If a district charter school elects to allow a qualified student of the district charter school to concurrently enroll as described in subparagraph (I) or (II) of paragraph (a) of this subsection (8), nothing in this article shall be interpreted to entitle the district charter school to any moneys from the school district of the district charter school other than those moneys to which the district charter school is entitled pursuant to the provisions of this title.

(d) The authorizing school district of a district charter school shall not prohibit the district charter school from allowing qualified students of the district charter school to concurrently enroll, subject to the approval of the superintendent or his or her designee as provided in subsection (8)(b)(II) of this section, pursuant to the provisions of a cooperative agreement that is entered into by the school district and an institution of higher education.

(9) A student who concurrently enrolls at an institution of higher education pursuant to this article shall not be disqualified or otherwise rendered ineligible for any state-based financial assistance for which he or she would otherwise be eligible as an entering student at the institution.

(10) (a) Each public institution of higher education is strongly encouraged to allow the concurrent enrollment of qualified students pursuant to this article.

(b) Nothing in this article shall be interpreted to require an institution of higher education to allow the concurrent enrollment of qualified students pursuant to this article or to require an institution of higher education to enter into a cooperative agreement with a local education provider; except that an institution of higher education that elects to allow the concurrent enrollment of a qualified student pursuant to this article shall enter into a cooperative

agreement with the local education provider of the student as described in subsection (6) of this section.

(11) On or before January 1, 2010, the department shall explore strategies by which the state may provide opportunities for children who are participating in a home-based educational program pursuant to section 22-33-104.5 to participate in a concurrent enrollment program.

(12) On and after July 1, 2012, except as provided in section 22-35-110 (4), the concurrent enrollment of a student is prohibited except as permitted by the provisions of this article.

(13) Notwithstanding any other provision of this article, a qualified student shall not concurrently enroll in a course that is offered by a postsecondary career and technical education program, including a course that is related to an apprenticeship program or internship program, unless the course is included in a postsecondary degree or certificate program that is approved by the state board for community colleges and occupational education.

(14) If a qualified student concurrently enrolls in a course that is provided by a postsecondary career and technical education program, including a course that is related to an apprenticeship program or internship program, the instructor of the course must possess a current career and technical education teaching credential that has been authorized by the state board for community colleges and occupational education.

(15) A local education provider that offers courses for concurrent enrollment that are taught by employees of the local education provider may contract with another local education provider to allow qualified students enrolled by the contracting local education provider to participate in the concurrent enrollment courses.

**Source: L. 2009:** Entire article R&RE, (HB 09-1319), ch. 286, p. 1303, § 1, effective May 21; (1)(b), (1)(d), (1)(e), (4)(a), IP(4)(b), and (6) amended and (13) and (14) added, (SB 09-285), ch. 425, p. 2371, § 3, effective June 4. **L. 2012:** (2)(b) amended, (HB 12-1043), ch. 209, p. 899, § 3, effective August 8. **L. 2015:** (1)(b), (1)(d), (1)(e), (5), (6)(a), IP(6)(b), (6)(b)(VII), (6)(c), (13), and (14) amended, (HB 15-1275), ch. 223, p. 814, § 2, effective May 22. **L. 2016:** (1)(b) amended, (HB 16-1144), ch. 61, p. 161, § 1, effective March 31. **L. 2018:** (1)(b) amended, (HB 18-1005), ch. 54, p. 500, § 1, effective August 8. **L. 2019:** (1)(c), IP(1)(d), (2)(b), (4)(b), and (6)(b)(II) amended, (HB 19-1206), ch. 133, p. 602, § 12, effective April 25; (1)(a), (1)(b), (1)(c), (6)(b)(I), and (6)(b)(II) amended and (6)(b)(IV.5), (8)(d), and (15) added, (SB 19-176), ch. 244, pp. 2380, 2390, §§ 2, 12, effective August 2. **L. 2020:** (1)(b.5) added, (SB 20-095), ch. 180, p. 819, § 2, effective June 29.

**Editor's note:** (1) This section is similar to former § 22-35-104 as it existed prior to 2009.

(2) Amendments to subsection (6)(b)(II) by HB 19-1206 and SB 19-176 were harmonized.

**Cross references:** For the legislative declaration in HB 19-1206, see section 1 of chapter 133, Session Laws of Colorado 2019.

**22-35-105. Financial provisions - payment of tuition.** (1) A cooperative agreement shall include financial provisions that satisfy the requirements of this section.

(2) If a qualified student concurrently enrolls in a course offered by an institution of higher education, the institution shall be responsible for course content, placement of the student in the course, and the quality of instruction. In addition, because the qualified student is receiving academic credit at his or her local education provider for the course pursuant to section 22-35-104 (5):

(a) The qualified student shall be included in the funded pupil count of his or her school district or, in the case of a student enrolled in an institute charter school, of the school's accounting district, as determined pursuant to the provisions of section 22-54-103 (7); and

(b) The institution of higher education shall include the qualified student in determining the number of full-time equivalent students enrolled in the institution pursuant to the provisions of title 23, C.R.S.

(3) (a) A cooperative agreement shall establish the tuition rate at which the local education provider shall pay the institution of higher education for any courses in which a qualified student of the local education provider concurrently enrolls at the institution. The tuition rate shall not exceed:

(I) For a course offered by a public community college, a public local district college, or an area technical college, the student share of the tuition rate established for Colorado residents enrolled in the course, which tuition rate is established by the state board for community colleges and occupational education pursuant to section 23-60-202 (1)(c)(I), C.R.S.; except that, if the local education provider is located outside the boundaries of every community college service area, as assigned by the commission pursuant to section 23-60-207, C.R.S., the tuition rate shall not exceed the actual student share of the resident tuition rate of the nearest Colorado public institution of higher education.

(II) For a course offered by any other institution of higher education, the student share of the tuition rate established for Colorado residents enrolled in a general studies course at a community college, which tuition rate is established by the state board for community colleges and occupational education pursuant to section 23-60-202 (1)(c)(I), C.R.S.; except that, if the local education provider is located outside the boundaries of every community college service area, as assigned by the commission pursuant to section 23-60-207, C.R.S., the tuition rate shall not exceed the actual student share of the resident tuition rate of the nearest Colorado public institution of higher education.

(b) Repealed.

(4) (a) Before paying the tuition for a course in which a qualified student concurrently enrolls, the local education provider in which the qualified student is enrolled shall require the qualified student and his or her parent or legal guardian to sign a document requiring repayment of the amount of tuition paid by the local education provider for the course on the qualified student's behalf if the qualified student does not complete the course for any reason without the consent of the principal of the student's high school.

(b) If a qualified student concurrently enrolled in a course for whom a local education provider pays tuition does not complete the course for any reason without the consent of the principal of the high school in which the qualified student is enrolled, the qualified student or the qualified student's parent or legal guardian shall reimburse the local education provider, as provided in the document signed pursuant to paragraph (a) of this subsection (4), for the amount of tuition paid by the local education provider for the course.

(c) A local education provider may adopt a policy that requires a qualified student and his or her parent or legal guardian to sign a document prior to the student's concurrent enrollment in a course, which document commits the student or his or her parent or legal guardian to reimburse the local education provider for the tuition paid by the local education provider for the course in the event that the student receives a failing grade in the course.

(5) A local education provider and an institution of higher education may elect to include in their cooperative agreement other financial provisions that are not inconsistent with the provisions of this section.

**Source: L. 2009:** Entire article R&RE, (HB 09-1319), ch. 286, p. 1308, § 1, effective May 21; (2)(a) and (4) amended, (SB 09-285), ch. 425, p. 2373, § 4, effective June 4. **L. 2016:** (3)(a)(I) amended, (HB 16-1082), ch. 58, p. 141, § 6, effective August 10. **L. 2019:** (3)(b) repealed, (SB 19-176), ch. 244, p. 2383, § 3, effective August 2.

**Editor's note:** This section is similar to former § 22-35-105 as it existed prior to 2009.

**22-35-106. Transportation.** A local education provider of a qualified student who is concurrently enrolled at an institution of higher education shall not be required to provide or pay for transportation for the qualified student to or from the institution.

**Source: L. 2009:** Entire article R&RE, (HB 09-1319), ch. 286, p. 1309, § 1, effective May 21.

**Editor's note:** This section is similar to former § 22-35-106 as it existed prior to 2009.

**22-35-107. Concurrent enrollment advisory board - created - membership - duties - reports - repeal.** (1) There is hereby created within the department the concurrent enrollment advisory board. The board shall consist of members appointed as provided in this section and shall have the powers and duties specified in this section. The board shall exercise its powers and perform its duties and functions under the department, the commissioner of education, and the state board as if the same were transferred to the department by a **type 2** transfer as defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

(2) The board consists of the following members:

(a) Three representatives from the state system of elementary and secondary education appointed by the commissioner of education, including at least one member who represents a rural public school or school district and at least one member who represents a school district where a relatively low percentage of recent high school graduates have enrolled in institutions of higher education;

(b) Five representatives from the state systems of higher education appointed by the executive director of the department of higher education, including two members who represent the Colorado community college system, one member who represents a public, four-year institution of higher education, one member who represents a local district college, and one member who represents an area technical college;

(c) Five representatives appointed by the governor, including at least one member who has experience in postsecondary student counseling, student admissions, and financial aid; at

least one member who has experience in public budgeting and finance; a parent of a student enrolled in public school; and a student enrolled in high school;

(d) The director of accreditation and regional services within the department or his or her designee; and

(e) Two representatives of postsecondary career and technical education programs, one of whom is the director of career and technical education within the state system of community and technical colleges and one of whom represents the state system of elementary and secondary education and is appointed by the state board for community colleges and occupational education.

(3) Each appointing authority shall make its initial appointments no later than October 1, 2009. The governor shall make the initial appointment of a parent and student pursuant to subsection (2)(c) of this section no later than October 1, 2019. Each member of the board serves at the pleasure of the member's appointing authority for a term of three years. The appropriate appointing authority shall fill any vacancies arising during a member's term on the board.

(4) The commissioner of education shall call the first meeting of the board to be held no later than November 15, 2009. At its first meeting, and annually thereafter, the board shall select from among its members a person to serve as chair of the board. The board shall meet upon call of the chair as often as necessary to accomplish its duties as specified in this section.

(5) The board members shall serve without compensation and without reimbursement for expenses. Upon request of the board chair, the department, to the extent possible within existing resources, shall provide meeting space, equipment, and staff services as may be necessary for the board to carry out its duties under this section.

(6) The board shall have the following duties:

(a) Establishing guidelines for the administration of the ASCENT program pursuant to section 22-35-108 (4);

(b) Advising and assisting local education providers and institutions of higher education in preparing cooperative agreements;

(c) Making recommendations as necessary to the general assembly, the state board, and the commission concerning the improvement or updating of state policies relating to concurrent enrollment programs, including but not limited to recommendations of policies that will allow every local education provider in the state to have adequate resources to enter into at least one cooperative agreement and recommendations of a funding allocation model, to be approved by the state board on or before July 1, 2013, in the event that the number of qualified students identified by local education providers exceeds available appropriations pursuant to section 22-35-108 (2);

(d) On or before December 1, 2010, considering and making recommendations to the state board and the education committees of the house of representatives and senate, or any successor committees, regarding the feasibility of a waiver process whereby a qualified student could apply to the department for a waiver of certain provisions of section 22-35-108, which waiver would allow the student to be designated by the department as an ASCENT program participant in the second year following the year in which he or she was enrolled in the twelfth grade of a local education provider so long as he or she:

(I) Was so designated in the year directly following the year in which he or she was enrolled in the twelfth grade of a local education provider;

(II) Requires fifteen or fewer credit hours of postsecondary course work to achieve a postsecondary credential; and

(III) Is eligible for free or reduced-cost lunch pursuant to the federal "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq.;

(e) Submitting to the state board for its approval or disapproval recommendations made pursuant to paragraphs (c) and (d) of this subsection (6);

(f) Collaborating with persons from the department of education, the department of labor and employment, the community college system, the local district colleges, area technical colleges, and the Colorado work force development council created in section 24-46.3-101, C.R.S., to create a set of standard recommendations to advise and assist local education providers in creating cooperative agreements to include course work related to apprenticeship programs and internship programs as options within a local education provider's concurrent enrollment program. The board shall complete the standard recommendations and make them available to local education providers by January 1, 2016.

(7) On or before December 1, 2010, and on or before December 1 each year thereafter, the board shall prepare a report and submit it to the state board and the commission. The report, at a minimum, shall include:

(a) Any guidelines that the board has established pursuant to paragraph (a) of subsection (6) of this section; and

(b) Any recommendations that the board makes pursuant to paragraph (c) of subsection (6) of this section.

(8) (a) This section is repealed, effective September 1, 2024.

(b) Prior to said repeal, the board shall be reviewed as provided in section 2-3-1203.

**Source: L. 2009:** Entire article R&RE, (HB 09-1319), ch. 286, p. 1309, § 1, effective May 21; IP(2), (2)(c), and (2)(d) amended and (2)(e) added, (SB 09-285), ch. 425, p. 2374, § 5, effective June 4. **L. 2013:** (6)(c) amended and (6)(e) added, (HB 13-1219), ch. 104, p. 363, § 11, effective August 7. **L. 2015:** (6)(f) added, (HB 15-1275), ch. 223, p. 816, § 3, effective May 22. **L. 2016:** IP(2), (2)(b), and (6)(f) amended, (HB 16-1082), ch. 58, p. 141, § 7, effective August 10. **L. 2019:** (8) amended, (SB 19-189), ch. 418, p. 3670, § 1, effective June 3; IP(2), (2)(c), and (3) amended, (SB 19-176), ch. 244, p. 2388, § 7, effective August 2.

**22-35-108. Accelerating students through concurrent enrollment program - objectives - selection criteria - rules.** (1) (a) There is hereby established the accelerating students through concurrent enrollment program. Beginning in the 2010-11 school year, the department shall administer the ASCENT program pursuant to the provisions of this section and guidelines established by the board pursuant to subsection (4) of this section. The objectives of the ASCENT program are to:

(I) Increase the percentage of students who participate in postsecondary education, especially among low-income and traditionally underserved populations;

(II) Decrease the number of students who do not complete high school;

(III) Decrease the amount of time that is required for a student to complete a postsecondary degree or certificate;

(IV) Reduce state expenditures for public education; and

(V) Increase the number of educational pathways available to students.

(b) Notwithstanding any other provision of this article, a qualified student who is designated by the department to be an ASCENT program participant pursuant to subsection (2) of this section may concurrently enroll in postsecondary courses, including academic courses and career and technical education courses, in the year directly following the year in which he or she was enrolled in the twelfth grade of a local education provider.

(2) (a) Subject to available appropriations, the department may designate as an ASCENT program participant any qualified student who:

(I) Has completed or is on schedule to complete at least twelve credit hours of postsecondary course work prior to the completion of his or her twelfth-grade year;

(II) Is not in need of a developmental education course;

(III) Has been selected for participation in the ASCENT program by his or her high school principal or equivalent school administrator;

(IV) Has been accepted into a postsecondary degree program at an institution of higher education;

(V) Has satisfied any other selection criteria established by guidelines established by the board pursuant to subsection (4) of this section; and

(VI) Has not been designated an ASCENT program participant in any prior year.

(b) Repealed.

(c) (I) Repealed.

(II) The department, as part of its annual budget request to the general assembly, shall report the total number of potential ASCENT program participants for the following school year.

(III) Repealed.

(IV) The department shall not designate a greater number of ASCENT program participants for a school year than the number of participants that the general assembly approves for funding in the annual general appropriation act for the applicable budget year.

(3) (a) The local education provider of a qualified student who is designated by the department as an ASCENT program participant may include the student in the district's funded pupil count, or, in the case of a student enrolled in an institute charter school, in the school's accounting district, as provided in section 22-54-103 (7).

(b) A local education provider that receives extended high school funding, as described in section 22-54-104 (4.7), in a budget year for ASCENT program participants may expend the funding on behalf of ASCENT program participants who enroll in an institution of higher education during that budget year and on behalf of ASCENT program participants who, by May 1 of that budget year, are admitted to an institution of higher education to participate in the ASCENT program during the next budget year.

(c) The local education provider shall certify to the department by May 10 of each year the list of ASCENT program participants who are admitted to an institution of higher education to participate in the ASCENT program during the next budget year. At the end of the budget year in which the local education provider receives the extended high school funding for ASCENT program participants, the local education provider shall remit to the department any remaining amount of the funding that the local education provider is not using for an ASCENT program participant who is included on the certified list.

(4) The board shall establish guidelines for the administration of the ASCENT program, including but not limited to selection criteria that the department may use pursuant to

subparagraph (V) of paragraph (a) of subsection (2) of this section to designate qualified students as ASCENT program participants.

(5) For the purposes of part 5 of article 11 of this title 22 concerning school accountability reports, the department shall include ASCENT program participants in the reporting requirements, regardless of whether an ASCENT program participant has completed his or her graduation requirements.

(6) (a) Repealed.

(b) For purposes of applying the provisions of article 11 of this title 22 concerning school accountability and reporting graduation rates, a qualified student who is an ASCENT program participant shall be counted in the enrolling school district's or institute charter school's graduation rate in the school year in which the student completes the school district's or institute charter school's minimum high school graduation requirements. The state board of education shall promulgate rules for schools and school districts to follow in satisfying state and federal reporting requirements concerning the enrollment status of ASCENT program participants. To the extent practicable, the rules must ensure that schools and school districts are not adversely affected in calculating and reporting the completion of high school graduation requirements by qualified students who have been designated by the department as ASCENT program participants. The rules must include, at a minimum, reporting requirements relating to:

(I) The provisions of article 7 of this title 22 concerning educational accountability; and

(II) The provisions of article 11 of this title 22 concerning educational accreditation.

**Source: L. 2009:** Entire article R&RE, (HB 09-1319), ch. 286, p. 1311, § 1, effective May 21; IP(1)(a), (1)(a)(III), and (1)(b) amended, (SB 09-285), ch. 425, p. 2374, § 6, effective June 4. **L. 2013:** (2)(c)(III) amended, (SB 13-108), ch. 116, p. 399, § 3, effective April 8; IP(2)(a) and (2)(c)(II) amended, (2)(c)(I) and (2)(c)(III) repealed, and (2)(c)(IV) added, (HB 13-1219), ch. 104, p. 363, § 12, effective August 7. **L. 2015:** (3) amended, (SB 15-138), ch. 188, p. 624, § 1, effective May 13; (3) amended, (HB 15-1270), ch. 195, p. 659, § 7, effective August 5. **L. 2017:** (5) and (6)(b) amended and (6)(a) repealed, (HB 17-1294), ch. 327, p. 1754, § 1, effective June 5. **L. 2019:** (2)(a)(II) amended, (HB 19-1206), ch. 133, p. 603, § 13, effective April 25.

**Editor's note:** Subsection (2)(b)(II) provided for the repeal of subsection (2)(b), effective July 1, 2012. (See L. 2009, p. 1311.)

**Cross references:** For the legislative declaration in the 2013 act amending subsection (2)(c)(III), see section 1 of chapter 116, Session Laws of Colorado 2013. For the legislative declaration in HB 19-1206, see section 1 of chapter 133, Session Laws of Colorado 2019.

**22-35-109. Institution of higher education - enrollment - limitations.** (1) An institution of higher education to which a qualified student applies for concurrent enrollment may allow the student to enroll in courses offered by the institution. An institution of higher education may limit the number of qualified students that the institution allows to enroll.

(2) If an institution of higher education refuses to allow a qualified student to concurrently enroll, the institution shall provide a written explanation of its refusal to the student and the student's local education provider.

**Source: L. 2009:** Entire article R&RE, (HB 09-1319), ch. 286, p. 1314, § 1, effective May 21.

**Editor's note:** This section is similar to former § 22-35-107 as it existed prior to 2009.

**22-35-109.5. Community colleges - dropout recovery programs - definitions.** (1) As used in this section, unless the context otherwise requires:

(a) "Community college" means an institution that operates as part of the state system of community and technical colleges established in part 2 of article 60 of title 23, C.R.S., or a local district college, as defined in section 23-71-102, C.R.S., that operates pursuant to article 71 of title 23, C.R.S.

(b) "Dropout recovery program" means a dual-credit high school diploma completion program operated by a community college pursuant to an agreement with a local education provider for students who have dropped out or are at risk of dropping out of high school.

(2) (a) A community college may enter into agreements with one or more local education providers to operate dropout recovery programs for students who have dropped out or are at risk of dropping out of high school. To participate in a dropout recovery program, a student shall be at least sixteen years of age but younger than twenty-one years of age. If the student is at risk of dropping out of high school, the student shall obtain permission from the chief executive officer of the school in which the student is enrolled before the student may participate in the dropout recovery program. A student who enrolls in a dropout recovery program is included in the pupil enrollment of the local education provider that is a partner in the program, but does not attend classes at a school operated by the local education provider. The student attends classes either in person or virtually only at the community college at which the student enrolls pursuant to the dropout recovery program. A student may participate in a dropout recovery program until he or she completes the high school graduation requirements or reaches twenty-one years of age, whichever comes first.

(b) Notwithstanding any provision of this article 35 or of article 54 of this title 22 or any rules adopted for the implementation of article 54 to the contrary:

(I) Repealed.

(II) A student enrolled in a dropout recovery program pursuant to this section is not restricted in the number of credit hours per semester or in the overall number of credit hours for which the student may enroll through the dropout recovery program, unless limited by the enrolling institution;

(III) After a student enrolls in a dropout recovery program, the local education provider that is a partner in the program may include the student in its pupil enrollment as a full-time student, regardless of whether the student is actually in class for the minimum number of required hours for full-time enrollment, so long as the student enrolls in at least seven credit hours per semester; and

(IV) A student enrolled in a dropout recovery program pursuant to this section may enroll in courses at the community college that qualify for credit toward completion of the local education provider's requirements for high school graduation, even if the courses do not qualify for academic credit applicable toward earning a degree or certificate at the community college.

(3) The agreement between a community college and a local education provider to operate a dropout recovery program pursuant to this section shall specify, at a minimum, that:

(a) All of the courses the student is allowed to take through the dropout recovery program qualify for credit toward completion of the local education provider's requirements for high school graduation;

(b) The local education provider shall provide to the community college the uniquely identifying student number for each student enrolled in the dropout recovery program;

(c) The local education provider shall confirm that each student enrolled in the dropout recovery program has dropped out of enrollment with a local education provider or, if the student is at risk of dropping out of high school, has the permission of the chief executive officer of the school in which the student is enrolled to enroll in the dropout recovery program;

(d) The local education provider shall include each student enrolled in the dropout recovery program as a full-time pupil in the local education provider's pupil enrollment so long as the student is enrolled in the dropout recovery program; and

(e) The local education provider shall pay the student share of the tuition for each course in which a student enrolls through the dropout recovery program in an amount negotiated by the local education provider and the community college. The local education provider and the community college may agree to additional financial provisions that are not inconsistent with the provisions of section 22-35-105.

**Source: L. 2012:** Entire section added, (HB 12-1146), ch. 184, p. 697, § 1, effective May 17. **L. 2013:** (3)(e) amended, (SB 13-031), ch. 26, p. 65, § 1, effective March 15. **L. 2019:** IP(2)(b) and (2)(b)(IV) amended and (2)(b)(I) repealed, (HB 19-1206), ch. 133, p. 603, § 14, effective April 25.

**Cross references:** For the legislative declaration in HB 19-1206, see section 1 of chapter 133, Session Laws of Colorado 2019.

**22-35-110. Exclusions.** (1) The provisions of this article 35 shall not apply to any course that is offered as part of a program of off-campus instruction established pursuant to section 23-1-109 (1) to (5).

(2) Nothing in this article shall be construed to restrict the ability of an institution of higher education to independently offer courses for college credit outside of the regular school day using school district facilities.

(3) Repealed.

(4) The provisions of this article shall not apply to an early college.

**Source: L. 2009:** Entire article R&RE, (HB 09-1319), ch. 286, p. 1314, § 1, effective May 21. **L. 2019:** (1) amended, (SB 19-176), ch. 244, p. 2383, § 4, effective August 2.

**Editor's note:** Subsection (3)(b) provided for the repeal of subsection (3), effective June 30, 2012. (See L. 2009, p. 1314.)

**22-35-111. Rules.** (1) On or before July 1, 2010, the state board shall promulgate rules pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., for the administration of this article. The rules, at a minimum, shall establish:

(a) Guidelines for local education providers to use in creating standard concurrent enrollment application forms, as described in section 22-35-104 (2)(c); and

(b) Guidelines for principals, counselors, and teacher advisors to use in approving or disapproving academic plans of study, as described in section 22-35-104 (3).

(2) By July 1, 2020, the state board shall adopt rules to specify the number of postsecondary credits in which a qualified student must be concurrently enrolled to qualify for full-time membership for purposes of the "Public School Finance Act of 1994", article 54 of this title 22.

**Source: L. 2009:** Entire article R&RE, (HB 09-1319), ch. 286, p. 1314, § 1, effective May 21. **L. 2019:** (2) added, (SB 19-176), ch. 244, p. 2383, § 5, effective August 2.

**Editor's note:** This section is similar to former § 22-35-111 as it existed prior to 2009.

**22-35-112. Reports.** (1) (a) Upon request by the department, a local education provider shall submit to the department any data that the department reasonably requires for the purpose of preparing and submitting the reports described in subsection (2) of this section. In submitting data to the department, each local education provider shall use whenever possible the state data reporting system described in section 22-11-501. The department shall seek to minimize and eliminate the duplication of data reporting required under this paragraph (a). The department in particular shall note the data collection and reporting already required and conducted by the department, public schools, and local education providers.

(b) Upon request by the department of higher education, an institution of higher education shall submit to the department of higher education any data that the department of higher education reasonably requires for the purpose of preparing and submitting the reports described in subsection (2) of this section.

(2) On or before February 1, 2011, and on or before February 1 each year thereafter through 2016, and on or before April 1, 2017, and on or before April 1 each year thereafter, the department and the department of higher education shall collaborate to prepare and submit to the education committees of the senate and house of representatives, or any successor committees, a report concerning the concurrent enrollment of qualified students in postsecondary courses, including academic courses and career and technical education courses, and courses related to apprenticeship programs and internship programs. The report must include, but need not be limited to:

(a) The number and names of local education providers and institutions of higher education that have entered into cooperative agreements, including cooperative agreements concerning course work related to apprenticeship programs and internship programs;

(b) The number of qualified students who participated in a concurrent enrollment program in the previous school year, including subtotals for each local education provider and each institution of higher education;

(c) Demographic information about qualified students who participated in a concurrent enrollment program in the previous school year;

(d) The total number of credit hours completed at each institution of higher education by qualified students who participated in a concurrent enrollment program in the previous school year;

(e) The total number of developmental education courses completed at each institution of higher education in the previous school year by qualified students participating in a concurrent enrollment program;

(f) The total tuition costs paid by local education providers to institutions of higher education in the previous school year on behalf of qualified students who participated in concurrent enrollment programs in the previous school year, including subtotals for each local education provider and each institution of higher education;

(g) The total number of qualified students designated by the department as ASCENT program participants in the previous school year;

(h) The postsecondary degree and certificate programs in which ASCENT program participants were concurrently enrolled in the previous school year, including subtotals indicating how many ASCENT program participants concurrently enrolled in each postsecondary degree and certificate program;

(i) Data indicating the total number and percentages of qualified students who failed to complete at least one course in which they concurrently enrolled; and

(j) To the extent possible, data indicating the total number and percentage of qualified students who concurrently enrolled in college courses who have completed a postsecondary degree.

(k) Repealed.

(3) The reports described in subsection (2) of this section may include quantitative and qualitative analyses concerning student and administrator attitudes and behaviors, program costs and productivity, academic and administrative policies, program availability and variety, or any objectives of the ASCENT program described in section 22-35-108 (1), which studies may be prepared by a party other than the department or the department of higher education.

**Source: L. 2009:** Entire article R&RE, (HB 09-1319), ch. 286, p. 1315, § 1, effective May 21; IP(2), (2)(a), (2)(b), (2)(h), (2)(i), and (2)(k)(I) amended, (SB 09-285), ch. 425, p. 2375, § 7, effective June 4. **L. 2011:** (1)(a) amended, (HB 11-1303), ch. 264, p. 1162, § 49, effective August 10. **L. 2015:** IP(2) and (2)(a) amended, (HB 15-1275), ch. 223, p. 816, § 4, effective May 22. **L. 2016:** IP(2) amended, (HB 16-1375), ch. 225, p. 859, § 1, effective August 10. **L. 2019:** (2)(e) amended, (HB 19-1206), ch. 133, p. 604, § 15, effective April 25.

**Editor's note:** Subsection (2)(k)(II) provided for the repeal of subsection (2)(k), effective February 2, 2011. (See L. 2009, p. 1315.)

**Cross references:** For the legislative declaration in HB 19-1206, see section 1 of chapter 133, Session Laws of Colorado 2019.

**22-35-113. Concurrent enrollment - website.** (1) By July 1, 2020, the department of education and the department of higher education, with advice from the state board, shall make available to the public a concurrent enrollment website to provide information to students, parents, and legal guardians concerning concurrent enrollment options and requirements. The departments must ensure that the website is clear, easy to navigate, and generally user-friendly. In addition, the website must at a minimum:

(a) Clearly explain, differentiate, compare, and contrast concurrent enrollment; dual enrollment programs; early college; the ASCENT program; p-tech high schools, as defined in section 22-35.3-102; international baccalaureate programs; and advanced placement courses;

(b) Explain and differentiate the challenges, benefits, and costs of participating in the programs listed in subsection (1)(a) of this section;

(c) Provide information concerning concurrent enrollment in course work related to apprenticeship programs or internship programs, including the postsecondary credit available for completing the course work;

(d) Provide information concerning the eligibility requirements and the general procedure to apply to participate in concurrent enrollment and, where available, links to information on local education provider websites concerning participation in concurrent enrollment;

(e) Provide information concerning concurrently enrolling in postsecondary courses as online or blended learning courses, including the postsecondary courses available through the statewide supplemental online and blended learning program described in section 22-5-119;

(f) Provide information concerning the payment of the costs of concurrent enrollment, including tuition, which is not chargeable to the student or the student's parent or legal guardian except as provided in section 22-35-105 (4)(c), fees and books, which may be chargeable to the student or the student's parent or legal guardian, and transportation;

(g) Explain the transferability of postsecondary credits earned through concurrent enrollment, including any limits on transferring the credits;

(h) Provide information concerning the costs of enrolling in postsecondary education, including career and technical education courses and certificate programs, following high school graduation;

(i) Provide a link to information provided by the Colorado workforce development council concerning apprenticeship programs, internship programs, and the annual Colorado talent report produced pursuant to section 24-46.3-103; and

(j) Provide a link to information concerning average wages for graduates from different programs at different institutions of higher education.

**Source: L. 2019:** Entire section added, (SB 19-176), ch. 244, p. 2383, § 6, effective August 2.

**22-35-114. Concurrent enrollment expansion and innovation grant program - created - report - rules.** (1) There is created in the department the concurrent enrollment expansion and innovation grant program to provide grants, subject to available appropriations, to partnering local education providers and institutions of higher education, referred to in this section as a "partnership", that seek to begin offering, or to expand their capacity to offer, concurrent enrollment opportunities to qualified students. A single partnership may include multiple local education providers and multiple institutions of higher education. A partnership that seeks a grant must submit an application to the department in accordance with rules of the state board. The application must include:

(a) The number of qualified students, in total and disaggregated by student group, participating in concurrent enrollment in each of the preceding five school years, including the types of postsecondary courses in which qualified students enrolled, including academic and

career and technical education courses, which may have included course work related to apprenticeship programs and internship programs; the number of postsecondary credits earned; and whether the postsecondary credits were generally transferable to institutions of higher education throughout the state;

(b) The number of qualified students, in total and disaggregated by student group, who applied for concurrent enrollment in each of the preceding five school years but were denied and the reasons for the denials;

(c) The financial terms of the cooperative agreement between the members of the partnership;

(d) The manner in which the local education provider and the partnering institution of higher education publicize the availability of concurrent enrollment to its students and the amount of counseling provided to students and their parents or legal guardians concerning the costs and benefits of concurrent enrollment and the transferability of credits obtained through concurrent enrollment;

(e) A description of the manner in which the partnership plans to use the grant money to expand the number of qualified students concurrently enrolled in postsecondary courses, which may include:

(I) Assisting one or more teachers with the cost of obtaining a graduate degree in a specific subject so that the teacher may be certified to teach a postsecondary course at a high school;

(II) Removing barriers to concurrent enrollment for qualified students, which may include paying the costs of books, supplies, fees, or transportation;

(III) Sharing data between the members of the partnership, which may include purchasing technology software and equipment to assist in the student enrollment process; and

(IV) Providing services, support, and coordination resources for concurrent enrollment for either or both members of the partnership; and

(f) Any additional information required by rule of the state board, including information that demonstrates the applicant's need for financial support for concurrent enrollment and the likelihood that the applicant's use of the grant will increase the participation of low-income or first-generation qualified students in concurrent enrollment.

(2) The department of education in coordination with the department of higher education shall review each grant application received and recommend to the state board applicants that may receive grants and the recommended amount of each grant. Beginning in the 2019-20 school year, subject to available appropriations, the state board, taking into consideration the recommendations of the department of education and the department of higher education, shall award grants to applying partnerships pursuant to this section. In making recommendations and awarding grants, the departments and the state board shall award grants to partnerships that:

(a) Do not provide concurrent enrollment or concurrently enroll few qualified students at the time of application;

(b) Demonstrate the greatest degree of need for financial support to expand concurrent enrollment, including needs that may arise as a result of a higher-than-anticipated participation rate;

(c) Demonstrate the most effective use of the grant money to provide the greatest expansion of concurrent enrollment, which may include expanding by using technological strategies or partnering with the statewide supplemental online and blended learning program

described in section 22-5-119 and must include expanding the participation of low-income or first-generation qualified students in concurrent enrollment;

(d) Have demonstrated success in providing concurrent enrollment to a large percentage of the qualified students enrolled by the local education providers and are seeking to implement innovations to expand the number of qualified students concurrently enrolled; or

(e) Have a plan in place to ensure that course work related to apprenticeship programs and internship programs is eligible to receive transferable postsecondary course credits.

(3) (a) Each partnership that receives a grant pursuant to this section shall report to the department of education and the department of higher education the manner in which it uses the grant money and any other information requested by either the department of education or the department of higher education to prepare the report required in subsection (3)(b) of this section.

(b) On or before February 1, 2021, and on or before February 1 each year thereafter, the department of education in coordination with the department of higher education shall prepare a report concerning implementation of the concurrent enrollment expansion and innovation grant program. At a minimum, the report must include:

(I) The grant recipients and the amount of the grant awarded to each recipient;

(II) The manner in which each grant recipient used the grant money received;

(III) The number and demographics of the qualified students concurrently enrolled in postsecondary courses in the school years before and after the grant recipient received the grant;

(IV) The number of teachers who received a credential using assistance received from a grant;

(V) The types of postsecondary courses, including career and technical education courses and any course work related to apprenticeship programs and internship programs, in which qualified students enrolled in the school years before and after the grant recipient received the grant;

(VI) The number and transferability of the postsecondary credits earned through concurrent enrollment in the school years before and after the grant recipient received the grant;

(VII) The high school graduation rate of each local education provider that participates in the grant program, in total and disaggregated by student group;

(VIII) The number of students who participated in concurrent enrollment who completed an associate degree or a certificate from an approved career and technical education program, in total and disaggregated by student group; and

(IX) The number of qualified students who participated in concurrent enrollment and matriculated to a two-year or four-year institution, in total and disaggregated by student group.

(c) The department shall submit the report to the state board, the department of higher education, the commission, and the education committees of the house of representatives and the senate, or any successor committees. The department shall also post the report on the concurrent enrollment website created pursuant to section 22-35-113.

(d) Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the report required in this subsection (3) continues indefinitely.

(4) (a) The general assembly may annually appropriate money to the department for grants as provided in this section, including money from the marijuana tax cash fund created in section 39-28.8-501 and money from the state education fund created in section 17 of article IX of the state constitution.

(b) The general assembly declares that, for purposes of section 17 of article IX of the state constitution, expansion of concurrent enrollment is an important element in implementing accountable education reform and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

(c) Notwithstanding any provision of this section to the contrary, in a budget year in which the general assembly does not appropriate money for grants pursuant to this section, the department and the state board are not required to implement the provisions of this section.

**Source: L. 2019:** Entire section added, (SB 19-176), ch. 244, p. 2384, § 6, effective August 2.

## ARTICLE 35.3

Pathways in Technology
Early College High Schools

**22-35.3-101. Legislative declaration.** (1) The general assembly finds that:

(a) The pathways in technology early college high school model (p-tech) allows students to graduate from high school with a high school diploma and an industry-recognized associate degree. Students in a p-tech school may also earn pre-apprenticeship certificates and other industry-recognized certificates in addition to an associate degree.

(b) The success of p-tech schools depends upon close collaboration between a local education provider, a community college, and one or more local high-growth industry employers;

(c) The p-tech school model has been recently established in other states, including New York, Connecticut, and Illinois, and is showing promise; and

(d) Graduating more high school students with career-ready skills to meet Colorado's workforce needs is part of the state's education and economic development goals.

(2) The general assembly therefore declares that establishing a limited number of p-tech schools in the state will benefit students and industry in Colorado.

**Source: L. 2015:** Entire article added, (HB 15-1270), ch. 195, p. 651, § 1, effective August 5.

**22-35.3-102. Definitions.** As used in this article 35.3, unless the context otherwise requires:

(1) "Accounting district" has the same meaning as provided in section 22-54-103 (1.3).

(2) "Certified center of learning" means an employer that enters into an agreement with a p-tech school and undergoes a third-party certification process proving that they are qualified to assist the local education provider in creating and providing workplace education experiences and training, which experiences and training may include but need not be limited to job shadowing, mentoring, internships, and apprenticeships.

(3) "Commissioner" means the office of the commissioner of education created and existing pursuant to section 1 of article IX of the state constitution.

(4) "Community college" means a community college governed by the state board for community colleges and occupational education or a state-supported institution of higher education or local district college that is authorized to grant associate degrees.

(5) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(6) "District extended high school pupil enrollment" has the same meaning as provided in section 22-54-103 (5.2).

(7) "Executive director" means the office of the executive director of the department of higher education created and existing pursuant to section 24-1-114, C.R.S.

(8) "Funded pupil count" has the same meaning as provided in section 22-54-103 (7).

(8.5) "Host school" means a school of a local education provider.

(9) "Local education provider" means a school district, a board of cooperative services that operates a high school, the state charter school institute established in section 22-30.5-503, or a charter school authorized pursuant to part 1 or part 5 of article 30.5 of this title.

(10) "P-tech school" means a pathways in technology early college high school or program within a host school that is approved pursuant to this article 35.3.

(11) "Pupil enrollment" has the same meaning as provided in section 22-54-103 (10).

**Source: L. 2015:** Entire article added, (HB 15-1270), ch. 195, p. 652, § 1, effective August 5. **L. 2017:** IP and (10) amended and (8.5) added, (HB 17-1194), ch. 129, p. 440, § 2, effective August 9.

**Cross references:** For the legislative declaration in HB 17-1194, see section 1 of chapter 129, Session Laws of Colorado 2017.

**22-35.3-103. Pathways in technology early college high schools - design - requirements - approval.** (1) A pathways in technology early college high school, or p-tech school, is a public school that includes grades nine through fourteen and is designed to prepare students for high-potential careers in industry by enabling them to graduate with a high school diploma and an industry-recognized associate degree. Students in a p-tech school may also earn pre-apprenticeship certificates and other industry-recognized certificates in addition to an associate degree. A p-tech school is operated as a collaborative effort by a local education provider, a community college, and one or more local high-growth industry employers. Throughout grades nine through fourteen, a p-tech school integrates high school and college courses and certificate programs that are informed by current and projected industry standards and focused on science, technology, engineering, and mathematics with mentoring, job shadowing, internships, pre-apprenticeship training, and other workplace education experiences.

(2) A p-tech school to be operated by a local education provider must be jointly approved by the commissioner of education and the executive director of the department of higher education. The commissioner and the executive director shall jointly establish time lines and procedures by which a local education provider may apply to operate a p-tech school and shall develop a model p-tech agreement template that may be used by an applicant. The application must include:

(a) The agreement that the local education provider, a community college, and one or more employers enter into to operate the p-tech school, which must address:

(I) The responsibilities of the local education provider and the community college to provide, at a minimum, course work, counseling, and student support services, as well as provisions relating to instructor qualifications;

(II) The responsibilities of the employer to provide workplace education and experiences and to consult with the local education provider on course design, as requested, whether the employer is a certified center of learning, with preference given to such employers, and any funding that the employer may provide for the p-tech school program;

(III) The procedure for communication and shared decision-making by the local education provider, community college, and employer regarding school operations; and

(IV) The allocation of support, including but not limited to funding, internships, mentorships, potential job opportunities, and other related resources, between the local education provider, the employer, and the community college;

(b) The operational model for the p-tech school, including but not limited to curricula, instructional practices, faculty roles, student support structures, class schedules, experiential learning opportunities, and the associate degrees that students may attain through the p-tech school;

(c) The estimated number of students that the p-tech school will enroll when operating at full capacity and the plan for selecting students to enroll in the p-tech school, which must be designed in a way that encourages the enrollment of a student body that is socioeconomically and racially diverse and that includes first-generation college students, English language learners, and students with disabilities;

(d) If the applying local education provider is a charter school, written confirmation that the charter school's authorizer agrees to amend the charter contract to allow the charter school to operate as a p-tech school; and

(e) Any additional information that the commissioner and the executive director may require.

(3) The commissioner and the executive director shall review each application received and jointly approve local education providers to operate a limited number of p-tech schools within the state. The commissioner and the executive director shall base their selections on the quality of the proposed design of the p-tech school and the degree to which the agreement of the local education provider, community college, and employer is collaborative and requires full participation by each party. Once an application is approved, the local education provider shall have up to one full academic year to implement the p-tech program. It is the intent of the general assembly that one or more p-tech schools begin operating by the 2016-17 school year.

(4) A p-tech school is subject to the state assessment requirements specified in section 22-7-1006.3 and the accountability requirements specified in article 11 of this title. In addition, the commissioner and the executive director may establish indicators for measuring the performance of each p-tech school, which indicators may include the ability of students who graduate from a p-tech school to obtain employment in the field or to pursue additional postsecondary education in the field, as well as any relevant performance indicators established for the concurrent enrollment and ASCENT programs.

(5) A p-tech school may have different high school graduation requirements from those of the local education provider or the host school. However, for purposes of applying the provisions of article 11 of this title 22 concerning school accountability and reporting graduation rates, a p-tech student will be counted in the local education provider's or host school's

graduation rate in the year in which the student completes the local education provider's or host school's minimum graduation requirements. Nothing in this subsection (5) affects provisions relating to the funding of p-tech students pursuant to section 22-35.3-104.

**Source: L. 2015:** Entire article added, (HB 15-1270), ch. 195, p. 653, § 1, effective August 5. **L. 2016:** (4) amended, (SB 16-189), ch. 210, p. 763, § 38, effective June 6. **L. 2017:** (5) added, (HB 17-1194), ch. 129, p. 440, § 3, effective August 9.

**Cross references:** For the legislative declaration in HB 17-1194, see section 1 of chapter 129, Session Laws of Colorado 2017.

**22-35.3-104. P-tech schools - funding.** (1) (a) To calculate district total program, pursuant to section 22-54-104, a school district that is approved to operate a p-tech school pursuant to section 22-35.3-103, including a p-tech school that is a district charter school, may include the students who are enrolled in grades nine through twelve in the p-tech school in the school district's pupil enrollment, as defined in section 22-54-103 (10), and may include the students who are enrolled in grades thirteen and fourteen in the p-tech school in the school district's district extended high school pupil enrollment.

(b) If an institute charter school is approved to operate a p-tech school pursuant to section 22-35.3-103, the department shall include the students who are enrolled in grades nine through twelve in the p-tech school in the funded pupil count of the institute charter school's accounting district and shall include the students who are enrolled in grades thirteen and fourteen in the p-tech school in the district extended high school pupil enrollment of the institute charter school's accounting district.

(c) A p-tech school, or the host school for a p-tech program, shall notify the department prior to a p-tech student's twelfth-grade year if the student will continue to be enrolled in the p-tech school for grades thirteen or fourteen.

(2) A student who is enrolled in a p-tech school that is approved pursuant to section 22-35.3-103 and who is simultaneously enrolled in one or more postsecondary courses, including academic or career and technical education courses, at a community college as part of the p-tech program, is eligible to receive a stipend from the college opportunity fund pursuant to part 2 of article 18 of title 23, C.R.S., so long as the institution the student attends participates in the college opportunity fund program pursuant to section 23-18-202, C.R.S. The stipend is payable to the community college that is a partner in the approved p-tech school.

**Source: L. 2015:** Entire article added, (HB 15-1270), ch. 195, p. 654, § 1, effective August 5. **L. 2017:** (1)(c) added, (HB 17-1194), ch. 129, p. 440, § 4, effective August 9.

**Cross references:** For the legislative declaration in HB 17-1194, see section 1 of chapter 129, Session Laws of Colorado 2017.

**22-35.3-105. Notice to revisor - repeal of article.** (1) The commissioner of education shall notify the revisor of statutes in writing if the commissioner of education and the executive director of the department of higher education have jointly approved a local education provider's application for a p-tech school by January 1, 2017.

(2) This article is repealed, effective July 1, 2017, if the revisor of statutes does not receive a notice from the commissioner of education pursuant to subsection (1) of this section.

**Source: L. 2015:** Entire article added, (HB 15-1270), ch. 195, p. 655, § 1, effective August 5.

**Editor's note:** On November 29, 2016, the revisor of statutes received the notice referred to in subsection (2), resulting in the repeal not taking effect.

## ARTICLE 35.5

Fast College Fast Jobs Act

**22-35.5-101 to 22-35.5-108. (Repealed)**

**Source: L. 2009:** Entire article repealed, (HB 09-1319), ch. 286, p. 1322, § 13, effective May 21.

**Editor's note:** This article was added in 2007 and was not amended prior to its repeal in 2009. For the text of this article prior to 2009, consult the 2008 Colorado Revised Statutes.

## ARTICLE 35.6

High School Innovative Learning Pilot Program

**22-35.6-101. Legislative declaration.** The general assembly finds that it is important that high school students have opportunities to enrich their education by participating in innovative learning opportunities that occur outside the classroom, such as working in apprenticeships or residency programs, enrolling in postsecondary courses taught on college campuses, completing capstone projects, and engaging in competency-based learning projects. These opportunities assist students in developing essential skills in the areas of personal skills, entrepreneurial skills, civic and interpersonal skills, and professional skills identified by the department of education and in attaining competencies beyond the high school curricula that support the students in successful transitions from high school into postsecondary education or directly into the workforce. The general assembly further finds, however, that the pupil enrollment count for purposes of school finance is based on seat-time requirements; full-time enrollment and full per pupil funding are based on demonstrating a minimum number of teacher-pupil instruction and contact hours. The challenges of accurately tracking students' time inside and outside of the classroom lead many local education providers to avoid the risk of offering these types of innovative learning opportunities. The general assembly finds, therefore, that it is in the best interests of the state and the high school students in the state to encourage greater participation in innovative learning opportunities by allowing selected local education providers to count the students who are enrolled in high school and are participating in innovative learning opportunities as full-time pupils, regardless of the actual amount of time the students may spend in the classroom.

**Source: L. 2019:** Entire article added, (SB 19-216), ch. 150, p. 1776, § 1, effective May 10.

**22-35.6-102. Definitions.** As used in this article 35.6, unless the context otherwise requires:

(1) "Commissioner" means the commissioner of education appointed by the state board of education pursuant to section 1 of article IX of the state constitution.

(2) "Department" means the department of education created and operating pursuant to section 24-1-115.

(3) "Education leadership council" means the council convened by executive order B 2017-001 in 2017 to identify the vision and strategic plan for education in Colorado.

(4) "Innovative learning opportunities" means learning experiences that usually occur outside of the classroom. "Innovative learning opportunities" may include work-based learning, such as apprenticeships, competency-based learning projects, capstone projects, and other learning experiences that are designed to support students in developing and demonstrating personal skills, entrepreneurial skills, civic and interpersonal skills, and professional skills as described by the department.

(5) "Innovative learning plan" or "plan" means a local education provider's plan to provide a variety of innovative learning opportunities to students enrolled in grades nine through twelve.

(6) "Local education provider" means a school district organized pursuant to article 30 of this title 22, a board of cooperative services created pursuant to article 5 of this title 22, a charter school authorized by a school district pursuant to part 1 of article 30.5 of this title 22, or an institute charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title 22.

(7) "Pilot program" means the high school innovative learning pilot program created in section 22-35.6-103.

(8) "Rural local education provider" means:

(a) A school district in Colorado that the department determines is rural, based on the geographic size of the school district and the distance of the school district from the nearest large, urbanized area;

(b) A district charter school that is authorized by a school district described in subsection (8)(a) of this section; and

(c) An institute charter school that is located within the geographic boundaries of a school district described in subsection (8)(a) of this section.

(9) "Small suburban school district" means a school district that is located in a suburban area, as identified by the department, and that enrolls fewer than two thousand students.

(10) "State board" means the state board of education created pursuant to section 1 of article IX of the state constitution.

**Source: L. 2019:** Entire article added, (SB 19-216), ch. 150, p. 1777, § 1, effective May 10.

**22-35.6-103. High school innovative learning pilot program - created - rules.** (1) There is created in the department the high school innovative learning pilot program to authorize

full-time funding for students enrolled in grades nine through twelve in high schools operated by selected local education providers to enable the local education providers to provide innovative learning opportunities for high school students to support them in successful transitions from high school to postsecondary education or the workforce. The department shall administer the pilot program by reviewing applications and selecting the local education providers that propose an innovative learning plan that meets the requirements specified in section 22-35.6-104 and is designed to ensure that students enrolled in grades nine through twelve may participate in innovative learning opportunities before graduation. A local education provider that is selected to participate in the pilot program is authorized to count students who are enrolled in grades nine through twelve and are participating in innovative learning opportunities as full-time pupils for purposes of the "Public School Finance Act of 1994", article 54 of this title 22, regardless of the actual number of teacher-pupil instruction hours and teacher-pupil contact hours for each pupil.

(2) The state board shall promulgate rules as necessary to implement the pilot program, including, at a minimum, application timelines and any information to be included in the application in addition to the information required in section 22-35.6-104 (1). In adopting rules, the state board shall ensure, to the extent possible, that a local education provider that is a school district that enrolls fewer than two thousand students, a district charter school, or an institute charter school may submit a simplified application.

**Source: L. 2019:** Entire article added, (SB 19-216), ch. 150, p. 1778, § 1, effective May 10.

**22-35.6-104. High school innovative learning pilot program - application - requirements - rules.** (1) To participate in the pilot program, a local education provider or a group of local education providers must apply to the department in accordance with the timelines and procedures established by rule of the state board. A district charter school may participate in the pilot program as part of its authorizing school district or apply to participate in the pilot program independently. A board of cooperative services may apply on behalf of its member school districts or to implement an innovative learning plan in a public high school operated by the board of cooperative services. An application must include:

(a) The number of students enrolled in grades nine through twelve who were counted as full-time pupils and the number who were counted as part-time pupils in the preceding three budget years, expressed as numerals and as percentages;

(b) The number of students enrolled in grades nine through twelve who participated in innovative learning opportunities in the preceding four budget years, expressed as numerals and as percentages;

(c) The number of students who are expected to participate in the innovative learning opportunities and the participation capacity of the innovative learning opportunities proposed in the innovative learning plan;

(d) A description of the innovative learning plan that the applicant expects to implement, including an explanation of how it aligns with at least two of the principles specified in subsection (2) of this section and why those principles were selected or an explanation of how it meets the research-based design principles described in subsection (3) of this section;

(e) Information that demonstrates that the applicant has capacity and willingness to implement the innovative learning plan with integrity;

(f) An explanation of the goals of the innovative learning plan and how the applicant intends to measure attainment of the goals, the data that the applicant will collect to measure attainment of the goals, and the schedule and method for collecting data and assessing attainment of the goals;

(g) If applicable to the innovative learning plan, the partnerships between community, business, or other organizations and the applicant that relate to the innovative learning opportunities included in the plan and that are in place at the time of application or that the applicant expects to enter into in implementing the plan; and

(h) Any additional information required by rule of the state board.

(2) In designing the innovative learning plan, a local education provider may design the plan to align with the principles for student learning and transition identified by the education leadership council, ensuring that the plan provides students with:

(a) Intentionally inclusive and culturally responsive educational opportunities that prepare learners of all backgrounds to thrive at every critical transition from early childhood and through careers;

(b) Multiple viable postsecondary pathways that are explored and valued by all;

(c) The opportunity, supported by adults, to direct their own learning experiences to develop essential skills; and

(d) Robust career and workforce readiness opportunities, in and out of school, including during the summer break, that are informed by industry and community to ensure alignment for transition beyond high school.

(3) A local education provider may base the design of its innovative learning plan on the following research-based design principles, ensuring that the plan:

(a) Impacts a large percentage of the students enrolled by the local education provider in grades nine through twelve and significantly improves student outcomes;

(b) Builds public trust through transparency, local partnerships, and shared learning, as evidenced by:

(I) The number and variety of community partnerships that exist at the time of application and the demonstrated expectation and capacity to create additional partnerships;

(II) The continuing role that community partners, including institutions of higher education and business, industry, and agricultural enterprises, will play in developing the innovative learning opportunities;

(III) The mechanisms that the local education provider uses and will use to solicit and share input from teachers, students, parents, and other community members; and

(IV) The mechanisms that the local education provider uses and will use to share learning with community members;

(c) Identifies a strong theory of change that justifies why and explains how the proposed innovative learning plan is likely to result in a greater number of students participating in effective, meaningful innovative learning opportunities;

(d) Describes thoroughly and clearly the plan for collecting the evidence that the local education provider will use to evaluate the effectiveness of the theory of change; and

(e) Creates a schedule and mechanism for evaluating the collected evidence and committing to adapt in response to trends in the evidence to improve the innovative learning plan.

**Source: L. 2019:** Entire article added, (SB 19-216), ch. 150, p. 1778, § 1, effective May 10.

**22-35.6-105. High school innovative learning pilot program - department - state board - duties - legislative declaration.** (1) No later than November 1, 2019, and, subject to available appropriations, no later than November 1 each year thereafter, the department shall issue a request for proposals inviting local education providers to apply to participate in the pilot program in the following budget year. A local education provider that chooses to apply must submit the application, as described in section 22-35.6-104, to the department no later than the following January 15. Subject to available appropriations, the state board shall select the participating applicants no later than the following March 1.

(2) The department shall review the applications received and recommend to the state board applicants to participate in the pilot program. The state board, taking into account the recommendations of the department, shall select the applicants to participate in the pilot program beginning in the 2020-21 budget year. In recommending and selecting the local education providers to participate in the pilot program, the department and the state board shall consider:

(a) The percentage of students enrolled by the local education provider in grades nine through twelve who are reasonably expected to participate in innovative learning opportunities;

(b) The quality of the innovative learning plan and the likelihood that it will result in meaningful innovative learning opportunities for students that will significantly support them in the transition from high school to postsecondary education or the workforce; and

(c) The degree to which the innovative learning plan aligns with at least two of the principles specified in section 22-35.6-104 (2) or meets the research-based design principles described in section 22-35.6-104 (3).

(3) (a) For the 2020-21 budget year, subject to available appropriations, the state board shall select applicants to participate in the pilot program as follows:

(I) Of those applicants in which any of the students enrolled in grades nine through twelve in the preceding budget year were enrolled as part-time students, the state board shall select up to five applicants, each of which enrolls fewer than five thousand students in grades nine through twelve; and

(II) Of those applicants in which all of the students enrolled in grades nine through twelve in the preceding budget year were enrolled as full-time students, the state board shall select each applicant that adopts an innovative learning plan that the state board determines:

(A) Is likely to result in meaningful innovative learning opportunities for students that will significantly support them in the transition from high school to postsecondary education or the workforce; and

(B) Aligns with at least two of the principles specified in section 22-35.6-104 (2) or meets the research-based design principles described in section 22-35.6-104 (3).

(b) Beginning in the 2021-22 budget year, it is the intent of the general assembly to increase annually the number of local education providers that participate in the pilot program and, by the 2025-26 budget year, to achieve one hundred percent participation by local education providers that meet the requirements of this article 35.6.

(4) The department shall annually review the information received pursuant to section 22-35.6-106 (1) from the local education providers that participate in the pilot program. The

state board shall automatically renew a local education provider's participation in the pilot program if the department finds that the information demonstrates that:

(a) The innovative learning plan and the innovative learning opportunities provided through the plan meet the criteria described in subsection (2) of this section; and

(b) The number of students enrolled in grades nine through twelve who are participating in innovative learning opportunities increased over the preceding budget year or one hundred percent of the students enrolled in grades nine through twelve are participating in innovative learning opportunities.

(5) (a) By September 1, 2019, the department shall issue a request for proposals to contract with a statewide nonprofit entity that has expertise in system innovation and career and postsecondary readiness to assist in implementing the pilot program. The department shall review the proposals received and contract with the entity by January 1, 2020.

(b) The contract entity, at a minimum, shall:

(I) Provide technical assistance to rural local education providers and small suburban school districts that choose to apply to participate in the pilot program individually, as a group, or through a board of cooperative services;

(II) Provide to rural local education providers and small suburban school districts that participate in the pilot program technical assistance in implementing their innovative learning plans;

(III) Facilitate communications among and creation of a network of all local education providers that participate in the pilot program to assist in documenting the strategies used in implementing the plans and in providing innovative learning opportunities;

(IV) Assist the local education providers that participate in the pilot program and the department in evaluating the effectiveness and measuring the success of each local education provider's innovative learning plan; and

(V) Assist the department in preparing the report required in section 22-35.6-106.

**Source: L. 2019:** Entire article added, (SB 19-216), ch. 150, p. 1781, § 1, effective May 10.

**22-35.6-106. Report - rules.** (1) Each local education provider that participates in the pilot program shall annually submit information described in subsection (2) of this section to the department in accordance with the time frames established by rule of the state board. If a local education provider is participating as a group of local education providers or through a board of cooperative services, the group or the board of cooperative services may submit the information jointly.

(2) Each participating local education provider shall submit the following information:

(a) The types of innovative learning opportunities provided through implementation of the innovative learning plan;

(b) The number and percentage of students enrolled in grades nine through twelve who participate in innovative learning opportunities, in total and disaggregated by student group, as defined in section 22-11-103, where possible;

(c) The number and percentage of students enrolled in grades nine through twelve who participate in innovative learning opportunities as compared to the number and percentage who

participated before the local education provider implemented the innovative learning plan and as compared to the number and percentage who participated in the preceding reporting period;

(d) A summary, nonidentifying description of the outcomes achieved by students who participate in the innovative learning opportunities;

(e) A summary description of the challenges encountered in implementing the innovative learning opportunities and the manner in which the local education provider addressed the challenges, including explanation of the strategies and programs that were successful and those that were not; and

(f) Any additional information requested by the department to assist in measuring the effectiveness and success of the pilot program.

(3) (a) The department, with assistance from the contract entity described in section 22-35.6-105 (5), shall prepare an annual summary report of the information received pursuant to subsection (2) of this section and an evaluation of the effectiveness and success of the pilot program in increasing the number of students enrolled in grades nine through twelve who participate in meaningful innovative learning opportunities. The department shall submit the report to the state board no later than July 1, 2022, and no later than July 1 each year thereafter, and shall provide the report to local education providers no later than September 1, 2022, and no later than September 1 each year thereafter.

(b) Notwithstanding the provisions of section 24-1-136 (11)(a)(I), beginning with the report that the department makes pursuant to section 2-7-203 in December of 2022, the department shall annually provide the report prepared pursuant to subsection (3)(a) of this section to the joint education committee of the general assembly.

**Source: L. 2019:** Entire article added, (SB 19-216), ch. 150, p. 1783, § 1, effective May 10.

**22-35.6-107. Repeal of article.** This article 35.6 is repealed, effective July 1, 2025.

**Source: L. 2019:** Entire article added, (SB 19-216), ch. 150, p. 1784, § 1, effective May 10.

## ARTICLE 36

Public Schools of Choice

**22-36-101. Choice of programs and schools within school districts.** (1) Except as otherwise provided in subsection (3) of this section, every school district, as defined in section 22-30-103 (13), shall allow:

(a) Its resident pupils who apply pursuant to the procedures established pursuant to subsection (2) of this section to enroll in particular programs or schools within such school district; and

(b) Commencing with the 1994-95 school year and thereafter, nonresident pupils from other school districts within the state who apply pursuant to the procedures established pursuant to subsection (2) of this section to enroll in particular programs or schools within such school district without requiring the nonresident pupils to pay tuition.

(2) (a) Every school district shall adopt such policies and procedures as are reasonable and necessary to implement the provisions of subsection (1) of this section, including, but not limited to, timelines for application to and acceptance in any program or school which may provide for enrollment of the student on or before the pupil enrollment count day, and, while adopting policies and procedures, the school district shall consider adopting a policy establishing that an applicant with a proficiency rating of unsatisfactory in one or more academic areas who attends a public school that is required to implement a turnaround plan pursuant to section 22-11-406 or that is subject to restructuring pursuant to section 22-11-210 shall have priority over any other applicant for enrollment purposes.

(b) In implementing the provisions of subsection (1) of this section, no school district shall be required to:

(I) Make alterations in the structure of a requested school or to make alterations to the arrangement or function of rooms within a requested school;

(II) Establish and offer any particular program in a school if such program is not currently offered in such school;

(III) Alter or waive any established eligibility criteria for participation in a particular program, including age requirements, course prerequisites, and required levels of performance; or

(IV) Enroll any student pursuant to this section in any program or school after the pupil enrollment count day.

(c) As used in this subsection (2), unless the context otherwise requires, "pupil enrollment count day" has the same meaning as set forth in section 22-54-103 (10.5).

(3) Any school district may deny any of its resident pupils or any nonresident pupils from other school districts within the state permission to enroll in particular programs or schools within such school district only for any of the following reasons:

(a) There is a lack of space or teaching staff within a particular program or school requested, in which case, priority shall be given to resident students applying for admission to such program or school.

(b) The school requested does not offer appropriate programs or is not structured or equipped with the necessary facilities to meet special needs of the pupil or does not offer a particular program requested.

(c) The pupil does not meet the established eligibility criteria for participation in a particular program, including age requirements, course prerequisites, and required levels of performance.

(d) A desegregation plan is in effect for the school district, and such denial is necessary in order to enable compliance with such desegregation plan.

(e) The student has been expelled, or is in the process of being expelled, for the reasons specified in section 22-33-106 (1)(c.5) or (1)(d) or the student may be denied permission to enroll pursuant to section 22-33-106 (3)(a), (3)(b), (3)(c), (3)(e), or (3)(f).

(4) Repealed.

(5) (a) Except as otherwise provided in paragraph (b) of this subsection (5), any pupil who enrolls in a school district other than the pupil's school district of residence pursuant to this article may remain enrolled in that school district's school or program through the end of the school year.

(b) This subsection (5) shall not apply if:

(I) The nonresident pupil is expelled pursuant to statute from the school or program described in paragraph (a) of this subsection (5);

(II) The nonresident pupil's attendance or participation in the school or program described in paragraph (a) of this subsection (5) requires the school district to perform any of the functions described in subparagraphs (I) to (III) of paragraph (b) of subsection (2) of this section; or

(III) The nonresident pupil is excluded from the school or program described in paragraph (a) of this subsection (5) for any of the reasons described in paragraphs (a) to (d) of subsection (3) of this section.

**Source: L. 90:** Entire article added, p. 1089, § 59, effective May 31. **L. 91:** (4) repealed, p. 467, § 1, effective June 7; (2) and (3) amended, p. 544, § 2, effective June 8. **L. 92:** (1) amended, p. 515, § 4, effective June 1. **L. 94:** (1), (2)(a), (2)(b)(II), (2)(b)(III), IP(3), and (3)(a) amended and (2)(b)(IV) and (3)(e) added, pp. 557, 558, §§ 1, 2, effective April 6. **L. 2002:** (5) added, p. 1794, § 60, effective June 7. **L. 2003:** Entire section amended, p. 857, § 1, effective July 1. **L. 2009:** (2)(a) amended, (SB 09-163), ch. 293, p. 1544, § 48, effective May 21. **L. 2012:** (2)(a) and (2)(b)(IV) amended and (2)(c) added, (HB 12-1090), ch. 44, p. 153, § 15, effective March 22.

**22-36-102. Interdistrict schools of choice pilot program - repeal. (Repealed)**

**Source: L. 90:** Entire article added, p. 1089, § 59, effective May 31. **L. 91:** (3) repealed, p. 467, § 2, effective June 7. **L. 92:** (1) amended, p. 516, § 5, effective June 1.

**Editor's note:** Subsection (4) provided for the repeal of this section, effective July 1, 1997. (See L. 90, p. 1089.)

**22-36-103. Eligibility of school districts for participation in interdistrict schools of choice pilot program - repeal. (Repealed)**

**Source: L. 90:** Entire article added, p. 1090, § 59, effective May 31.

**Editor's note:** Subsection (4) provided for the repeal of this section, effective July 1, 1997. (See L. 90, p. 1090.)

**22-36-104. Interdistrict schools of choice pilot program grants - repeal. (Repealed)**

**Source: L. 90:** Entire article added, p. 1090, § 59, effective May 31.

**Editor's note:** Subsection (2) provided for the repeal of this section, effective July 1, 1997. (See L. 90, p. 1090.)

**22-36-105. Schools of choice fund - creation - purpose - repeal. (Repealed)**

**Source: L. 90:** Entire article added, p. 1090, § 59, effective May 31. **L. 94:** (1) amended, p. 814, § 32, effective April 27. **L. 98:** Entire section amended, p. 972, § 16, effective May 27.

**Editor's note:** Subsection (4) provided for the repeal of this section effective August 1, 1998. (See L. 98, p. 972.)

**22-36-106. Department - distribution of information.** (1) The department shall make information available to the public about the enrollment options which are available throughout the public school system in Colorado.

(2) Repealed.

**Source: L. 90:** Entire article added, p. 1091, § 59, effective May 31. **L. 96:** (2)(b) amended, p. 1239, § 90, effective August 7. **L. 2006:** (2)(b) amended, p. 608, § 27, effective August 7. **L. 2016:** (2) repealed, (HB 16-1130), ch. 34, p. 87, § 4, effective August 10.

**Cross references:** For the legislative declaration contained in the 1996 act amending subsection (2)(b), see section 1 of chapter 237, Session Laws of Colorado 1996.

## ARTICLE 37

Grant Program for In-school
or In-home Suspension

**22-37-101. Short title.** This article shall be known and may be cited as the "In-school Suspension Act".

**Source: L. 96:** Entire article added, p. 1808, § 5, effective July 1.

**22-37-102. Legislative declaration.** The general assembly hereby finds and declares that the purpose of this article is to provide means for encouraging experimentation in the management of students suspended from public schools or facility schools and to evaluate programs that will provide continuous education, supervision, and discipline to suspended students in order to maintain the education of a suspended student and prevent the continuation of disruptive behavior, further suspension, or expulsion of the student.

**Source: L. 96:** Entire article added, p. 1808, § 5, effective July 1. **L. 2008:** Entire section amended, p. 1400, § 41, effective May 27.

**22-37-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Eligible participant" means any public school, as defined in section 22-1-101, that enrolls students in kindergarten through twelfth grades or any public or private agency operating in conjunction with any such public school.

(1.5) "Facility school" means an approved facility school as defined in section 22-2-402 (1).

(2) "In-home suspension" means a suspension pursuant to section 22-33-105 in which the student is suspended from participation in regular school activities but receives continuous educational instruction, supervision, and discipline in a home environment.

(3) "In-school suspension" means a period of time during which, pursuant to section 22-33-105, the student is prohibited from participating in regular school activities but remains in the school environment and continues to receive educational instruction, supervision, and discipline.

(4) "Program" means an in-school or in-school district suspension program or in-home suspension program authorized pursuant to this article.

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

(6) "Suspended student" means a student suspended pursuant to section 22-33-105 or otherwise suspended by a facility school.

**Source: L. 96:** Entire article added, p. 1809, § 5, effective July 1. **L. 2008:** (1.5) added and (6) amended, p. 1400, § 42, effective May 27. **L. 2012:** (3) amended, (HB 12-1345), ch. 188, p. 745, § 29, effective May 19.

**22-37-104. Qualification.** (1) An eligible participant may submit a proposal to the state board for a grant for the development of a program under this article, which may involve selected grade levels within a public school or facility school.

(2) A program shall:

(a) Provide supervision, discipline, counseling, and continuous education for a suspended student with the goal of maintaining the education of a suspended student and preventing further disruptive behavior, subsequent suspension, or expulsion;

(b) Provide for a transitional stage from in-school or in-home suspension to regular school activities;

(c) Include an agreement by the participating public school or facility school that a student suspended for the reasons specified in section 22-33-106 (1)(a) or (1)(b) shall be included in the program;

(d) Include an evaluation phase based on the collection of data that shall measure effectiveness of the program; and

(e) Include provisions for the dissemination of the results of the program to the state board; the participating facility school; the school board or governing board of the participating public school; the parents, guardians, or legal custodians with students attending the participating public school; and any other interested persons.

(3) A program may include, but need not be limited to, any of the following:

(a) Programs that utilize new instructional, counseling, or disciplinary concepts;

(b) Programs that utilize current public school or facility school staff or other personnel;

(c) Programs that encourage parental participation and involvement;

(d) Programs that employ individualized instruction, computer-assisted instruction, or other automated equipment for instruction;

(e) Programs that provide behavioral modification or anger management techniques.

(4) Each proposal must include a breakdown of all costs that would be incurred upon approval of the program.

**Source: L. 96:** Entire article added, p. 1809, § 5, effective July 1. **L. 2004:** (2)(e) amended, p. 1587, § 15, effective June 3. **L. 2008:** (1), (2)(c), (2)(e), and (3)(b) amended, p. 1400, § 43, effective May 27.

**22-37-105. Administration.** (1) The state board shall have the authority to approve programs under this article, the total stated costs of which shall not exceed twenty-five thousand dollars for each individual program in any one year and five hundred thousand dollars, in the aggregate, for all programs in any one year.

(2) Each grant shall be for a period of two years, subject to review by the state board of the effectiveness of the program and the adherence of the program to this article. All grants shall be renewable for additional two-year periods upon further application to the state board.

(3) The state board shall have the authority to adopt rules necessary for the administration of this article.

**Source: L. 96:** Entire article added, p. 1810, § 5, effective July 1.

**22-37-106. Reporting. (Repealed)**

**Source: L. 96:** Entire article added, p. 1810, § 5, effective July 1. **L. 2008:** Entire section amended, p. 1401, § 44, effective May 27. **L. 2010:** Entire section repealed, (HB 10-1171), ch. 401, p. 1935, § 5, effective August 11.

**22-37-107. Funding.** The department of education may pursue additional sources of funding for the financing of in-school or in-home suspension programs, including but not limited to grants, donations, and contributions from public or private sources and any funds available pursuant to article 20 of this title.

**Source: L. 96:** Entire article added, p. 1811, § 5, effective July 1.

## ARTICLE 38

Pilot Schools for Students Expelled
from Sixth through Ninth Grades

**22-38-101. Short title.** This article shall be known and may be cited as the "Colorado Pilot Schools Act".

**Source: L. 96:** Entire article added, p. 1811, § 5, effective July 1.

**22-38-102. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) It is the goal of the state of Colorado to provide educational opportunities to all students who choose to pursue such opportunities;

(b) To maintain discipline in the public schools, it is sometimes essential for the public schools to expel students;

(c) Students who are expelled from public schools are much more likely than their former classmates to fail to obtain a high school education and to have early contacts with the criminal justice system;

(d) Providing students in the sixth through ninth grades who have been expelled with the opportunity to continue their education in a proper setting will enhance the possibility that they will continue their education and become productive members of society;

(e) The best way to promote a desire to stay in school is to intervene in a student's academic career prior to the student entering high school; and

(f) As students who are expelled from public schools no longer belong to any school district, it is appropriate for the state to devise programs to meet their needs.

(2) The general assembly further finds and declares that this article is enacted for the following purposes:

(a) To complement the present disciplinary systems in existence at Colorado public schools;

(b) To encourage diverse approaches to educating children who have been expelled;

(c) To provide students who have been expelled with the opportunity to continue their education;

(d) To determine the most effective means of addressing the educational, psychological, cultural, and other needs of those students who have been expelled; and

(e) To provide resources for development of an extended day, year-round program for students who require more intense supervision and instruction.

**Source: L. 96:** Entire article added, p. 1811, § 5, effective July 1.

**22-38-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "At-risk student" means a student who is in the sixth, seventh, eighth, or ninth grade, who is under seventeen years of age, and who has been the subject of at least one suspension in the past year.

(2) "Expelled student" means a student who has been expelled from school pursuant to section 22-33-105.

(3) "Pilot school" means a school created pursuant to this article by a school district, combination of school districts, board of cooperative services pursuant to section 22-5-104, or a private entity operating pursuant to a contract with the state board.

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

**Source: L. 96:** Entire article added, p. 1812, § 5, effective July 1. **L. 2012:** (2) amended, (HB 12-1345), ch. 188, p. 750, § 43, effective May 19.

**22-38-104. Pilot schools - requirements - authority - definitions.** (1) The state board may provide for the establishment and operation of not more than one full-time residential pilot school and not more than three year-round nonresidential pilot schools pursuant to the following provisions:

(a) The state board shall consider placement of the pilot schools in geographic areas of the state that shall provide the easiest access to the maximum number of expelled and at-risk students eligible to attend the pilot schools. The state board is urged to consider placement of

one pilot school in the Denver metropolitan area; one in the southeastern part of the state south of the 39th parallel and east of the continental divide; one in the northeast part of the state north of U.S. Interstate 70, east of the continental divide; and one west of the continental divide.

(b) A pilot school shall be a public, nonsectarian, nonreligious, non-home-based school.

(c) A pilot school shall be administered and governed by a board of directors in a manner agreed to by the pilot school applicant and the state board.

(d) (I) A pilot school is subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, sex, sexual orientation, national origin, religion, or ancestry. Enrollment decisions shall be made in a nondiscriminatory manner specified by the pilot school applicant in the pilot school application.

(II) As used in this subsection (1)(d):

(A) "Protective hairstyle" includes such hairstyles as braids, locs, twists, tight coils or curls, cornrows, Bantu knots, Afros, and headwraps.

(B) "Race" includes hair texture, hair type, or a protective hairstyle that is commonly or historically associated with race.

(2) Not more than three pilot schools shall each have a minimum of sixty students who do not reside at the school, approximately two-thirds of whom shall be expelled students, and the remainder of whom shall be at-risk students admitted by the pilot school in the manner specified in the pilot school application.

(3) The residential pilot school shall have a minimum of sixty students, two-thirds of which shall be expelled students and one-third of which shall be at-risk students. The school shall make available full-time residential facilities for all expelled students who, in the determination of the pilot school, may benefit from an environment different from those conditions that may have contributed to the student's expulsion. The residential pilot school shall only admit expelled and at-risk students who are in the sixth grade or seventh grade if compelling circumstances exist for admitting such students to a residential facility.

(4) A pilot school shall operate on a year-round basis and offer services for an extended period of more than eight hours during each educational day.

(5) A pilot school shall be accountable to the state board for purposes of ensuring compliance with applicable laws and contract provisions and the requirement of section 15 of article IX of the state constitution.

(6) A pilot school may require a parent or legal guardian and the student to enter into a mutual responsibility agreement according to the terms of which a parent, legal guardian, or student provides services to the pilot school or agrees to make a financial contribution to the pilot school.

(7) The state board shall promulgate guidelines for assessing the ability of the parent or legal guardian of a student to make a financial contribution to a pilot school to cover part, or all, of the costs of tuition for that student at the pilot school. The guidelines shall provide for a process to be used by pilot schools to assess the financial resources of a parent or legal guardian that could be reasonably applied to offset the costs of a student's education without imposing a financial hardship on the parent, legal guardian, or family of the student attending the pilot school.

(8) Pursuant to contract, a pilot school may operate free from specified school district policies, state statutes, state regulations, and contract requirements otherwise applicable to schools located in the school district where the pilot school is located. Upon request of the pilot

school, the state board may release the pilot school from any school district policies, state statutes, state regulations, or contract requirements. Any waiver made pursuant to this subsection (8) shall be for the term of the contract for which the waiver is made.

(9) (a) A pilot school shall be responsible for its own operation including, but not limited to, preparation of a budget, compilation of any data required by this article, contracting for services, and personnel matters.

(b) A pilot school may negotiate and contract with a school district, the governing body of a state college or university, 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 pilot school is required to perform in order to carry out the educational program described in its contract. A pilot school may contract with the state for the use of any available state facility in order to carry out the educational program described in its contract. Any services for which a pilot school contracts with the state board or any school district shall be provided to the pilot school at cost.

(10) In addition to the students enrolled at each pilot school pursuant to section 22-38-111, a pilot school may enter into an agreement pursuant to section 22-33-203 (2) with a school district or with a board of cooperative services to provide educational services to enable expelled students to either return to school or successfully complete the high school equivalency examination, as defined in section 22-33-102 (8.5). Students receiving such services are not be considered to be enrolled at the pilot school, and, if the pilot school provides full-time residential facilities, students receiving such services need not reside at the pilot school.

**Source: L. 96:** Entire article added, p. 1812, § 5, effective July 1. **L. 97:** (10) added, p. 591, § 26, effective April 30; IP(1), (2), and (3) amended, p. 424, § 3, effective July 1. **L. 2008:** (1)(d) amended, p. 1602, § 25, effective May 29. **L. 2014:** (10) amended, (SB 14-058), ch. 102, p. 382, § 13, effective April 7. **L. 2020:** (1)(d) amended, (HB 20-1048), ch. 8, p. 18, § 8, effective September 14.

**Editor's note:** Section 13(2) of chapter 8 (HB 20-1048), Session Laws of Colorado 2020, provides that the act changing this section applies to conduct occurring on or after September 14, 2020.

**Cross references:** (1) For the legislative declaration contained in the 2008 act amending subsection (1)(d), see section 1 of chapter 341, Session Laws of Colorado 2008.

(2) For the short title ("Creating a Respectful and Open World for Natural Hair Act of 2020" or the "CROWN Act of 2020") and the legislative declaration in HB 20-1048, see sections 1 and 2 of chapter 8, Session Laws of Colorado 2020.

**22-38-105. Applications for the right to operate pilot schools - contents.** (1) The state board shall promulgate regulations for the applications to be submitted for the right to operate a pilot school that shall include:

(a) A description of the applicant, its experience in providing educational, counseling, social, and other necessary services to expelled and other students, and, in the case of nonprofit organizations, its balance sheets and operating statements for the previous five years;

(b) Information regarding the educational background, experience, and qualifications of personnel who will serve on the board of directors and operate the school;

(c) The mission statement of the proposed pilot school;

(d) The goals, objectives, and performance standards to be achieved by the pilot school;

(e) A description of the standards upon which the pilot school will select and admit expelled and at-risk students and determine when an expelled student will be admitted as a residential student;

(f) A description of the pilot school's educational program, student performance standards, curriculum, and student conduct code;

(g) A description of the pilot school's plan for evaluating student performance, the types of assessments that will be used to measure student progress toward achievement of the school's student performance standards, the timeline for achievement of such standards, and the procedures for taking corrective action in the event that student performance at the pilot school falls below such standards;

(h) Evidence that the proposed pilot school is economically sound, a proposed budget for the term of the contract, and a description of the manner in which an annual audit of the financial and administrative operations of the pilot school is to be conducted;

(i) A description of the governance and operation of the pilot school, including the nature and extent of parental, professional educator, social services, and community involvement;

(j) An explanation of the relationship that will exist between the proposed pilot school and its employees;

(k) A description of the insurance that the pilot school will obtain;

(l) A description of how the pilot school plans to meet the residential needs of its students and, if the pilot school plans to provide transportation for students, a plan for addressing their transportation needs;

(m) A description of how the school will assist students in adapting to a public school or other appropriate learning or work environment upon the student's departure from the pilot school;

(n) A description of how the residential pilot schools will transition the student back into the home environment if the student will be returning home;

(o) A description of how the pilot school will involve parents in order to enhance students' performance in the pilot school, including the use of any mutual responsibility contracts authorized pursuant to section 22-38-104 (6);

(p) A description of the pilot school's plan to sponsor periodic meetings, conferences, or training seminars to provide information concerning expelled or at-risk students to personnel in the school district or school districts that represent the geographic area in which the pilot school is located;

(q) Identification of the entity that will evaluate the pilot school as required pursuant to section 22-38-114;

(r) A description of how the pilot school plans to foster an awareness of cultural needs; and

(s) Any other information deemed necessary by the state board.

(2) If accepted, the application shall serve as the basis of a contract between the state board and the applicant.

**Source: L. 96:** Entire article added, p. 1814, § 5, effective July 1.

**22-38-106. Application process for pilot school contract.** (1) The state board shall appoint a selection committee to review applications for each of the pilot schools established pursuant to this article 38 and to make recommendations to the state board as to whether a pilot school should be established in an area and which applicant should be selected. The state board shall appoint, as members of or advisors to the committee, members from the county departments of human or social services from each region in which a pilot school is to be established. The committee may also include persons from local school districts, local law enforcement agencies, local probation departments, community-based organizations, parent groups, and any other interested private citizens.

(2) Applications must be filed with the state board by October 1 to be eligible for the award of contracts for operation during the following school year. If the state board finds the pilot school application is incomplete, it shall request the necessary information from the applicant.

(3) After giving reasonable public notice, the state board may hold community meetings in the area where each pilot school is to be located.

(4) The state board shall select applicants for contracts for operation of pilot schools in a public hearing, upon reasonable public notice.

**Source: L. 96:** Entire article added, p. 1816, § 5, effective July 1. **L. 2006:** (2) and (4) amended, p. 608, § 28, effective August 7. **L. 2018:** (1) amended, (SB 18-092), ch. 38, p. 439, § 93, effective August 8.

**Cross references:** For the legislative declaration in SB 18-092, see section 1 of chapter 38, Session Laws of Colorado 2018.

**22-38-107. Negotiation of pilot school contract.** (1) The state board shall enter into negotiations for a contract to operate a pilot school with each applicant it has selected. The contract shall be for five years' duration, commencing upon the date of its execution, and shall set forth the terms under which the pilot school shall operate. The contract may be renewed for an additional period of up to five years. The contract shall incorporate the pertinent provisions from the application and shall provide for termination for cause. The contract shall reflect all agreements regarding the release of the pilot school from state board policies and state statutes and regulations.

(2) The state board's decisions regarding the award and contents of a contract shall be final and shall not be reviewable by appeal, certiorari, mandamus, injunction, or otherwise.

**Source: L. 96:** Entire article added, p. 1816, § 5, effective July 1.

**22-38-108. Pilot school contracts - renewal of application - grounds for nonrenewal or revocation.** (1) A pilot school renewal application shall be submitted to the state board no later than six months before the expiration of the original contract and shall contain:

(a) A report on the progress of the pilot school in achieving the goals, objectives, student performance standards, content standards, and other terms of the initial approved pilot school application;

(b) A financial statement in a format determined by the state board that discloses the costs of administration, instruction, and other spending categories for the pilot school for each of the years of the contract. Such a statement shall be understandable to the general public and should allow comparison of such costs to other schools or other comparable organizations.

(c) A report on the population of the pilot school that discloses the following:

(I) The ethnic, racial, and gender composition of the school and the ages of the students who have attended the school since its inception;

(II) Disciplinary records of the students, including the dates, reasons, and background for each disciplinary incident;

(III) Records of student contacts with the juvenile or criminal justice systems;

(IV) Data on the dropout or graduation rates of the students;

(V) Information on the attendance of the students; and

(VI) Information on the success of the school in educating expelled students.

(2) A pilot school may be closed or a renewal application may be denied by the state board if the state board determines that the pilot school:

(a) Committed a material violation of any of the conditions, standards, or procedures set forth in the application;

(b) Failed to meet or make reasonable progress toward achievement of the content standards or pupil performance standards identified in the pilot application;

(c) Failed to meet generally accepted standards of fiscal management; or

(d) Violated any provision of law from which the pilot school was not specifically exempted.

(3) A decision by the state board to close a pilot school or not to renew a pilot school application is subject to judicial review pursuant to the provisions of the "State Administrative Procedure Act".

**Source: L. 96:** Entire article added, p. 1816, § 5, effective July 1.

**Cross references:** For the "State Administrative Procedure Act", see article 4 of title 24.

**22-38-109. Pilot school employees.** (1) Any teacher employed by a school district who becomes a teacher employed by a pilot school shall be deemed to continue to be a teacher within the school district for seniority purposes in the event that teacher returns to that school district.

(2) Employees of a pilot school may elect to become members of the public employees' retirement association or other tax-deferred annuity program, whichever is applicable. If the employee makes an election, the pilot school and the teacher shall contribute amounts as required by the association or program.

(3) Pilot schools may employ as teachers noncertified individuals or persons who do not belong to the collective bargaining group that represents teachers in the place where the school is located. Such persons must be approved by the state board of education.

**Source: L. 96:** Entire article added, p. 1817, § 5, effective July 1. **L. 2015:** (2) amended, (SB 15-264), ch. 259, p. 955, § 52, effective August 5.

**22-38-110. Pilot school evaluation - report. (Repealed)**

**Source: L. 96:** Entire article added, p. 1818, § 5, effective July 1. **L. 2010:** Entire section repealed, (HB 10-1171), ch. 401, p. 1935, § 5, effective August 11.

**22-38-111. Pilot schools - admission of students.** (1) Expelled students and any at-risk students otherwise eligible to attend sixth through ninth grades and under seventeen years of age may voluntarily apply to any pilot school. No student shall be compelled to attend a pilot school. Each pilot school shall devise its own application and admission procedures. An application shall, at a minimum, include:

(a) The name, address, gender, race, ethnicity, and age of the student;

(b) If the student was expelled, the reasons for the expulsion, the date of the expulsion, and the disciplinary record of the student;

(c) Whether the student is applying to be a full-time residential student;

(d) A statement from the student explaining why he or she would benefit from the pilot school program;

(e) Academic records for the prior three years, including classes taken, grades or evaluations received, grade point average, results of any diagnostic testing, and results of standardized tests;

(f) The student's and parent's, guardian's, or legal custodian's consent to submit to drug testing if required by the pilot school;

(g) Information concerning the financial resources and income of the parent or legal guardian of the student consistent with the state board's guidelines promulgated pursuant to section 22-38-104 (7);

(h) Information about the extracurricular activities, sports, hobbies, or out-of-school employment of the student before expulsion; and

(i) Any other application information required by the pilot school to which the student is applying.

(2) Each student is eligible to apply to the pilot school serving the county where the student resides. A student may also apply to any other pilot school that has not filled all of its sixty student slots.

(3) Students admitted to a pilot school may continue to be enrolled at the pilot school after the expiration of any period of expulsion from their original schools. Students of pilot schools who were not originally enrolled as expelled students may continue to be enrolled pursuant to the policies and regulations adopted by the pilot school.

(4) Students enrolled in a pilot school pursuant to this section are in addition to students receiving educational services from the pilot school under an agreement entered into pursuant to section 22-33-203 (2). Students receiving such educational services shall not be subject to the admissions requirements that are applied to enrolling students, but shall be eligible to receive services as provided under the agreement.

**Source: L. 96:** Entire article added, p. 1818, § 5, effective July 1. **L. 97:** (4) added, p. 592, § 27, effective April 30.

**22-38-112. Discipline and expulsion of students.** (1) A pilot school may discipline, suspend, and expel students as provided in article 33 of this title.

(2) Based upon a reasonable belief that a student is using drugs, a pilot school may require a student to submit to drug testing after providing notice to the student's parent, guardian, or legal custodian.

**Source: L. 96:** Entire article added, p. 1819, § 5, effective July 1.

**22-38-113. Notification requirements.** (1) Within five days of expelling a student, the school district that expelled the student shall:

(a) Notify the student and the student's parent, guardian, or legal custodian of the student's opportunity to apply to a pilot school;

(b) Provide the student's parent, guardian, or legal custodian with a copy of the student's academic and disciplinary records; and

(c) Notify the appropriate pilot school of the student's expulsion.

**Source: L. 96:** Entire article added, p. 1819, § 5, effective July 1.

**22-38-114. Evaluation.** A pilot school shall contract with one or more universities to monitor and track the progress of students in the pilot school.

**Source: L. 96:** Entire article added, p. 1819, § 5, effective July 1.

**22-38-115. Funding.** (1) The department of education and the department of human services may pursue additional sources of funding for the financing of pilot schools, including but not limited to grants, donations, and contributions from public or private sources and any funds available pursuant to article 20 of this title.

(2) A pilot school may have access to any public or private funding sources available for vocational training, including any funds available pursuant to article 8 of title 23, C.R.S.

(3) A pilot school may apply for a grant from the expelled student services grant program as provided in section 22-33-205 to use in providing educational services to expelled students under agreements entered into pursuant to section 22-33-203 (2).

**Source: L. 96:** Entire article added, p. 1820, § 5, effective July 1. **L. 97:** (3) added, p. 592, § 28, effective April 30.

## FINANCIAL POLICIES AND PROCEDURES

## ARTICLE 40

Tax Levies and Revenues

**Editor's note:** This article was numbered as article 3 of chapter 123, C.R.S. 1963. The substantive provisions of this article were repealed and reenacted in 1964, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1964, consult the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

**Cross references:** For the constitutional provision that establishes limitations on spending, the imposition of taxes, and the incurring of debt, see section 20 of article X of the state constitution.

**22-40-101. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Board of education" or "board" means the governing body authorized by law to administer the affairs of any school district.

(1.5) "Eligible elector" means an elector who has complied with the registration provisions of article 2 of title 1, C.R.S., and who resides within the jurisdiction of the political subdivision calling the election.

(2) "School district" or "district" means a school district organized and existing pursuant to law or a joint taxation district organized and existing pursuant to part 2 of article 30 of this title.

**Source: L. 64:** R&RE, p. 538, § 1. **C.R.S. 1963:** § 123-3-1. **L. 75:** (2) amended, p. 786, § 6, effective July 1. **L. 92:** (1.5) added, p. 837, § 32, effective January 1, 1993. **L. 96:** (2) amended, p. 65, § 22, effective July 1.

**22-40-102. Certification - tax revenues.**

(1) (a) Repealed.

(b) (I) In accordance with the schedule prescribed by section 39-5-128, C.R.S., the board of education of each school district shall certify to the board of county commissioners of the county wherein said school district is located the separate amounts necessary, in the judgment of said board of education, to be raised from levies against the valuation for assessment of all taxable property located within the boundaries of said school district for its general, bond redemption, transportation, and special building and technology funds to defray its expenditures therefrom during its then current fiscal year.

(II) This paragraph (b) is effective July 1, 1992.

(1.5) (a) The board of education of any school district, at a special election called for the purpose, shall submit to the eligible electors of the district the question of whether to impose a mill levy of a stated amount for the special building and technology fund or to increase the mill levy for the special building and technology fund by a stated amount, which levy shall not exceed ten mills in any year or exceed three years in duration. When a mill levy for more than one year has been approved, the board of education of any school district may, without calling an election, decrease the amount or duration of the mill levy in the second or third year.

(b) (I) Any special election called pursuant to this subsection (1.5) shall be held on the first Tuesday after the first Monday in February, May, October, November, or December and shall be conducted pursuant to the provisions of articles 1 to 13 of title 1, C.R.S.

(II) (Deleted by amendment, L. 92, p. 837, § 33, effective January 1, 1993.)

(c) (I) Repealed.

(II) and (III) (Deleted by amendment, L. 92, p. 837, § 33, effective January 1, 1993.)

(d) If a majority of the votes cast at the election are in favor of the question, the mill levy of the district for the special building and technology fund shall be as so approved by the eligible electors of the district, and taxes may be levied for the special building and technology fund of the district as so approved.

(1.7) (a) The board of education of any school district, at the regular biennial election for school district directors or on the dates authorized by section 22-54-108 for elections for additional local property tax revenues under the "Public School Finance Act of 1994" shall submit to the eligible electors of the district the question of whether to impose a mill levy for the payment of excess transportation costs. If a majority of the votes cast at any such election are in favor of the question, an additional mill levy shall be levied each year, and revenues received therefrom shall be deposited into the transportation fund of the district created in section 22-45-103 (1)(f).

(b) For the purposes of this subsection (1.7), "excess transportation costs" means the current operating expenditures for pupil transportation, as defined in section 22-51-102 (1), minus the total amount of the most recent payment actually received by the district under article 51 of this title, and annual expenditures for the purchase or lease of pupil transportation vehicles or other capital outlays related to pupil transportation. The calculation of excess transportation costs shall be based upon amounts expended and amounts received for the twelve-month period ending on June 30 prior to the certification of the mill levy.

(2) If only a portion of a school district is located within a county, the board of education of said school district shall certify the separate amounts to the board of county commissioners of each county wherein a portion of said school district is located. The board of county commissioners of each such county shall levy a tax upon the taxable property located within said portion of the school district included in its county at a rate sufficient to produce a pro rata share of each separate amount certified, such pro rata share to be based on the ratio of the valuation for assessment of taxable property located within that portion of said school district located within said county to the total valuation for assessment of taxable property located in the entire school district; except that the rate of tax levies for said district shall be the same throughout the territorial limits of said school district except for a variation in the tax levy needed for the bond redemption fund of said district, which rate may vary because of changes in the boundaries of said district or the dissolution of a former school district.

(3) The board of education of a school district which had an actual enrollment of more than fifty thousand pupils during the preceding school year may make the certification provided for in subsection (1) of this section no later than December 15.

(4) Repealed.

(5) (a) Whenever after a reorganization any school district has within its boundaries any territory which was located within the boundaries of a former school district which incurred bonded indebtedness, or is otherwise liable for the payment thereof, and the obligations of such bonded indebtedness have not been satisfied or otherwise assumed by said existing school district, then the board of education of the existing school district shall certify to the board of county commissioners the amount required during the next ensuing calendar year to satisfy such territory's proportionate share of the obligations of the outstanding bonded indebtedness incurred by said former school district. A separate levy, sufficient to raise the amount so certified, shall be

made against the valuation for assessment of all taxable property located within such territory. The proceeds of such levy shall be credited to the bond redemption fund of the existing school district, but a separate account within such bond redemption fund shall be maintained to clearly reflect the amount raised from such separate levy. This paragraph (a) shall be construed to be supplemental to and not in modification of section 22-42-122.

(b) Whenever two or more school districts or portions of school districts have been united, either by consolidation of whole districts or of parts of districts or by the detachment of territory from one school district and its annexation to another school district, and at the time of such uniting by any of the above methods there shall be united into one school district portions of any territory liable for the payment of bonded indebtedness, different either in amounts, dates of creation, or dates of interest or principal maturities, then, in certifying to the boards of county commissioners the statement of the amount necessary to be raised from levies pursuant to subsection (1) of this section, it is the duty of the board of education of such united district to also certify to the board of county commissioners the numbers of all school districts under which any portion of the united district had bonded indebtedness outstanding at the time of such uniting, the legal description of the territory liable for the payment of such bonded indebtedness, or portion thereof, and the amount required during the ensuing calendar year to meet payments of interest and principal falling due therein. A separate levy, sufficient to raise the amount so certified, shall be made against the valuation for assessment of all taxable property located within such territory. The proceeds of such levy shall be credited to the bond redemption fund of the united school district, but a separate account within such bond redemption fund shall be maintained to clearly reflect the amount raised from such separate levy. This paragraph (b) shall be construed to be supplemental to and not in modification of section 22-42-122.

(c) Repealed.

(6) Each school district, with such assistance as may be required from the department of education, shall inform the county treasurer for each county within the district's boundaries no later than December 15 of each year of said district's general fund mill levy in the absence of funds estimated to be received by said district pursuant to the "Public School Finance Act of 1994", article 54 of this title, and the estimated funds to be received for the general fund of the district from the state.

**Source: L. 64:** R&RE, p. 538, § 1. **C.R.S. 1963:** § 123-3-2. **L. 69:** p. 1054, § 26. **L. 73:** p. 1239, § 1. **L. 74:** (1) amended, p. 418, § 64, effective April 11. **L. 78:** (6) added, p. 373, § 9, effective July 1. **L. 79:** (3) amended, p. 791, § 1, effective May 25. **L. 83:** (1) amended and (1.5) added, p. 757, § 1, effective April 21. **L. 86:** (1.5)(b) R&RE and (1.5)(c)(I) repealed, pp. 812, 815, §§ 2, 8, effective July 1; (4) amended, p. 1021, § 9, effective January 1, 1987. **L. 87:** (1) amended, p. 1406, § 1, effective April 22. **L. 88:** (1) and (6) amended and (4) repealed, pp. 813, 824, §§ 17, 39, effective May 24. **L. 89:** (1) and (3) amended, p. 1462, § 22, effective June 7. **L. 90:** (1) and (5) amended, p. 1080, § 36, effective May 31. **L. 91:** (1) amended and (1.7) added, p. 539, § 4, effective May 1. **L. 92:** (1.5) amended, p. 837, § 33, effective January 1, 1993. **L. 93:** (1.7)(a) amended, p. 1782, § 51, effective June 6. **L. 94:** (1.7)(a) and (6) amended, p. 815, § 33, effective April 27; (5)(c) added, p. 1790, § 2, effective January 1, 1995. **L. 97:** (1)(b)(I), (1.5)(a), and (1.5)(d) amended, p. 75, § 2, effective March 24. **L. 2006:** (1.7)(b) amended, p. 669, § 10, effective April 28. **L. 2008:** (5)(c) repealed, p. 1899, § 77, effective August 5. **L. 2009:** (1.7)(b)

amended, (SB 09-256), ch. 294, p. 1559, § 19, effective May 21. **L. 2010:** (1.7)(b) amended, (HB 10-1013), ch. 399, p. 1901, § 10, effective June 10.

**Editor's note:** Subsection (1)(a)(II) provided for the repeal of subsection (1)(a), effective July 1, 1992. (See L. 90, p. 1080.)

**22-40-103. Change in needed tax revenues - unlawful.** A board of education or a board of county commissioners shall not modify the amount certified pursuant to section 22-40-102 as needed for any calendar year, nor shall said board of county commissioners be charged with any discretion in determining or reviewing the amounts so certified other than to ascertain if said amounts are within the limitations as prescribed by law.

**Source: L. 64:** R&RE, p. 540, § 1. **C.R.S. 1963:** § 123-3-3. **L. 90:** Entire section amended, p. 1082, § 37, effective May 31.

**22-40-104. County treasurer - accounts - warrants.** (1) (a) It is the duty of the county treasurer to keep separate accounts by funds and subsidiary accounts for the bond redemption fund of each school district in his or her county, and said funds and accounts shall be subject to the warrants of said district. The tax revenues shall be credited to the proper fund and account, together with any penalty interest collected thereon.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (1), upon receipt of a notice from the state treasurer issued pursuant to section 22-41-110 (3), a county treasurer shall withhold from the school district named in the notice and forward to the state treasurer the amount of tax revenues specified in the notice that would otherwise be credited to the school district.

(2) If only a portion of a school district is situate within the territorial limits of said county and the headquarters of said school district are not located therein, the county treasurer shall transfer, at the end of each month, all moneys which have accrued to the credit of said district to the county treasurer of the county wherein the headquarters of said school district is located. No warrant shall be drawn by a school district situate in more than one county against its moneys except against those moneys in the custody of the county treasurer of the county wherein the school district headquarters is located.

(3) Except in the case of a school district which has elected to withdraw its moneys, if a school district warrant is presented to the county treasurer of a school district situate in his county and there are no moneys or insufficient moneys to the credit of said school district in the proper fund or account thereof to pay such warrant, it is the duty of said county treasurer to register such warrants in the order of presentment and endorse each such warrant "no funds". Registered warrants shall draw interest from the date of such registration and endorsement at the rate and in the manner as registered county warrants. The county treasurer shall keep a list of all warrants so registered and endorsed and furnish a copy of said list to the treasurer of said school district. The county treasurer shall pay both the principal and interest of said warrants, in the order of registration, when there are sufficient moneys to the credit of the school district fund or account upon which any such warrant was drawn. It is his duty to cause to be published in a newspaper with general distribution in said school district for five days a notice that certain school district warrants, describing said warrants by numbers and amounts, will be paid upon

presentation at the expiration of said five days notice, at which time said warrants shall cease to bear interest.

(4) It is unlawful for a school district to issue warrants in excess of the amount budgeted or appropriated to or the anticipated revenues for any fund, whichever is less, for said school district's fiscal year whether or not the board of education of said district has elected to withdraw its moneys from the custody of the county treasurer.

(5) It is the duty of the county treasurer to cancel all paid school district warrants with a proper cancelling stamp and indicate the date of payment thereof.

**Source: L. 64:** R&RE, p. 540, § 1. **C.R.S. 1963:** § 123-3-4. **L. 84:** (1) amended, p. 1002, § 1, effective March 16. **L. 2003:** (1) amended, p. 1299, § 6, effective April 22.

**22-40-105. Depositories.** (1) When the board of education of a school district has elected to have all moneys belonging to the district paid over to the treasurer of said board, the treasurer, or such other custodian appointed by the board, shall deposit, or cause to be deposited, all such moneys in such depositories as shall be designated by such board.

(2) Repealed.

(3) Any moneys belonging to a school district which are temporarily not needed in the conduct of its operations may be invested or deposited by the board of education of such district pursuant to the provisions of sections 24-75-601 to 24-75-603, C.R.S. Subject to the requirements of part 7 of article 75 of title 24, C.R.S., the school district's moneys may be pooled for investment with the moneys of other local government entities.

(4) Notwithstanding the provisions of this section, the board of education of any school district may provide for the establishment, operation, and maintenance of refunding escrow agreements and accounts, and may provide for payment of principal and interest on the outstanding bonds of such district by paying agents, pursuant to the provisions of articles 42 and 43 of this title.

(5) Except as otherwise provided in section 22-45-103 (1)(b)(VI) or (1)(b)(VII), a third-party custodian selected by a school district shall administer the school district's bond redemption fund as provided in section 22-45-103 (1)(b)(V). Moneys in a school district's bond redemption fund may be invested by the custodian as provided in section 22-45-103 (1)(b)(V).

**Source: L. 64:** R&RE, p. 542, § 1. **C.R.S. 1963:** § 123-3-5. **L. 75:** (2) repealed, p. 392, § 6, effective January 1, 1976. **L. 77:** (1) amended, p. 576, § 6, effective June 10. **L. 83:** (3) amended, p. 1010, § 5, effective March 29. **L. 2003:** (5) added, p. 1296, § 2, effective April 22. **L. 2004:** (5) amended, p. 425, § 2, effective August 4.

**22-40-106. Registered warrants by treasurer of the board.** If a board of education has elected to withdraw all school district moneys from the temporary custody of the county treasurer, and there are no moneys or insufficient moneys to the credit of the proper fund of said school district on deposit with a depositary to pay any warrant or order drawn against said fund, the treasurer of said board shall register said warrant in the same manner as otherwise prescribed for a county treasurer under the provisions of section 22-40-104. Registered warrants shall draw interest from the date of such registration and endorsement at the rate and in the same manner as warrants registered by the county treasurer. The treasurer of said board shall perform all duties

required of the county treasurer under section 22-40-104 (3) in the registration and payment of school district warrants registered by said treasurer of the board, including publication for notice of payment thereof.

**Source: L. 64:** R&RE, p. 543, § 1. **C.R.S. 1963:** § 123-3-6.

**22-40-107. Short-term loans.** (1) The board of education of any school district may negotiate or contract with any person, corporation, association, or company for a loan not to exceed the difference between the anticipated revenues for the current fiscal year for the general fund and the amount credited to date to said general fund in order to eliminate the necessity of issuing registered warrants upon said general fund. Such loan shall be liquidated within six months of the close of the fiscal year from moneys subsequently credited to said general fund.

(2) Repealed.

**Source: L. 64:** R&RE, p. 543, § 1. **C.R.S. 1963:** § 123-3-7. **L. 65:** p. 973, § 1. **L. 75:** (2) amended, p. 786, § 7, effective July 1. **L. 80:** (1) amended, p. 556, § 1, effective April 13. **L. 81:** (2) repealed, p. 2026, § 22, effective July 14. **L. 90:** (1) amended, p. 1082, § 38, effective May 31.

**22-40-108. Revenues - reorganization.** (1) If the corporate status of a school district is dissolved as a result of school district organization and all the bonded indebtedness of such school district has not been assumed by one or more school districts, the board of education of the successor district as designated in the plan of organization shall perform the duties and exercise the powers delegated to the board of education of the former school district relative to the certification of tax revenues needed to satisfy the obligations of bonded indebtedness incurred by said former district, receipt of such revenues, deposit or investment thereof, and satisfaction of such obligations which thereafter become due and payable; but the revenues from a tax levy, and the proportionate share of specific ownership taxes allocated thereto, to satisfy the bonded indebtedness of said former school district shall be held in a trust account in the bond redemption fund of the designated successor district for the purpose only of payment or redemption of bonds issued by said former school district. Any moneys remaining after all of the bonded indebtedness obligations of said former school district have been satisfied may be transferred to another account within the redemption fund of said designated successor school district or, in the absence of any outstanding bonded indebtedness obligations, to the capital reserve fund of said school district.

(2) If the corporate status of a school district is not dissolved as a result of school district organization, the board of education of the school district which incurred said bonded indebtedness shall continue to perform the duties and exercise the powers delegated thereto relative to the certification of tax revenues needed to satisfy the obligations of bonded indebtedness incurred by said school district, receipt of such revenues, deposit or investment thereof, and satisfaction of such obligations which thereafter become due and payable even though a portion of the territory of said school district shall be thereafter included in another school district; but if the annexing school district is located in another county, such powers and duties shall be performed by the annexing school district with proper remittance to the school district from which said territory was detached.

**Source: L. 64:** R&RE, p. 543, § 1. **C.R.S. 1963:** § 123-3-8.

**22-40-109. Tax levy for school facilities improvements. (Repealed)**

**Source: L. 92:** Entire section added, p. 540, § 14, effective May 28.

**Editor's note:** Subsection (3) provided for the repeal of this section, effective July 1, 1996. (See L. 92, p. 540.)

**22-40-110. Additional property tax for capital improvements in growth school districts.** (1) The board of education of any growth district, as defined in section 22-2-125 (1)(b), at any regular biennial school election or special election, may submit to the eligible electors of the growth district the question of the imposition of an additional property tax levy in accordance with the provisions of this section for:

(a) One or more of the purposes specified in section 22-42-102 (2)(a)(I) to (2)(a)(V);

(b) The payment of any loan received by the growth district pursuant to section 22-2-125 and the payment of any interest due on such loan; or

(c) The payment of any loan received by the growth district pursuant to article 15 of title 23, C.R.S., and the payment of any interest due on such loan.

(2) (a) Except as otherwise provided in paragraph (b) of this subsection (2), a growth district may impose an additional property tax levy of no more than five mills or a number of mills as determined by dividing the latest statewide valuation for assessment of the taxable property in all school districts by the pupil enrollment of all school districts, and dividing said amount by the latest valuation for assessment of the taxable property in the growth district divided by the pupil enrollment of the growth district, whichever is the lesser amount.

(b) If the amount as determined by dividing the latest valuation for assessment of the taxable property in a growth district by the pupil enrollment of the growth district is greater than the amount as determined by dividing the latest statewide valuation for assessment of the taxable property in all school districts by the pupil enrollment of all school districts, the growth district may impose an additional property tax levy of no more than one mill.

(3) Moneys collected from such tax levy shall be credited to the capital reserve fund pursuant to section 22-45-103 (1)(c)(IV).

(4) Any special election called pursuant to this section shall be held on the general election day in each even-numbered year or on the first Tuesday in November of each odd-numbered year and shall be conducted pursuant to the provisions of articles 1 to 13 of title 1, C.R.S.

**Source: L. 2002:** Entire section added, p. 1745, § 18, effective June 7.

## ARTICLE 41

Public School Fund

**Editor's note:** This article was numbered as article 4 of chapter 123, C.R.S. 1963. The provisions of this article were repealed and reenacted in 1973, resulting in the addition,

relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1973, consult the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

**Cross references:** For creation of the county and state public school funds, see §§ 22-54-113 and 22-54-114.

**22-41-101. Composition of fund.**

(1) (Deleted by amendment, L. 2006, p. 608, § 29, effective August 7, 2006.)

(2) The public school fund of the state shall consist of the proceeds of such lands as have been, or may be, granted to the state by the federal government for educational purposes; all estates that may escheat to the state; all other grants, gifts, or devises that may be made to the state for educational purposes; and such other moneys as the general assembly may appropriate or transfer.

(3) Notwithstanding the provisions of subsection (2) of this section, the proceeds from the sale or other disposition of state land pursuant to a nonsimultaneous exchange pursuant to section 36-1-124.5, C.R.S., shall not be deemed a part of the designated trust fund except as provided in section 36-1-124.5 (4), C.R.S.

**Source: L. 73:** R&RE, p. 1240, § 1. **C.R.S. 1963:** § 123-4-1. **L. 95:** Entire section amended, p. 607, § 3, effective May 22. **L. 96:** Entire section amended, p. 1795, § 11, effective June 4. **L. 97:** (3) added, p. 852, § 38, effective May 21. **L. 2006:** (1) and (2) amended, p. 608, § 29, effective August 7.

**22-41-102. Fund inviolate.** (1) The public school fund shall forever remain inviolate and intact; the interest and income earned on the deposit and investment of the fund only shall be expended in the maintenance of the schools of the state and shall be distributed to the several school districts of the state in such manner as may be prescribed by law. No part of said fund, principal or interest and income, shall ever be transferred to any other fund or used or appropriated, except as provided in this article and article 43.7 of this title. The state treasurer shall be custodian of the fund, and the same shall be securely and profitably invested as may be directed by the public school fund investment board created in section 22-41-102.5. The state, by appropriation, shall supply all losses of principal that may occur as determined pursuant to section 2-3-103 (5), C.R.S., or section 22-41-104 (2).

(2) (Deleted by amendment, L. 2003, p. 2131, § 25, effective May 22, 2003.)

(3) (a) Except as provided in paragraph (b) of this subsection (3), for the 2010-11 state fiscal year through the 2012-13 fiscal year, the first eleven million dollars of any interest or income earned on the investment of the moneys in the public school fund shall be credited to the state public school fund created in section 22-54-114 for distribution as provided by law. Any amount of such interest and income earned on the investment of the moneys in the state public school fund in excess of eleven million dollars, other than interest and income credited to the public school capital construction assistance fund, created in section 22-43.7-104 (1), pursuant to section 22-43.7-104 (2)(b)(I), shall remain in the fund and shall become part of the principal of the fund.

(b) and (c) Repealed.

(d) For the 2013-14 state fiscal year through the 2014-15 fiscal year, the first sixteen million dollars of any interest or income earned on the investment of the moneys in the public school fund shall be credited to the state public school fund created in section 22-54-114 for distribution as provided by law. Any amount of such interest and income earned on the investment of the moneys in the state public school fund in excess of sixteen million dollars, other than interest and income credited to the public school capital construction assistance fund, created in section 22-43.7-104 (1), pursuant to section 22-43.7-104 (2)(b)(I), shall remain in the fund and shall become part of the principal of the fund.

(e) For the 2015-16 and the 2016-17 state fiscal year, the first twenty-one million dollars of any interest or income earned on the investment of the moneys in the public school fund is credited to the state public school fund created in section 22-54-114 for distribution as provided by law. Any amount of such interest and income earned on the investment of the moneys in the state public school fund in excess of twenty-one million dollars, other than interest and income credited to the public school capital construction assistance fund, created in section 22-43.7-104 (1), pursuant to section 22-43.7-104 (2)(b)(I), shall remain in the fund and shall become part of the principal of the fund.

(f) For the 2017-18 and 2018-19 state fiscal years, interest or income earned on the investment of the moneys in the public school fund must be used or credited in the following order:

(I) The first twenty-one million dollars is credited to the state public school fund created in section 22-54-114 for distribution as provided in that section; except that, if the interest or income earned on the investment of the moneys in the public school fund is less than twenty-one million dollars, then the available amount must also be used to entirely cover the cost of services and reimbursement described in subparagraph (II) of this paragraph (f);

(II) An amount annually appropriated to the state treasurer to pay for the services of private professional fund managers hired by the public school fund investment board pursuant to section 22-41-102.5 (5), and to pay for any reimbursement for travel and other necessary expenses incurred by the members of the public school fund investment board pursuant to section 22-41-102.5 (2);

(III) Any amount in excess of twenty-one million dollars plus the cost of services and reimbursement described in subparagraph (II) of this paragraph (f), up to thirty-one million dollars plus the cost of services and reimbursement described in subparagraph (II) of this paragraph (f), is credited to the restricted account of the public school capital construction assistance fund created in section 22-43.7-104 (5) for use as provided in that section; and

(IV) Any amount in excess of thirty-one million dollars plus the cost of services and reimbursement described in subparagraph (II) of this paragraph (f) is credited as specified by the general assembly, taking into consideration the recommendations of the public school fund investment board described in section 22-41-102.5 (4)(a)(III).

(g) For the 2019-20 state fiscal year, and each state fiscal year thereafter, interest or income earned on the investment of the moneys in the public school fund must be used or credited in the following order:

(I) The first twenty-one million dollars is credited to the state public school fund created in section 22-54-114 for distribution as provided in that section; except that, if the interest or income earned on the investment of the moneys in the public school fund is less than twenty-one

million dollars, then the available amount must also be used to entirely cover the cost of services and reimbursement described in subparagraph (II) of this paragraph (g);

(II) An amount annually appropriated to the state treasurer to pay for the services of private professional fund managers hired by the public school fund investment board pursuant to section 22-41-102.5 (5), and to pay for any reimbursement for travel and other necessary expenses incurred by the members of the public school fund investment board pursuant to section 22-41-102.5 (2);

(III) Any amount in excess of twenty-one million dollars plus the cost of services and reimbursement described in subparagraph (II) of this paragraph (g), up to forty-one million dollars plus the cost of services and reimbursement described in subparagraph (II) of this paragraph (g), is credited to the restricted account of the public school capital construction assistance fund created in section 22-43.7-104 (5) for use as provided in that section; and

(IV) Any amount in excess of forty-one million dollars plus the cost of services and reimbursement described in subparagraph (II) of this paragraph (g) is credited as specified by the general assembly, taking into consideration the recommendations of the public school fund investment board described in section 22-41-102.5 (4)(a)(III).

**Source: L. 73:** R&RE, p. 1240, § 1. **C.R.S. 1963:** § 123-4-2. **L. 77:** Entire section amended, p. 1055, § 1, effective July 15. **L. 2003:** (2) amended and (3) added, p. 2131, § 25, effective May 22. **L. 2008:** (1) and (3) amended, p. 1062, § 3, effective July 1. **L. 2009:** (3) amended, (SB 09-260), ch. 200, p. 900, § 1, effective May 1. **L. 2010:** (3)(b) amended, (SB 10-150), ch. 108, p. 362, § 1, effective April 15; (3)(a) amended, (HB 10-1369), ch. 246, p. 1101, § 9, effective May 21. **L. 2011:** (3)(b) amended, (SB 11-230), ch. 305, p. 1467, § 8, effective June 9. **L. 2012:** (3)(b) amended, (SB 12-145), ch. 202, p. 805, § 1, effective May 24; (3)(a) amended and (3)(c) added, (HB 12-1238), ch. 180, p. 671, § 13, effective July 1. **L. 2013:** (3)(b)(II)(A) amended, (SB 13-112), ch. 69, p. 224, § 1, effective March 22; (3)(a) amended, (3)(c) repealed, and (3)(d) added, (SB 13-260), ch. 236, p. 1144, § 11, effective May 17. **L. 2015:** (3)(d) amended and (3)(e) added, (SB 15-267), ch. 295, p. 1202, § 4, effective June 5. **L. 2016:** (1) and (3)(e) amended and (3)(f) and (3)(g) added, (SB 16-035), ch. 250, p. 1024, § 3, effective August 10.

**Editor's note:** (1) Subsection (3)(b)(I)(B) provided for the repeal of subsection (3)(b)(I), effective July 1, 2013. (See L. 2012, p. 805.)

(2) Subsection (3)(b)(II)(B) provided for the repeal of subsection (3)(b)(II), effective July 1, 2014. (See L. 2012, p. 805.)

**Cross references:** For the legislative declaration in SB 16-035, see section 1 of chapter 250, Session Laws of Colorado 2016.

**22-41-102.5. Public school fund investment board - creation.** (1) (a) There is hereby created the public school fund investment board, referred to in this section as the "board". The board consists of five members, as follows:

(I) The state treasurer, who serves as chair;

(II) A member of the state board of land commissioners, appointed by majority vote of the commissioners; and

(III) Three members appointed by the state treasurer. Such appointees must have diversity in party affiliation and professional qualifications regarding the prudent investment of trust fund money or expertise in institutional investment management.

(b) Initial appointments of members must be made no later than thirty days after August 10, 2016. The board must meet for the first time no later than thirty days after the appointment of the members as required in this paragraph (b), and the board must meet no less than quarterly thereafter.

(c) The state treasurer and two other voting members of the board constitutes a quorum of the board.

(2) Except for the state treasurer, members of the board serve two-year terms and may not serve more than three consecutive terms, and none of the board members, except for the treasurer, may hold any state elective office. The state board of land commissioners or the state treasurer may remove their appointed members for any cause that renders the member incapable of discharging or unfit to discharge his or her duty to the board. The state board of land commissioners or the state treasurer may fill any vacancy by appointment, and such appointment must be made no later than ninety days after the date of the vacancy. A member appointed to fill a vacancy serves until the expiration of the term for which the vacancy was filled. Members of the board serve without compensation but may receive reimbursement for travel and other necessary expenses actually incurred in the performance of their duties. The reimbursements are paid from the interest and income earned on the deposit and investment of the public school fund subject to the requirements set forth in section 22-41-102.

(3) The board shall direct the state treasurer on how to securely invest money deposited in the public school fund for the intergenerational benefit of public schools and in a manner that complies with the "Uniform Prudent Investor Act", article 1.1 of title 15, C.R.S.

(4) (a) No later than March 31, 2017, the board shall establish policies that are necessary and proper for the administration of this section, including but not limited to:

(I) A conflict of interest policy for board members;

(II) A policy establishing allowable investments that comply with section 22-41-104 and section 3 of article IX of the state constitution; and

(III) Recommendations to the general assembly regarding the distribution of income and interest described in section 22-41-102 (3)(f)(IV) and (3)(g)(IV).

(b) The policies must be posted on the department of the treasury's website no later than April 5, 2017.

(5) The board may enter into contracts with private professional fund managers to provide expertise, technical support, and advice on investment market conditions. Such contract or contracts must be bid by employing standard public bidding practices including, but not limited to, the use of requests for information, requests for proposals, or any other standard vendor selection practices determined by the board to be best suited to selecting an appropriate private professional fund manager. Payments for these services will be paid from the interest and income of the public school fund subject to the requirements set forth in section 22-41-102.

**Source: L. 2016:** Entire section added, (SB 16-035), ch. 250, p. 1022, § 2, effective August 10.

**Cross references:** For the legislative declaration in SB 16-035, see section 1 of chapter 250, Session Laws of Colorado 2016.

**22-41-103. Certain lands considered to be investments of fund.** (1) All lands, title to which has or may become vested in the state as the result of foreclosure proceedings, shall be designated as "public school fund lands" and shall be considered an investment of the public school fund.

(2) Such lands shall be under the control and direction of the state board of land commissioners and may be disposed of by the board in the same manner as public school lands; except that any mineral rights acquired under said foreclosure proceedings may be sold with the land. The board shall keep a separate list of all such lands in its office.

**Source: L. 73:** R&RE, p. 1240, § 1. **C.R.S. 1963:** § 123-4-3.

**22-41-104. Lawful investments.** (1) The state treasurer, as directed by the public school fund investment board, may invest and reinvest moneys accrued or accruing to the public school fund in the types of deposits and investments authorized in sections 24-36-109, 24-36-112, and 24-36-113, C.R.S., and bonds issued by school districts. The moneys may also be invested in stocks and other financial assets as specified in the public school fund investment board investment policy established as required in section 22-41-102.5 (4)(b); except that investment includes only mutual funds, index funds, and any other instrument that is not a direct investment in a corporation.

(2) The state treasurer has authority, to be exercised at the state treasurer's discretion, to effect exchanges or sales whenever such exchanges or sales will not result in an aggregate loss of principal to the public school fund. An aggregate loss of principal to the public school fund occurs only when an exchange or sale that resulted in an initial loss of principal is not offset by a gain on an exchange or sale in the fund within twelve months.

(3) (Deleted by amendment, L. 97, p. 375, § 6, effective August 6, 1997.)

**Source: L. 73:** R&RE, p. 1241, § 1. **C.R.S. 1963:** § 123-4-4. **L. 77:** (2) amended and (3) added, p. 1055, § 2, effective July 15. **L. 78:** (2) amended, p. 264, § 56, effective May 23, 1979. **L. 81:** (1)(a) amended, p. 1069, § 1, effective May 21. **L. 88:** (1)(f) and (1)(g) added, p. 950, § 2, effective March 24. **L. 92:** (1)(f) amended and (1)(h) to (1)(j) added, p. 1112, § 2, effective July 1. **L. 97:** IP (1) amended and (1)(c.3) added, p. 852, § 39, effective May 21; entire section amended, p. 375, § 6, effective August 6. **L. 2002:** (2) amended, p. 1793, § 56, effective June 7. **L. 2013:** (2) amended, (HB 13-1205), ch. 141, p. 457, § 1, effective August 7. **L. 2016:** (1) amended, (SB 16-035), ch. 250, p. 1026, § 4, effective August 10.

**Editor's note:** Amendments to subsection (1) by Senate Bill 97-206 and Senate Bill 97-150 were harmonized.

**Cross references:** (1) For provisions for legal investments for governmental units, see § 24-75-601.1.

(2) For the legislative declaration in SB 16-035, see section 1 of chapter 250, Session Laws of Colorado 2016.

**22-41-104.5. Other financial transactions.** (1) The state treasurer may engage in financial transactions whereby:

(a) Obligations are purchased with moneys accrued or accruing to the public school fund under an agreement providing for the resale of such obligations to the original seller at a stated price together with a payment to the fund of interest for the period the fund holds the obligations, but the market value of such obligations shall at all times be at least equal to the total purchase price;

(b) Obligations owned by the fund are sold under an agreement providing for the repurchase of such obligations by the fund at a stated price together with the payment to the buyer of interest for the period the buyer holds the obligations;

(b.5) Loans are made to school districts under the provisions of section 3 of article IX of the state constitution;

(c) Obligations owned by the fund are delivered to reputable and financially responsible dealers in such obligations under an agreement which provides:

(I) For the replacement thereof with obligations of the same kind and amount upon demand therefor by the state treasurer; and

(II) For the payment to the state treasury by said dealer of a commission or other compensation, based upon the amount of such obligations, for the period of time between the delivery of such obligations to such dealer and the replacement thereof; and

(III) For the pledge and delivery by said dealer to the state treasury of other obligations which are lawful investments having a market value at all times equal to at least the market value of the obligations so delivered to guarantee the replacement of such obligations.

(d) (Repeal provision deleted by revision.)

(2) The state treasurer may make such arrangements for the custody, safekeeping, and registration of obligations as will enable him to make prompt delivery thereof upon maturity or in the event of sale.

**Source: L. 77:** Entire section added, p. 1058, § 1, effective June 1; (1)(b) and (1)(c) repealed, p. 1059, § 1, effective July 1. **L. 81:** (1)(b) and (1)(c) RC&RE, p. 1069, § 2, effective May 21. **L. 97:** (1)(b.5) added, p. 852, § 40, effective May 21.

**Editor's note:** Subsection (1)(d) provided for the repeal of subsections (1)(b) and (1)(c), effective July 1, 1979. (See L. 77, p. 1058.) Subsections (1)(b) and (1)(c) were recreated and reenacted, and subsection (1)(d) was therefore deleted by revision as obsolete.

**22-41-105. Income distinguished from principal.** (1) Any amount paid as a premium for an interest-bearing obligation in excess of the amount realized upon disposition of said obligation must be recovered as a return of principal out of interest thereafter derived from the public school fund. Such recovery must be made and recorded on a systematic basis applied consistently from year to year.

(2) Interest and income that is not distributed as specified in section 22-41-102 (3) on June 30 of any fiscal year becomes part of the principal of the public school fund.

**Source: L. 73:** R&RE, p. 1241, § 1. **C.R.S. 1963:** § 123-4-5. **L. 77:** Entire section amended, p. 1056, § 3, effective July 15. **L. 2016:** Entire section amended, (SB 16-035), ch. 250, p. 1026, § 5, effective August 10.

**Cross references:** For the legislative declaration in SB 16-035, see section 1 of chapter 250, Session Laws of Colorado 2016.

**22-41-106. Disposition of income. (Repealed)**

**Source: L. 73:** R&RE, p. 1241, § 1. **C.R.S. 1963:** § 123-4-6. **L. 96:** Entire section amended, p. 1008, § 1, effective July 1, 1997. **L. 97:** Entire section amended, p. 589, § 23, effective April 30. **L. 2008:** Entire section repealed, p. 1063, § 4, effective July 1.

**22-41-107. Reports.** Notwithstanding section 24-1-136 (11)(a)(I), the public school fund investment board shall submit financial statements on November 1 of each fiscal year to the state treasurer, the state board of land commissioners, the office of state planning and budgeting, the joint budget committee, and the education and finance committees of the senate and house of representatives, or any successor committees.

**Source: L. 73:** R&RE, p. 1241, § 1. **C.R.S. 1963:** § 123-4-7. **L. 75:** (2) amended, p. 802, § 2, effective June 20. **L. 77:** (2) amended, p. 1056, § 4, effective June 15. **L. 98:** (2) repealed, p. 1076, § 7, effective June 1. **L. 2016:** Entire section amended, (SB 16-035), ch. 250, p. 1026, § 6, effective August 10. **L. 2017:** Entire section amended, (HB 17-1267), ch. 242, p. 997, § 16, effective August 9.

**Cross references:** For the legislative declaration in SB 16-035, see section 1 of chapter 250, Session Laws of Colorado 2016.

**22-41-108. Transfer of records.** On July 1, 1973, the state board of land commissioners shall deliver to the state treasurer all records relating to investments of the public school fund made by the board.

**Source: L. 73:** R&RE, p. 1241, § 1. **C.R.S. 1963:** § 123-4-8.

**22-41-109. Bond guarantee loans.** (1) The general assembly hereby finds that school districts of this state are experiencing great need for improved school facilities; that, although the issuance of school bonds can pave the way for improved facilities, such bonds must be marketable and their interest rate must be competitive in order to benefit the district; that, if the risk assumed by school bond purchasers was diminished, interest rates would generally be reduced; that the use of permanent school funds to guarantee payments of principal and interest, with appropriate safeguards for the public school fund, is consistent with the purpose for which the fund was created; and that section 3 of article IX of the state constitution specifically authorizes the use of the public school fund of the state for the purposes of this section.

(2) The state treasurer is authorized to contract with school districts in this state for the guarantee of payments of principal and interest on the district's bonds as such payments become

due. The state treasurer shall not enter into such contract if the guarantee would result in the total amount of outstanding guaranteed bonds exceeding an amount equal to three times the market value of the public school fund. Each year the state treasurer shall analyze the status of guaranteed bonds as compared to the book value and market value of the public school fund and shall certify whether the amount of bonds guaranteed is within the limit prescribed by this subsection (2).

(3) The board of education of a school district desiring to enter into a guarantee contract authorized by this section shall include, in the resolution submitting the question of issuing bonds to the registered electors of the school district, a statement that the school district intends to contract with the state treasurer for the guarantee of principal and interest payments to holders of such bonds. The resolution shall set forth, and any resulting guarantee contract shall provide, that the district shall repay any loan of public school funds with interest as provided in subsection (4) of this section by the end of the calendar year next following the close of the fiscal year in which the loan was made, out of any available funds of the school district or out of the proceeds of a levy on the taxable property of the school district at a rate sufficient to produce the amount required to repay the loan. No guarantee contract shall be executed pursuant to this section unless the registered electors of the school district have approved such provisions for the contract by their vote approving the issuance of bonds.

(4) Any guarantee contract authorized by this section shall include a provision requiring the payment of interest on loans made pursuant to the contract at the prevailing rate of interest being earned by investments of the public school fund on the date the loan is made.

(5) A board of education seeking the guarantee of eligible bonds shall notify the commissioner of education and the state treasurer indicating the name of the school district and the principal amount of the bonds to be issued, the name and address of the school district's paying agent for the bonds, the maturity schedule, the estimated interest rate, and the date of the bonds.

(6) After receipt of the request for the guarantee of bonds, the commissioner of education shall review the applicant school district regarding the school district's accreditation category, the school district's financial status based on its audited financial statements for the previous three years, and the total amount of the school district's bonded indebtedness in relation to the limitation on indebtedness provided by law. If, after the investigation, the commissioner of education is satisfied that the school district's bonds should be guaranteed under this section, the commissioner of education shall endorse the request for the bond guarantee to the state treasurer.

(7) Whenever the paying agent has not received payment of principal of or interest on bonds or other obligations to which this section applies fifteen business days immediately prior to the date on which such payment is due, the paying agent shall so notify the state treasurer and the school district by telephone, facsimile, or other similar communication, followed by written verification, of such payment status. The state treasurer shall immediately contact the school district and determine whether the school district will make the payment by the date on which it is due.

(8) If the school district indicates that it will not make the payment by the date on which it is due, the state treasurer shall forward the amount in immediately available funds necessary to make the payment of the principal of or interest on the bonds or other obligations of the school district to the paying agent on the business day immediately prior to the date on which payment

is due. Such payment shall constitute a loan to the school district from the public school fund in accordance with the terms of the guarantee contract.

(9) In order to assure sufficient liquidity to meet obligations under the provisions of this section, the state treasurer shall invest moneys in the public school fund in an amount equal to at least ten percent of the principal amount of bonds guaranteed under this section in interest-bearing obligations of the United States as provided in section 22-41-104 (1)(d) with maturity dates of three years or less.

(10) The amounts forwarded to the paying agent by the state treasurer shall be applied to the paying agent solely to the payment of the principal of or interest on such bonds or other obligations of the school district.

(11) Any school district to which this section applies shall file with the state treasurer a copy of the resolution that authorizes the issuance of bonds or other obligations, a copy of the official statement or other offering document for such bonds or other obligations, the agreement, if any, with the paying agent for such bonds or other obligations, and the name, address, and telephone number of such paying agent.

(12) As provided in section 11 of article II of the state constitution, the state hereby covenants with the purchasers and owners of bonds and other obligations issued by school districts that the state will not repeal, revoke, or rescind the provisions of this section or modify or amend the same so as to limit or impair the rights and remedies granted by this section; but nothing in this subsection (11) shall be deemed or construed to require the state to continue the payment of state assistance to any school district or to limit or prohibit the state from repealing, amending, or modifying any law relating to the amount of state assistance to school districts or the manner of payment or the timing thereof. Nothing in this section shall be deemed or construed to create a debt of the state with respect to such bonds or other obligations within the meaning of any state constitutional provision or to create any liability except to the extent provided in this section.

(13) Whenever the state treasurer is required by this section to make a payment of principal of or interest on bonds or other obligations on behalf of a school district, the department of education shall initiate an audit of the school district to determine the reasons for the nonpayment and to assist the school district, if necessary, in developing and implementing measures to assure that future payments will be made when due.

(14) Whenever the state treasurer makes a payment of principal and interest on bonds or other obligations of a school district because of the failure to collect property taxes levied in accordance with law for the school district's bond redemption fund, the district may transfer any such delinquent property taxes later collected out of the school district's bond redemption fund and into its general fund.

(15) In the event that any public school fund moneys are lost by reason of the failure of any school district to repay a loan made pursuant to this section, the general assembly shall restore such public school fund moneys, together with such interest as would have accrued thereto, by an appropriation in the amount of such loss from the general fund of the state.

(16) If two or more repayments from the public school fund are made on the guaranteed bonds of a school district and the commissioner of education determines that the school district is acting in bad faith under the guarantee, the commissioner of education may request the attorney general to institute appropriate legal action to compel the school district governing board to comply with the duties required by law in regard to the bonds.

**Source: L. 73:** R&RE, p. 1243, § 1. **C.R.S. 1963:** § 123-4-9. **L. 87:** (4) amended, p. 316, § 51, effective July 1. **L. 90:** (3)(b) and (4) amended, p. 1082, § 39, effective May 31. **L. 91:** Entire section repealed, p. 543, § 2, effective July 1. **L. 97:** Entire section RC&RE, p. 852, § 41, effective May 21. **L. 2009:** (6) amended, (SB 09-163), ch. 293, p. 1544, § 49, effective May 21.

**22-41-110. Timely payment of school district obligations.** (1) (a) The state treasurer, on behalf of a school district, shall make payment as provided in this section of principal and interest on bonds or other obligations to which this section applies, unless the school district board of education adopts a resolution stating it will not accept payment on behalf of the school district of principal and interest on bonds or other obligations as provided in this section. If a school district chooses to adopt such a resolution, it shall be adopted prior to issuance or incurrence of the bonds or obligations to which it applies. Following adoption of the resolution, the school district shall provide written notice to the state treasurer of its refusal to accept the payment. The refusal to accept payment shall take effect upon the date the state treasurer receives the written notice and shall continue in effect until the date the state treasurer receives written notice from the school district that the school district board of education has adopted a resolution rescinding the refusal to accept payment pursuant to this section. Notwithstanding any provision of subsections (2) to (8) of this section to the contrary, the state treasurer shall not make payment of principal or interest on bonds or other obligations on behalf of a school district that provides written notice of its refusal to accept payment by the state treasurer on behalf of the school district as provided in this paragraph (a), until the state treasurer receives written notice of the rescission of refusal to accept payment.

(b) This section applies to:

(I) General obligation bonds issued by a school district on or after July 1, 1991, pursuant to article 42 or 43 of this title; except that this section shall not apply to bonds issued by a school district pursuant to section 22-42-102 (2)(a)(IX);

(II) Obligations of a school district in connection with a lease agreement or installment purchase agreement entered into by a school district under section 22-32-127 or 22-45-103 (1)(c) on or after July 1, 1991; and

(III) Refunding bonds issued by a school district pursuant to article 56 of title 11.

(IV) Repealed.

(2) Whenever the paying agent has not received payment of principal of or interest on bonds or other obligations to which this section applies on the business day immediately prior to the date on which such payment is due, the paying agent shall so notify the state treasurer and the school district, by telephone, facsimile, or other similar communication, followed by written verification, of such payment status. The state treasurer shall immediately contact the district and determine whether the district will make the payment by the date on which it is due.

(3) If the district indicates that it will not make the payment by the date on which it is due, the state treasurer shall forward the amount in immediately available funds necessary to make the payment of the principal of or interest on the bonds or other obligations of the school district to the paying agent. The state treasurer shall recover the amount forwarded by withholding amounts from the school district's payments of the state's share of the district's total program received in accordance with article 54 of this title and from property tax and specific ownership tax revenues collected by the county treasurer on behalf of the school district; except that the state treasurer may not recover amounts from property tax revenues that are pledged to

pay notes or bonds issued by the school district. The total amount withheld in a month from the state's share of total program and the tax revenues due to the school district for each occasion on which the treasurer forwards an amount pursuant to this section shall not exceed one-twelfth of the amount forwarded; except that the state treasurer, in one or more months during the twelve-month withholding period, may withhold more than one-twelfth of the amount forwarded, if the school district in one or more months during the twelve-month withholding period receives total program and tax revenues in an amount that is less than one-twelfth of the amount forwarded. The state treasurer shall not withhold for more than twelve consecutive months for each occasion on which the treasurer forwards amounts pursuant to this section. The state treasurer, in writing, shall notify the county treasurer for the school district of the amount of tax revenues to be withheld pursuant to this subsection (3) and the period of withholding. Notwithstanding any provision of this subsection (3) to the contrary, a school district may elect to make early repayment of all or any portion of an amount forwarded by the state treasurer on behalf of the school district pursuant to this section. When a school district fully repays an amount forwarded by the state treasurer on behalf of the school district pursuant to this section, the state treasurer, in writing, shall notify the county treasurer for the school district to discontinue the withholding of tax revenues.

(4) The amounts forwarded to the paying agent by the state treasurer shall be applied by the paying agent solely to the payment of the principal of or interest on such bonds or other obligations of the school district. The state treasurer shall notify the department of education, the chief financial officer of the district, and the general assembly of amounts withheld and payments made pursuant to this section.

(5) Any school district to which this section applies shall file with the state treasurer a copy of the resolution which authorizes the issuance of bonds or other obligations, a copy of the official statement or other offering document for such bonds or other obligations, the agreement, if any, with the paying agent for such bonds or other obligations, and the name, address, and telephone number of such paying agent. The failure of any school district to file such information shall not affect the obligation of the state treasurer to withhold the state's share of the district's total program and the district's tax revenues under this section.

(6) As provided in section 11 of article II of the state constitution, the state hereby covenants with the purchasers and owners of bonds and other obligations issued by school districts that it will not repeal, revoke, or rescind the provisions of this section or modify or amend the same so as to limit or impair the rights and remedies granted by this section; but nothing in this subsection (6) shall be deemed or construed to require the state to continue the payment of state assistance to any school district or to limit or prohibit the state from repealing, amending, or modifying any law relating to the amount of state assistance to school districts or the manner of payment or the timing thereof. Nothing in this section shall be deemed or construed to create a debt of the state with respect to such bonds or other obligations within the meaning of any state constitutional provision or to create any liability except to the extent provided in this section.

(7) Whenever the state treasurer is required by this section to make a payment of principal of or interest on bonds or other obligations on behalf of a school district, the department of education shall initiate an audit of the district to determine the reason for the nonpayment and to assist the district, if necessary, in developing and implementing measures to assure that future payments will be made when due.

(8) Whenever the state treasurer makes a payment of principal and interest on bonds or other obligations of a school district and withholds amounts from the district's payments of the state's share of the district's total program and from the district's unpledged tax revenues pursuant to this section because of the failure to collect property taxes levied in accordance with law for the district's bond redemption fund, the district may transfer, or may instruct the third-party custodian that administers the district's bond redemption fund to transfer, any such delinquent property taxes later collected out of the district's bond redemption fund and into its general fund.

**Source: L. 91:** Entire section added, p. 541, § 1, effective July 1. **L. 94:** (3), (5), and (8) amended, p. 815, § 34, effective April 27. **L. 95:** (1) amended, p. 608, § 4, effective May 22. **L. 2003:** (1), (3), (5), and (8) amended, p. 1297, § 5, effective April 22. **L. 2009:** (1)(b) amended, (HB 09-1312), ch. 253, p. 1144, § 2, effective August 5. **L. 2010:** (1)(b)(I) amended, (SB 10-205), ch. 313, p. 1471, § 3, effective May 27. **L. 2018:** (1)(b)(II) and (1)(b)(III) amended and (1)(b)(IV) repealed, (SB 18-003), ch. 359, p. 2150, § 14, effective June 1.

**Cross references:** For the legislative declaration in HB 09-1312, see section 1 of chapter 253, Session Laws of Colorado 2009. For the legislative declaration in the 2010 act amending subsection (1)(b)(I), see section 1 of chapter 313, Session Laws of Colorado 2010.

## ARTICLE 41.5

Voter Approval for Weakening
of Debt Limitations on School Districts

**22-41.5-101. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) In performing its duties under sections 2 and 15 of article IX, section 20 of article X, and section 6 of article XI of the state constitution, the general assembly must balance the interests of achieving a thorough and uniform public school system, controlling public debt, preserving a limited degree of local control, and reasonably restraining most the growth of government;

(b) In balancing these constitutional interests through the exercise of its legislative authority, the general assembly has enacted limitations on the ability of school districts to incur indebtedness;

(c) A statutory restriction has been imposed on the amount of bonded indebtedness that school districts can incur with voter approval for capital improvements;

(d) From time to time, changes to such limitations imposed on school districts are necessary in order to keep these constitutional interests properly balanced in light of changing circumstances;

(e) Section 20 (1) of article X of the state constitution prohibits the weakening of "other limits on district revenue, spending, and debt" without future voter approval;

(f) No change in school district debt occurs by virtue of statutory changes that increase a limit when the debt would not actually increase without school district voter approval and any

actual weakening occurs only when school district voter approval is obtained under an increased limit; and

(g) By requiring voters to give approval at the school district level for any weakening of a school district limit on debt, the voter approval requirement of section 20 (1) of article X is satisfied in a manner achieving a reasonable result through legislative harmonization of constitutional provisions.

**Source: L. 95:** Entire article added, p. 1017, § 1, effective May 25.

**22-41.5-102. Voter approval - weakening of limits on school district debt.** (1) Whenever any provision of this title imposes a limitation on the debt of school districts and the voters of a school district are required by law to approve any change in debt subject to the limitation, the general assembly shall not be required to seek statewide voter approval to amend the statutory provision that imposes the limitation.

(2) For purposes of section 20 (1) of article X of the state constitution, any weakening of a limitation on a school district's debt shall occur only when voter approval at the school district level is obtained, and voter approval of the measure at the school district level shall satisfy any voter approval requirement of section 20 (1) of article X.

(3) Any ballot question seeking voter approval of a weakening of any limitation on school district debt may be submitted to the eligible electors of a school district as a separate ballot question or as part of a ballot question including other ballot issues, such as the authorization of bonded indebtedness.

**Source: L. 95:** Entire article added, p. 1018, § 1, effective May 25.

## ARTICLE 42

Bonded Indebtedness

**Editor's note:** This article was numbered as article 11 of chapter 123, C.R.S. 1963. The provisions of this article were repealed and reenacted in 1964, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1964, consult the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

**Cross references:** For the constitutional provision that establishes limitations on spending, the imposition of taxes, and the incurring of debt, see section 20 of article X of the state constitution.

**22-42-101. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Board of education" or "board" means the governing body authorized by law to administer the affairs of any school district.

(1.5) Repealed.

(2) "Eligible elector" means a person who has complied with the registration provisions of article 2 of title 1, C.R.S., and who resides within the jurisdiction of the political subdivision calling the election.

(3) "Net effective interest rate" of a proposed issue of bonds means the net interest cost of the issue divided by the sum of the products derived by multiplying the principal amount of such issue maturing on each maturity date by the number of years from the date of said proposed bonds to their respective maturities. In all cases the net effective interest rate shall be computed without regard to any option of redemption prior to the designated maturity dates of the bonds.

(4) "Net interest cost" of a proposed issue of bonds means the total amount of interest to accrue on said bonds from their date to their respective maturities, plus the amount of any discount below par, or less the amount of any premium above par at which said bonds are being or have been sold. In all cases the net interest cost shall be computed without regard to any option of redemption prior to the designated maturity dates of the bonds.

(4.5) "Pupil enrollment count day" has the same meaning as set forth in section 22-54-103 (10.5).

(5) "Registered elector" means an elector who has complied with the registration provisions of this article.

(6) "School district" or "district" means a school district organized and existing pursuant to law or a joint taxation district organized and existing pursuant to part 2 of article 30 of this title.

**Source: L. 64:** R&RE, p. 545, § 1. **C.R.S. 1963:** § 123-11-1. **L. 70:** p. 330, § 1. **L. 71:** pp. 1148, 1151, §§ 1, 9. **L. 75:** (6) amended, p. 787, § 8, effective July 1. **L. 87:** (2) and (5) amended, p. 316, § 52, effective July 1. **L. 92:** (2) amended, p. 839, § 34, effective January 1, 1993. **L. 94:** (1.5) added, p. 1790, § 3, effective January 1, 1995. **L. 96:** (6) amended, p. 65, § 23, effective July 1. **L. 2008:** (1.5) repealed, p. 1900, § 78, effective August 5. **L. 2012:** (4.5) added, (HB 12-1090), ch. 44, p. 153, § 16, effective March 22.

**22-42-102. Bonded indebtedness - elections.** (1) No debt by loan in any form shall be contracted by any school district for the purposes specified in paragraph (a) of subsection (2) of this section, unless the proposition to create the debt has first been submitted to and approved by the eligible electors of the district.

(2) (a) The board of education of any school district, at any regular biennial school election or at a special election called for the purpose, shall submit to the eligible electors of the district the question of contracting a bonded indebtedness for one or more of the following purposes:

(I) For acquiring or purchasing buildings or grounds;

(II) For enlarging, improving, remodeling, repairing, or making additions to any school building;

(III) For constructing or erecting school buildings;

(IV) For equipping or furnishing any school building, but only in conjunction with a construction project for a new building or for an addition to an existing building or in conjunction with a project for substantial remodeling, improvement, or repair of an existing building;

(V) For improving school grounds;

(VI) For funding floating indebtedness;

(VII) For acquiring, constructing, or improving any capital asset that the district is authorized by law to own;

(VIII) For supporting charter school capital construction as defined in section 22-30.5-403 (4) or the land and facilities needs of a charter school as defined in section 22-30.5-403 (3), without title or ownership of charter school capital assets being held by the school district or ownership or use restrictions placed on the charter school by the school district;

(IX) (A) Subject to the provisions of sub-subparagraph (B) of this subparagraph (IX), for paying the costs that may be paid from the general fund of the school district; except that bonded indebtedness may be issued for such purpose only if amendment 61 is approved by the voters at the general election held on November 2, 2010, and the eligible electors of the school district approve a question to create debt for such purpose at an election held on or after November 2, 2010.

(B) The board of education of a district that issues bonded indebtedness pursuant to sub-subparagraph (A) of this subparagraph (IX) shall deposit any moneys from such bonded indebtedness into a cash flow deficit restricted reserve in the general fund of the district. The board of education of such a district may expend the moneys deposited in the reserve only for the purpose of alleviating the district's annual temporary cash flow deficit and shall repay, from the property tax revenues of the district, the total amount expended from the reserve in any fiscal year on or before June 30 of the applicable fiscal year; except that such board of education may request that the department of education waive the requirement to repay the reserve by June 30 of the applicable fiscal year. If the department grants such a waiver, the board of education of the district shall repay the total amount expended from the reserve on or before June 30 of the fiscal year following the fiscal year in which the board expended moneys from the reserve. Notwithstanding the provisions of this sub-subparagraph (B), if a district that has issued bonded indebtedness pursuant to sub-subparagraph (A) of this subparagraph (IX) no longer experiences an annual temporary cash flow deficit, the district shall use the moneys in the reserve to repay outstanding bonded indebtedness issued pursuant to this section.

(X) Subject to prior approval by the commissioner of education as provided in section 22-2-112 (5), for constructing a building that the school district may lease to a state institution of higher education. If a board of education seeks voter approval to contract bonded indebtedness for this purpose, the ballot question must specifically state that the bonded indebtedness is incurred "FOR THE PURPOSE OF CONSTRUCTING A BUILDING THAT THE SCHOOL DISTRICT MAY LEASE TO A STATE INSTITUTION OF HIGHER EDUCATION".

(b) The purposes specified in paragraph (a) of this subsection (2) shall be broadly construed, subject to the limitations provided in section 22-42-103.

(c) Any special election called pursuant to this section shall be held on the general election day in each even-numbered year or on the first Tuesday in November of each odd-numbered year and shall be conducted pursuant to the provisions of articles 1 to 13 of title 1, C.R.S.

(d) Repealed.

(3) to (5) (Deleted by amendment, L. 92, p. 839, § 35, effective January 1, 1993.)

(6) (a) The board of education of any school district, having received approval at an election to issue bonds and having determined that the limitations of the original election question are too restrictive to permit the advantageous sale of the bonds so authorized, may

submit at another regular or special election the question of issuing the bonds, or any portion thereof, at a higher principal amount or higher repayment cost than approved at the original election.

(b) An election held pursuant to this subsection (6) shall be held in substantially the same manner as an election to authorize bonds initially, except as may be required for the submission of the limited question or questions permitted under this subsection (6).

(c) If a majority of those voting at an election held pursuant to this subsection (6) fails to approve the changes submitted, such result shall not impair the authority of the board at a later time to issue the bonds originally approved within the limitations established at the first election.

**Source: L. 64:** R&RE, p. 547, § 1. **C.R.S. 1963:** § 123-11-3. **L. 70:** p. 331, § 2. **L. 71:** pp. 1148, § 2. **L. 73:** p. 1249, § 1. **L. 77:** (1) and (2) amended, p. 1061, § 1, effective June 19. **L. 86:** (2)(c) added and (3) R&RE, p. 812, §§ 3, 4, effective July 1. **L. 87:** (1) and IP(2)(a) amended, p. 316, § 53, effective July 1. **L. 92:** (1), IP(2)(a), (2)(c), and (3) to (5) amended, p. 839, § 35, effective January 1, 1993. **L. 94:** (2)(c) amended, p. 1187, § 81, effective July 1; (2)(d) added, p. 1790, § 4, effective January 1, 1995. **L. 2008:** (2)(a)(V) and (2)(a)(VI) amended and (2)(a)(VII) added, p. 1211, § 24, effective May 22; (2)(d) repealed, p. 1900, § 79, effective August 5. **L. 2009:** (2)(a)(VI) and (2)(a)(VII) amended and (2)(a)(VIII) added, (SB 09-176), ch. 247, p. 1117, § 4, effective August 5. **L. 2010:** (2)(a)(VII) and (2)(a)(VIII) amended and (2)(a)(IX) added, (SB 10-205), ch. 313, p. 1470, § 2, effective May 27; (6)(a) amended, (HB 10-1013), ch. 399, p. 1898, § 4, effective June 10. **L. 2016:** (2)(a)(VIII) amended and (2)(a)(X) added, (SB 16-209), ch. 235, p. 950, § 2, effective August 10.

**Editor's note:** Amendment 61 referenced in subsection (2)(a)(IX) was not approved at the general election held on November 2, 2010, with the following vote count:

FOR: 473,716

AGAINST: 1,280,302

**Cross references:** For the legislative declaration contained in the 2008 act amending subsections (2)(a)(V) and (2)(a)(VI) and enacting subsection (2)(a)(VII), see section 1 of chapter 286, Session Laws of Colorado 2008. For the legislative declaration in the 2010 act amending subsections (2)(a)(VII) and (2)(a)(VIII) and adding subsection (2)(a)(IX), see section 1 of chapter 313, Session Laws of Colorado 2010.

**22-42-103. Limitations on elections.** The question of contracting bonded indebtedness may be submitted or resubmitted after the same or any other such question has previously been rejected at an election held pursuant to this article; but no such question shall be submitted or resubmitted at any election held less than one hundred twenty days after a previous submission of such question, and the board of education of any school district shall not submit any question of contracting bonded indebtedness at more than two elections within any twelve-month period. The provisions of this section shall not apply to elections on assumption of existing bonded indebtedness held pursuant to law.

**Source: L. 64:** R&RE, p. 547, § 1. **C.R.S. 1963:** § 123-11-4. **L. 70:** p. 332, § 3.

**22-42-104. Limit of bonded indebtedness.** (1) Except as provided in subsections (1.3), (1.4), and (1.6) of this section, the limit on bonded indebtedness of a school district is the greater of the following:

(a) Twenty percent of the latest valuation for assessment of the taxable property in such district, as certified by the county assessor to the board of county commissioners; or

(b) Six percent of the most recent determination of the actual value of the taxable property in the district, as certified by the county assessor to the board of county commissioners.

(1.2) For bonded indebtedness issued after June 1, 2011, the valuation for assessment of taxable property for the purposes of this section shall be the valuation for assessment of taxable property in the district as it existed on the December 10 prior to the date of issuance of the bonded indebtedness. The county assessor for the board of county commissioners shall report the valuation for assessment of taxable property in the district to the district and the department of education on each December 10.

(1.3) Notwithstanding the provisions of paragraph (a) of subsection (1) of this section and except as provided in subsection (1.4) of this section, the limit on bonded indebtedness of a school district is the greater of the limit determined pursuant to paragraph (b) of subsection (1) of this section or twenty-five percent of the latest valuation for assessment of the taxable property in the district, as certified by the county assessor to the board of county commissioners, for any bonded indebtedness approved at any election held on or after July 1, 1994, but before July 1, 2014, if the commissioner of education or the commissioner's designee certifies that for each of the preceding three fiscal years, or for three consecutive fiscal years that include the fiscal year in which the certification is made, the pupil enrollment or the funded pupil count of the district as of the pupil enrollment count day, whichever is applicable, has increased:

(a) By two and one-half percent or more over the preceding year, if the district has a pupil enrollment or funded pupil count, whichever is applicable, of at least one thousand pupils;

(b) By twenty-five or more pupils over the preceding year, if the district has a pupil enrollment or funded pupil count, whichever is applicable, of less than one thousand pupils.

(1.4) For any bonded indebtedness approved at the 2008 general election, the limit on bonded indebtedness of a school district shall be the greater of the limit determined pursuant to subsection (1.3) of this section or thirty percent of the latest valuation for assessment of the taxable property in such district, as certified by the county assessor to the board of county commissioners, if the commissioner of education or the commissioner's designee certifies that for each of the preceding three fiscal years, or for three consecutive fiscal years that include the fiscal year in which the certification is made, the pupil enrollment or the funded pupil count of the district as of the pupil enrollment count day, whichever is applicable, increased:

(a) By two and one-half percent or more over the preceding year, if the district has a pupil enrollment or funded pupil count, whichever is applicable, of at least one thousand pupils; or

(b) By twenty-five or more pupils over the preceding year, if the district has a pupil enrollment or funded pupil count, whichever is applicable, of less than one thousand pupils.

(1.5) The debt limit provided in subsection (1.3) or (1.6) of this section applies to a district only as long as the conditions of subsection (1.3) or (1.6) of this section are met. In a year in which the conditions of said subsection (1.3) or (1.6) are not met, the debt limit is the limit set forth in subsection (1) of this section; except that the validity of bonded indebtedness

incurred in any year in which the debt limit in said subsection (1.3) or (1.6) applies is not affected by a subsequent reduction in the district's debt limit.

(1.6) Notwithstanding the provisions of paragraph (a) of subsection (1) of this section and except as provided in subsection (1.4) of this section, the limit on bonded indebtedness of a school district is the greater of the limit determined pursuant to paragraph (b) of subsection (1) of this section or twenty-five percent of the latest valuation for assessment of the taxable property in the district, as certified by the county assessor to the board of county commissioners, for bonded indebtedness approved at an election held on or after July 1, 2014, if the commissioner of education or the commissioner's designee certifies that:

(a) For a district that has a pupil enrollment or funded pupil count, whichever is applicable, of one thousand pupils or more, the average of the annual percentage increases in the district's pupil enrollment or funded pupil count as of the pupil enrollment count day for the three preceding fiscal years or the five preceding fiscal years, whichever is higher, is at least two and one-half percent;

(b) For a district that has a pupil enrollment or funded pupil count, whichever is applicable, of fewer than one thousand pupils, the average of the annual increases in the district's pupil enrollment or funded pupil count as of the pupil enrollment count day for the three preceding fiscal years or the five preceding fiscal years, whichever is higher, is at least twenty-five pupils.

(2) The indebtedness of the former districts or parts of districts, constituting any new district, shall not be considered in fixing the limit of bonded indebtedness; but, if any school district shall assume the bonded indebtedness of any district or districts, or a proportionate share thereof, existing at the time of inclusion in the assuming school district, pursuant to law, such bonded indebtedness shall be included in the limit of bonded indebtedness.

(3) The permission to incur additional bonded indebtedness, granted by the property tax administrator in the division of property taxation of the department of local affairs, and any school district bonds issued pursuant thereto on or after May 10, 1972, are hereby validated. This subsection (3) shall not be construed to grant authority to incur bonded indebtedness in excess of the limit of bonded indebtedness.

(4) The validity of bonded indebtedness incurred in any year shall not be affected by a subsequent reduction in the district's limit of bonded indebtedness caused by a decrease in the valuation for assessment or actual value of taxable property in the district.

**Source: L. 64:** R&RE, p. 548, § 1. **C.R.S. 1963:** § 123-11-5. **L. 70:** p. 379, § 6. **L. 72:** p. 618, § 153. **L. 73:** p. 1277, § 5. **L. 74:** Entire section R&RE, p. 359, § 1, effective February 2. **L. 83:** (1)(a) amended and (3) added, p. 760, § 1, effective May 26; (2) added, p. 750, § 4, effective July 1. **L. 88:** (2) amended, p. 814, § 18, effective May 24. **L. 90:** IP(2)(a) amended, p. 1082, § 40, effective May 31. **L. 91, 2nd Ex. Sess.:** IP(2)(a) amended, p. 30, § 9, effective October 18. **L. 92:** (2)(a)(I) and (2)(a)(II) amended, p. 552, § 31, effective May 28. **L. 94:** Entire section amended, p. 805, § 9, effective April 27. **L. 95:** IP(1) amended and (1.3) and (1.5) added, p. 609, § 8, effective May 22. **L. 96:** IP(1.3) amended, p. 1796, § 12, effective June 4. **L. 98:** IP(1.3) and (1.3)(a) amended, p. 963, § 2, effective May 27. **L. 2005:** IP(1.3) amended, p. 434, § 8, effective April 29. **L. 2007:** (1.3) amended, p. 311, § 1, effective March 30; IP(1) and IP(1.3) amended and (1.4) added, p. 633, § 1, effective August 3. **L. 2011:** (1.2) added, (SB 11-230), ch. 305, p. 1467, § 7, effective June 9. **L. 2012:** IP(1.3) and IP(1.4) amended, (HB 12-1090), ch. 44, p. 153,

§ 17, effective March 22. **L. 2014:** IP(1), IP(1.3), and (1.5) amended and (1.6) added, (HB 14-1298), ch. 244, p. 923, § 8, effective May 21.

**Editor's note:** Amendments to subsection (1.3) by House Bill 07-1049 and House Bill 07-1239 were harmonized.

**22-42-104.5. Pro rata distribution of bond revenues to qualified charter schools. (Repealed)**

**Source: L. 2001:** Entire section added, p. 350, § 13, effective April 16; (1) amended, p. 639, § 2, effective May 30. **L. 2002:** Entire section repealed, p. 1752, § 29, effective June 7.

**22-42-105. Voting precincts. (Repealed)**

**Source: L. 64:** R&RE, p. 548, § 1. **C.R.S. 1963:** § 123-11-6. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

**22-42-106. Ballots. (Repealed)**

**Source: L. 64:** R&RE, p. 548, § 1. **C.R.S. 1963:** § 123-11-7. **L. 70:** p. 333, § 4. **L. 73:** p. 1244, § 2. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

**22-42-107. Concurrent election for directors and bonds. (Repealed)**

**Source: L. 64:** R&RE, p. 549, § 1. **C.R.S. 1963:** § 123-11-8. **L. 70:** p. 333, § 5. **L. 92:** Entire section amended, p. 840, § 36, effective January 1, 1993. **L. 93:** Entire section repealed, p. 1437, § 129, effective July 1.

**22-42-108. Pollbooks - certificate of return. (Repealed)**

**Source: L. 64:** R&RE, p. 549, § 1. **C.R.S. 1963:** § 123-11-9. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

**22-42-109. Registration. (Repealed)**

**Source: L. 64:** R&RE, p. 550, § 1. **C.R.S. 1963:** § 123-11-10. **L. 70:** p. 333, § 6. **L. 74:** Entire section amended, p. 376, § 6, effective March 21. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

**22-42-110. Registration list omissions - challenges - oath - rejection of vote. (Repealed)**

**Source: L. 64:** R&RE, p. 550, § 1. **C.R.S. 1963:** § 123-11-11. **L. 70:** p. 333, § 7. **L. 71:** pp. 1149, 1151, §§ 3, 9. **L. 72:** p. 315, § 44. **L. 74:** (1) amended, p. 376, § 7, effective March 21;

(5) amended, p. 418, § 65, effective April 11. **L. 80:** (4) amended, p. 409, § 8, effective January 1, 1981. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

**22-42-111. Count and canvass. (Repealed)**

**Source: L. 64:** R&RE, p. 551, § 1. **C.R.S. 1963:** § 123-11-12. **L. 70:** p. 334, § 8. **L. 87:** (2) amended, p. 316, § 54, effective July 1. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

**22-42-112. Absentee voting. (Repealed)**

**Source: L. 64:** R&RE, p. 552, § 1. **C.R.S. 1963:** § 123-11-13. **L. 70:** p. 335, § 9. **L. 71:** p. 1151, § 9. **L. 74:** Entire section amended, p. 376, § 8, effective March 21. **L. 75:** Entire section amended, p. 211, § 30, effective July 16. **L. 80:** Entire section amended, p. 409, § 9, effective January 1, 1981. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

**22-42-113. Use of voting machines. (Repealed)**

**Source: L. 64:** R&RE, p. 553, § 1. **C.R.S. 1963:** § 123-11-14. **L. 92:** Entire section repealed, p. 924, § 198, effective January 1, 1993.

**22-42-114. Board may issue bonds - exemption from Colorado income tax.** When approved at an election held pursuant to section 22-42-102, the board of education, from time to time, as the proceeds thereof shall be needed for the purposes specified in the notice of said bond election, shall issue bonds of the district in denominations of one thousand dollars or any multiple of one thousand dollars, in its discretion, bearing interest at a rate such that the annual and total repayment costs do not exceed the limits set forth in the notice of the bond election and payable at such time determined in the discretion of the board, which bonds shall mature serially, commencing not later than five years and extending not more than twenty-five years after the date thereof. Principal and interest thereon shall be payable at such place as shall be determined by said board and designated in said bonds. Said bonds shall be made callable for redemption, commencing no later than eleven years after their date, in such manner, with or without premium, as may be determined by the board. Interest on bonds issued on or after July 1, 1973, pursuant to this article shall be exempt from Colorado income tax.

**Source: L. 64:** R&RE, p. 553, § 1. **C.R.S. 1963:** § 123-11-15. **L. 70:** p. 336, § 10. **L. 71:** p. 1149, § 4. **L. 73:** p. 1250, § 1. **L. 74:** Entire section amended, p. 419, § 66, effective April 11. **L. 2010:** Entire section amended, (HB 10-1013), ch. 399, p. 1898, § 5, effective June 10.

**22-42-115. Form of bonds.** The bonds issued under the provisions of this article shall be numbered consecutively, beginning with number one. The board of education of the district is authorized to prescribe the form of such bonds. Said bonds shall recite that they are issued pursuant to this article, and said bonds shall be signed by the president of the district, bear an impression of the seal of the district, and be attested by signature of the secretary. Coupons, if

any, evidencing the interest thereon shall bear the signature of the president of the district, which may be affixed by him in person, or it may be an engraved or lithographed facsimile thereof. At the discretion of the board of education, any school bonds may be issued with privileges for registration of such bonds for payment as to principal, interest, or both. In the execution of bonds authorized pursuant to this article, the board of education may provide for the use of facsimile signatures and facsimile seals in the manner set forth in article 55 of title 11, C.R.S.

**Source: L. 64:** R&RE, p. 553, § 1. **C.R.S. 1963:** § 123-11-16.

**22-42-116. Sale at less than par - discount.** If it is found to be in the best interest of the school district, the board of education of the school district may issue such bonds and accept therefor less than their face value.

**Source: L. 64:** R&RE, p. 554, § 1. **C.R.S. 1963:** § 123-11-17. **L. 70:** p. 336, § 11. **L. 2010:** Entire section amended, (HB 10-1013), ch. 399, p. 1899, § 6, effective June 10.

**22-42-117. Board to certify needed revenues.** (1) If the board of education has issued any of said bonds, at the time of certifying to the board of county commissioners a statement showing the amount necessary to raise from the taxable property of said district for the general fund as required by law, it shall also certify to said board of county commissioners the amount needed for its bond redemption fund to pay all installments of principal and interest of said bonds, which, according to their terms, have already become due and payable or shall become due and payable during the next ensuing fiscal year, or both, together with such additional amount, if any, as in the judgment of the board of education it is desirable to raise from the taxable property of said district for the purpose of redeeming, during the said ensuing fiscal year, any of said bonds which are redeemable but not due. Separate amounts shall be certified for the bond redemption fund to satisfy the outstanding obligations of bonded indebtedness which involve separate tax levies on taxable property located within different territorial limits.

(2) The board of education has authority to include in each amount certified for said bond redemption fund an amount to create a reserve for the redemption of bonds in future years prior to their maturities, for the payment of bonds in future years either prior to or at their maturities, or for purchasing at a discount and cancellation any bond on which the interest is being paid for the current district debt service mill levy; but said reserve shall be restricted to the subsidiary account in the bond redemption fund for which said tax levy was made.

**Source: L. 64:** R&RE, p. 554, § 1. **C.R.S. 1963:** § 123-11-18. **L. 81:** (2) amended, p. 1072, § 1, effective July 1. **L. 94:** (2) amended, p. 808, § 12, effective April 27. **L. 2003:** (2) amended, p. 1299, § 7, effective April 22.

**22-42-118. Tax levy to pay principal and interest.** (1) If any school district has issued bonds under the provisions of this article, it is the duty of the board of county commissioners of the county in which said district is situated, at the time of levying other school district taxes, to levy a tax on all the taxable property of said district at a rate sufficient to produce such amount as has been certified by the board of education of said district, for the purpose of paying bonds not yet due, as provided in section 22-42-117.

(2) Except when said school district has sufficient moneys or securities in a refunding escrow account to satisfy the bonded indebtedness obligations which will be due and payable during said district's next ensuing calendar year, if the board of education fails to certify such an amount to the board of county commissioners as required by section 22-42-117, the board of county commissioners, nevertheless, shall levy upon the appropriate taxable property of said district a tax in addition to the taxes levied for other purposes, in an amount sufficient to pay all installments of principal and interest of said bonds that shall become due during the next ensuing calendar year, or, if said bonds do not become due and payable in series at different times, in an amount sufficient to pay all installments of interest then to become due and the aforesaid portion of principal.

(3) The amount certified pursuant to section 22-42-117 and the rate of the tax levy required by this section shall be sufficient to cover any deficiency which may occur by reason of delinquent payment of taxes.

(4) The county treasurer shall not collect any fee on the moneys received by virtue of a tax levied pursuant to this section, nor shall he collect any fee on any moneys received from any other source to pay bonds or interest thereon. The county treasurer may collect a fee, as provided in section 30-1-102 (1)(q), C.R.S., for services rendered by virtue of his office having been designated as the place of payment or optional place of payment for bonds issued under this article or under article 43 of this title, but this fee shall be collected only when the county treasurer has a financial institution perform such services regarding the bonds, and such fee shall be in an amount equal to the fee charged the county treasurer by the financial institution.

**Source: L. 64:** R&RE, p. 554, § 1. **C.R.S. 1963:** § 123-11-19. **L. 79:** (4) amended, p. 792, § 1, effective July 1. **L. 90:** (2) amended, p. 1083, § 41, effective May 31.

**22-42-119. Bond fund - payment and redemption.** (1) Such taxes shall be collected in the same manner as other school district taxes and when collected shall be placed by the county treasurer in the bond redemption fund of said school district. The moneys in said fund shall be used only for payment of interest upon and for the redemption of such bonds, upon orders signed and countersigned in the manner provided by law for the execution of other school district orders; but the board of education of said school district may withdraw, or the board of education may instruct the third-party custodian administering the bond redemption fund pursuant to section 22-45-103 (1)(b)(V) to withdraw, any or all of such moneys credited to said fund which are temporarily not needed to satisfy the obligations of bonded indebtedness, for the purpose of depositing or investing such moneys in the manner prescribed by law.

(2) Redemption of said bonds prior to the respective maturities thereof may be made in the order as determined by the board in the resolution authorizing the issuance of said bonds and set forth on the face of said bonds. Notice of the redemption of said bonds, prior to maturity, shall be made in the manner prescribed in said bond resolution. In the absence of such prescribed manner in the bond resolution, a redemption prior to maturity shall be made in the following manner: When authorized by the board of education, the treasurer of said school district shall advertise in some newspaper published in the school district once a week for two consecutive weeks that on a certain day, named in said advertisement, not less than four weeks after the time of the first publication thereof, he will redeem certain of said bonds therein described by number, amount, and date of issue thereof and that the principal, interest to redemption date, and

redemption premium, if any, of said bonds will be paid in accordance with the bond resolution authorizing such bonds. The notice shall indicate also that, after the day so fixed for redemption, the interest on the bonds shall cease. After the day of redemption so fixed in said notice, the bonds so advertised and called to be redeemed shall cease to draw interest.

(3) If the bonds are made payable at the office of the county treasurer, any redemption of such bonds shall also be made at the office of the county treasurer of the county, who shall make a notation of such payment or redemption upon his books.

(4) If the bonds are made payable at some place other than the office of the county treasurer, such bonds shall be redeemable at the place where payable, and the treasurer of the district shall, immediately after the payment or redemption, inform the county treasurer that certain bonds, describing them by number, amount, and date of issue, have been paid or redeemed and cancelled, and said county treasurer shall make a record of such payment or redemption upon his books.

(5) In all cases bonds when paid or redeemed shall be cancelled by the district treasurer and preserved by him and his successors for a period of one year after the date of their payment or redemption.

**Source: L. 64:** R&RE, p. 555, § 1. **C.R.S. 1963:** § 123-11-20. **L. 95:** (2) amended, p. 608, § 5, effective May 22. **L. 2003:** (1) amended, p. 1296, § 3, effective April 22.

**22-42-120. Place of payment.** (1) The board of education of a school district is authorized to designate the office of the county treasurer of the county in which the headquarters of such school district is situated as the place of payment or optional place of payment of the principal of or interest on any bonds issued by any such school district, or to designate any commercial bank or trust company as the place of payment or optional place of payment of the principal of or interest on any bonds issued by any such school district, and the commercial bank or trust company so designated may be located either within or without this state.

(2) It is the duty of the board of education of said school district to cause sufficient moneys from said tax levy or refunding escrow account to be placed from time to time at the place of payment, or optional place of payment, designated on said bonds in an amount to satisfy the principal and interest obligations of said bonds as the same may become due and payable from time to time. It is the duty of the treasurer of said school district to pay, or instruct the third-party custodian administering the school district's bond redemption fund pursuant to section 22-45-103 (1)(b)(V) to pay, the obligations of said bonds as the same may become due and payable, upon presentation of the bonds and coupons respectively evidencing such obligations, from any moneys to the credit of the appropriate account available for that purpose.

**Source: L. 64:** R&RE, p. 556, § 1. **C.R.S. 1963:** § 123-11-21. **L. 2003:** (2) amended, p. 1296, § 4, effective April 22.

**22-42-121. Registration of bonds.** Whenever any school district issues bonds under the provisions of this article, the board of education may make and enter in its record a request that the county clerk and recorder of the county wherein the headquarters of such school district is situated register the bonds on a collective, not an individual, basis in a book to be kept by him or her for that purpose. When so registered, the legality thereof shall not be open to contest by such

district, or any person whomsoever, for any reason whatsoever. A certified copy of the order of the board, so made and entered of record, shall be furnished to such county clerk and recorder by the board of education and thereupon it shall be his or her duty to register said bonds on a collective basis, noting the name of the district and the amount, the date of issuance and maturity, and the rate of interest of said bonds. The county clerk and recorder is not required to make a separate entry in said book or complete or process a registration form for each such bond of such issue, or otherwise register each such bond of such issue on an individual basis. He or she shall receive a fee pursuant to section 30-1-103 (1), C.R.S.

**Source: L. 64:** R&RE, p. 557, § 1. **C.R.S. 1963:** § 123-11-22. **L. 91:** Entire section amended, p. 708, § 3, effective July 1. **L. 2014:** Entire section amended, (HB 14-1073), ch. 30, p. 175, § 1, effective July 1.

**22-42-122. Changes in boundaries - liability.** (1) Nothing in this article or in any other provision of law shall be construed so as to release the taxable property within a school district which incurred bonded indebtedness from liability for its proportionate share of the outstanding obligations thereof.

(2) The outstanding bonded indebtedness, or proportionate share thereof, incurred by a school district which is dissolved as a result of the formation of a new school district may be assumed by said new school district in the manner provided by article 30 of this title.

(3) The taxable property located within the territory of a school district which is dissolved and the resultant unorganized territory annexed to an adjacent school district shall be liable for its proportionate share of the bonded indebtedness previously incurred by the annexing school district.

(4) The taxable property located within the territory of a school district which is detached and annexed to an adjacent school district shall be liable for its proportionate share of the bonded indebtedness previously incurred by the annexing school district.

(5) The taxable property located within a capital improvement zone of a school district shall be liable for bonded indebtedness incurred by the school district pursuant to this article.

**Source: L. 64:** R&RE, p. 557, § 1. **C.R.S. 1963:** § 123-11-23. **L. 94:** (5) added, p. 1791, § 5, effective January 1, 1995. **L. 2008:** (5) amended, p. 1900, § 80, effective August 5.

**22-42-123. Validation. (Repealed)**

**Source: L. 64:** p. 566, § 6. **C.R.S. 1963:** § 123-11-24. **L. 2006:** Entire section repealed, p. 609, § 30, effective August 7.

**22-42-124. Prior obligations not impaired. (Repealed)**

**Source: L. 64:** p. 567, § 7. **C.R.S. 1963:** § 123-11-25. **L. 2006:** Entire section repealed, p. 609, § 31, effective August 7.

**22-42-125. Public disclosure of terms of sale.** (1) Whenever school bonds are sold, the board of the district selling the same shall cause to be prepared and filed with the department of

education, within ten days after said sale, a report setting forth a description of the bond issue, the applicable interest rate, including the net effective interest rate, other terms of the sale, and applicable statistical, comparative bond market data, ratings, and indices relative to prevailing market conditions prior to and at the time of said sale, and explaining the reasons why it was necessary, if it was, that the bonds be sold at a negotiated sale instead of by public competitive bidding. The department of education may request additional information from the school district or from the purchaser of the bonds regarding terms of the sale.

(2) One or more copies of said report shall be retained on file at the administrative headquarters of the district, and a copy thereof shall be made available upon written request to any officer or representative of any organization of Colorado school districts.

**Source: L. 70:** p. 336, § 12. **C.R.S. 1963:** § 123-11-26.

**22-42-126. Validation.** All school elections and all acts and proceedings had or taken, or purportedly had or taken, prior to June 2, 1971, by or on behalf of any school district, under law or under color of law, preliminary to and in the holding and canvass of all school elections are validated, ratified, approved, and confirmed, notwithstanding any lack of power, authority, or otherwise, and notwithstanding any defects or irregularities in such elections, acts, and proceedings.

**Source: L. 71:** p. 1151, § 10. **C.R.S. 1963:** § 123-11-27.

**22-42-127. Validation - effect - limitations.** (1) All bonds issued and other contracts, leases, or agreements executed by school districts, all district bond elections held and carried, and all acts and proceedings had or taken prior to July 1, 1973, by or on behalf of such districts, preliminary to and in the authorization, execution, sale, and issuance of all bonds, the authorization and execution of all other contracts, leases, or agreements, and the exercise of other powers in section 22-42-104 are hereby validated, ratified, approved, and confirmed, notwithstanding any defects and irregularities, other than constitutional, in such bonds, acts, and proceedings, in such authorization, execution, sale, and issuance, and in such exercise of powers; and such bonds and other contracts, leases, or agreements are and shall be binding, legal, valid, and enforceable obligations of the district to which they appertain in accordance with their terms and their authorization proceedings.

(2) This section shall operate to supply legislative authority as may be necessary to accomplish the validations provided and authorized in this section but shall be limited to validations consistent with all provisions of applicable law in effect at the time of such action or other matter. This article shall not operate to validate any action or other matter the legality of which is being contested or inquired into in any legal proceedings pending and undetermined prior to July 1, 1973, nor to validate any action or other matter which has been determined in any legal proceedings prior to July 1, 1973, to be illegal, void, or ineffective.

**Source: L. 73:** p. 1277, § 6. **C.R.S. 1963:** § 123-11-28.

**22-42-128. Effect of article X, section 20 on bonded indebtedness authorized prior to November 4, 1992.** (1) The general assembly hereby finds and declares that:

(a) Section 20 (4) of article X of the state constitution provides that, beginning on November 4, 1992, school districts must have voter approval in advance for increases in bonded indebtedness and property tax mill levies;

(b) A sizeable amount of bonded indebtedness had been authorized by school district electors at elections held pursuant to section 22-42-102 prior to the adoption of section 20 of article X;

(c) In approving the question of incurring bonded indebtedness, the voters acknowledged that the board of education of the school district would annually certify the amount needed for its bond redemption fund to make principal and interest payments on the bonds, that a property tax would be levied annually to produce such certified amount, and that the property tax mill levy would be raised or lowered annually to produce such certified amount;

(d) Once bonded indebtedness was incurred, the voters of the district, as well as the bondholders, had a reasonable expectation that further voter approval would not be required;

(e) The purpose of section 20 (4) of article X is to allow the electors of school districts to have a voice in bonded indebtedness increases and property tax mill levy increases;

(f) The purpose of section 20 (4) has already been fully satisfied because the question of incurring bonded indebtedness, and the method for paying such indebtedness through an adjustment to the property tax mill levy, has already been approved by the voters at elections held prior to November 4, 1992; and

(g) The purpose of section 20 (4) would not be further satisfied by requiring voter approval each time the mill levy needs to be adjusted to produce the revenue necessary to pay school district bonded indebtedness authorized at elections held prior to November 4, 1992.

(2) Bonded indebtedness authorized at elections held pursuant to section 22-42-102 prior to November 4, 1992, or the refunding of such bonded indebtedness, which involve a property tax mill levy or a pledge of a property tax mill levy pursuant to section 22-42-118 to provide revenues to the school district to make bonded indebtedness payments or to cover default or deficiencies in bonded indebtedness payments, is not affected or impaired by the passage of section 20 of article X of the state constitution.

**Source: L. 94:** Entire section added, p. 456, § 1, effective March 21.

**22-42-129. Limitation on actions.** No action shall be brought questioning the legality of any bonds or loans authorized by this title or any resolution, proceeding, or contract in connection with such bonds or loans on and after thirty days from the effective date of the resolution authorizing the issuance of such bonds or the execution of any loan agreement.

**Source: L. 2000:** Entire section added, p. 520, § 3, effective August 2.

## ARTICLE 43

Refunding Bonds

**Editor's note:** This article was numbered as article 12 of chapter 123, C.R.S. 1963. The substantive provisions of this article were repealed and reenacted in 1964, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to

this article prior to 1964, consult the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

**22-43-101. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Board of education" or "board" means the governing body authorized by law to administer the affairs of any school district.

(1.5) Repealed.

(2) "Net effective interest rate" of a proposed issue of refunding bonds means the net interest cost of said refunding issue divided by the sum of the products derived by multiplying the principal amounts of such refunding issue maturing on each maturity date by the number of years from the date of said proposed refunding bonds to their respective maturities. "Net effective interest rate" of an outstanding issue of bonds to be refunded means the net interest cost of said issue to be refunded divided by the sum of the products derived by multiplying the principal amounts of such issue to be refunded maturing on each maturity date by the number of years from the date of the proposed refunding bonds to the respective maturities of the bonds to be refunded. In all cases the net effective interest rate shall be computed without regard to any option of redemption prior to the designated maturity dates of the bonds.

(3) "Net interest cost" of a proposed issue of refunding bonds means the total amount of interest to accrue on said refunding bonds from their date to their respective maturities, less the amount of any premium above par at which said refunding bonds are being or have been sold. "Net interest cost" of an outstanding issue of bonds to be refunded means the total amount of interest which would accrue on said outstanding bonds from the date of the proposed refunding bonds to the respective maturity dates of said outstanding bonds to be refunded. In all cases the net interest cost shall be computed without regard to any option of redemption prior to the designated maturity dates of the bonds.

(4) "School district" or "district" means a school district organized and existing pursuant to law or a joint taxation district organized and existing pursuant to part 2 of article 30 of this title.

**Source: L. 64:** R&RE, p. 558, § 3. **C.R.S. 1963:** § 123-12-1. **L. 75:** (1.5) added, p. 704, § 1, effective March 3; (4) amended, p. 787, § 9, effective July 1. **L. 89:** (1.5) repealed, p. 1135, § 85, effective July 1. **L. 96:** (4) amended, p. 66, § 24, effective July 1.

**22-43-102. Refunding bonds may be issued.** (1) Any school district in this state may issue negotiable coupon bonds to be denominated refunding bonds for the purpose of refunding any of the bonded indebtedness of such district, whether said indebtedness is due or not due, or has or may hereafter become payable or redeemable at the option of such district, or by consent of the bondholders, or by any lawful means, whether such bonded indebtedness be now existing or may hereafter be created.

(2) The bonded indebtedness of any district outstanding at the time of the inclusion of all such district's territory in another district, by reorganization, consolidation, dissolution, or any other lawful means, may be refunded by action of the board of the district including such territory at the time of such refunding, whether or not such indebtedness has been assumed by the district including such territory.

(3) When an entire district having outstanding bonded indebtedness has been divided and parts thereof included within two or more other districts by any lawful means, the refunding of such indebtedness shall require affirmative action by a majority of the members of the boards of each of the districts within which any part of the territory of such district owing said indebtedness is then included, except as is provided in this article to the contrary.

(4) The bonded indebtedness of any school district outstanding at the time any territory of said district is detached therefrom by any lawful means, and which district has retained its lawful corporate existence subsequent to the detachment of such territory from said district, may be refunded by action of the board of such district from which territory has been detached with or without concurrence or action by the board of the district within which said detached territory is included, and such districts from which territory has been detached and which retain their corporate existence subsequent to detachment are specifically exempted from the requirements and provisions of subsection (3) of this section.

(5) Any such refunding bonds may be issued to refund any issues of outstanding bonds; but no two or more issues of outstanding bonds may be refunded by a single issue of refunding bonds unless the taxable property upon which tax levies are being made for payment of each such outstanding issue of bonds is identical to the taxable property on which such levies are being made for the payment of all other outstanding bonds proposed to be refunded by such single issue of refunding bonds.

(6) Repealed.

**Source: L. 64:** R&RE, p. 559, § 3. **C.R.S. 1963:** § 123-12-2. **L. 83:** (6) added, p. 760, § 2, effective May 26.

**Editor's note:** Subsection (6)(b) provided for the repeal of subsection (6), effective July 1, 1986. (See L. 83, p. 760.)

**22-43-103. Question of issuing refunding bonds.** (1) Whenever the board of education of any school district deems it expedient to issue refunding bonds under the provisions of this article and the net effective interest rate and the net interest cost of said issue of refunding bonds shall not exceed the net effective interest rate and the net interest cost of the outstanding bonds to be refunded, such refunding bonds may be issued without the submission of the question of issuing the same at an election held in accordance with article 42 of this title. If two or more issues of outstanding bonds of a school district are to be refunded by the issuance of a single issue of refunding bonds, as provided in section 22-43-102 (5), the net interest cost and net effective interest rate on the bonds to be refunded shall be computed as if all of said bonds had originally been combined as a single issue aggregating the total of the smaller issues, and the results of this computation shall be compared with the net interest cost and net effective interest rate on the whole of the single refunding issue for purposes of determining the necessity of submitting the question of issuing such refunding bonds at an election held in accordance with article 42 of this title.

(2) If any district proposes to issue refunding bonds, on which issue the net interest cost or net effective interest rate exceeds the net interest cost or net effective interest rate of the outstanding bonds to be refunded, the board shall submit the question of issuing such refunding bonds and the maximum net interest cost and maximum net effective interest rate at which such

refunding bonds may be issued at the regular biennial school election or at a special election called for that purpose. Any such election shall be called and held as nearly as may be in the manner provided by law for elections on the question of the issuance of other school bonds of the issuing district.

**Source: L. 64:** R&RE, p. 560, § 3. **C.R.S. 1963:** § 123-12-3. **L. 70:** p. 337, § 13.

**22-43-104. Authorization - form - interest.** (1) Such refunding bonds shall be authorized by a resolution fixing the date, the denominations, the rate of interest on individual bonds, the maturity dates which shall not be more than twenty-five years after the date of such refunding bonds, and the place of payment within or without the state of Colorado, of both principal and interest, and prescribing the form of such refunding bonds. Such bonds shall be negotiable in form and executed in the same manner as prescribed for other school district bonds. At the discretion of the board, any such bonds may be issued with privileges for registration for payment as to principal or interest, or both.

(2) The interest accruing on such refunding bonds may be evidenced by interest coupons thereto attached in substantially the same form as prescribed for other school district bonds, and, when so executed, such coupons shall be the binding obligations of the district according to their import. Such refunding bonds shall mature serially, commencing not later than five years after the date of such bonds and maturing during a period not exceeding twenty-five years after the date thereof. The amount of such maturities shall be fixed by the board of education and specified in the resolution authorizing the issuance of the refunding bonds. The right to redeem all or part of said bonds prior to their maturity, and the order of any such redemption, may be reserved in the resolution authorizing the issuance of bonds and shall be set forth on the face of said bonds. Interest on refunding bonds issued on or after July 1, 1973, pursuant to this article shall be exempt from Colorado income tax.

**Source: L. 64:** R&RE, p. 561, § 3. **C.R.S. 1963:** § 123-12-4. **L. 70:** p. 338, § 14. **L. 73:** p. 1250, § 2.

**22-43-105. Sale - proceeds - amounts.** Such refunding bonds may be exchanged for the bonds to be refunded, or they may be sold at, above, or below their par value; but such refunding bonds shall be exchanged or sold at a price such that the net interest cost and the net effective interest rate for the issue of refunding bonds does not exceed the net interest cost and the net effective interest rate of the outstanding bonds to be refunded or the maximum net effective interest rate and net interest cost approved by the voters, as the case may be. Such refunding bonds shall be in a principal amount not exceeding the principal amount of the bonds to be refunded, as directed by the board of education, and the proceeds thereof shall be applied only to the purpose for which such refunding bonds were issued. The principal amount of said refunding bonds may be the same or less than the principal amount of the bonds to be refunded, if due, adequate, and sufficient provision has been made for the payment or redemption and retirement of said bonds to be refunded and the payment of the interest accruing thereon in accordance with this article.

**Source: L. 64:** R&RE, p. 561, § 3. **C.R.S. 1963:** § 123-12-5. **L. 70:** p. 338, § 15.

**22-43-106. Needed revenues - tax levy - miscellaneous.** (1) Whenever a board of education issues refunding bonds under the provisions of this article, sections 22-42-117 to 22-42-121 shall be applicable to said refunding bonds and the procedures therefor, in the same manner as prescribed for other school district bonds; except that any such refunding bonds shall be payable from the same funds which are to be derived from the same source as would have been used to pay the original bonds if no refunding thereof had occurred.

(2) After refunding bonds are issued pursuant to this article, the resolution authorizing the same and providing for the levy of taxes for the payment of interest upon and the principal of such refunding bonds shall not be altered or repealed until the refunding bonds so authorized have been fully paid.

**Source: L. 64:** R&RE, p. 562, § 3. **C.R.S. 1963:** § 123-12-6.

**22-43-107. Application of bond proceeds - procedures - limitations.** (1) The proceeds derived from the issuance of any refunding bonds under the provisions of this article shall either be immediately applied to the payment or redemption and retirement of the bonds to be refunded and the cost and expense incident to such procedures or shall immediately be placed in escrow to be applied to the payment of said bonds upon their presentation therefor and the costs and expenses incident to such proceedings and for no other purpose whatsoever until the bonds being refunded have been paid in full and discharged, and all accrued interest thereon has also been paid in full, upon which occurrences the escrow shall terminate, and any moneys remaining therein shall be returned to the district's bond redemption fund.

(2) Any such escrowed proceeds, pending such use, may be invested or, if necessary, reinvested in securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S., maturing at such times as to insure the prompt payment of the bonds refunded under the provisions of this article and the interest accruing thereon.

(3) Such escrowed proceeds and investments, together with any interest to be derived from such investments, shall be in an amount which at all times is sufficient to pay the bonds refunded as they become due at their respective maturities or as they are called for redemption and payment on prior redemption dates, as to principal, interest, any prior redemption premium due, and any charges of the escrow agent payable therefrom. The computations made in determining such sufficiency shall be verified by a certified public accountant.

(4) For the purpose of implementing the provisions of this article, the board of education of any school district has the power to enter into escrow agreements and to establish escrow accounts with any commercial bank having full trust powers located within the state of Colorado and a member of the federal deposit insurance corporation, under protective covenants and agreements whereby such accounts shall be fully secured by, or shall be invested in, securities meeting the investment requirements established in part 6 of article 75 of title 24, C.R.S., in such amounts as will be sufficient and maturing at such times so as to insure the prompt payment of the bonds refunded and the interest accruing thereon under the provisions of this article.

(5) In no event shall the aggregate amount of bonded indebtedness of any school district exceed the maximum allowable amount as determined pursuant to section 22-30-126 or 22-42-104; except that, in determining and computing such aggregate amount of bonded indebtedness of any district, bonds which have been refunded, as provided in this article, either by immediate payment or redemption and retirement or by the placement of the proceeds of refunding bonds in

escrow, shall not be deemed outstanding indebtedness from and after the date on which sufficient moneys are placed with the paying agent of such outstanding bonds for the purpose of immediately paying or redeeming and retiring such bonds or from and after the date on which the proceeds of said refunding bonds are placed in escrow.

(6) The issuance of refunding bonds by any school district for the purposes of and in the manner authorized by this article, or by the provisions of any other law, shall never be interpreted or taken to be the creation of an indebtedness such that the same would require the approval at an election held in accordance with article 42 of this title, and no such approval shall be required for the issuance of such refunding bonds except as is specifically required by the law under which said refunding bonds are sought to be issued or have been issued.

(7) No bonds may be refunded under the provisions of this article unless the holders thereof voluntarily surrender said bonds for immediate exchange or immediate payment, or unless said bonds either mature or are callable for redemption prior to their maturity under their terms within ten years after the date of issuance of the refunding bonds, and provisions shall be made for paying or redeeming and discharging all of the bonds refunded within said period of time.

(8) No bonds shall be refunded under the provisions of this article within a period of one year following the actual issuance and delivery thereof to their initial purchasers unless the proceeds of said refunding bonds are immediately applied to the payment or redemption and retirement of the bonds being refunded.

(9) No bonds shall be issued under the provisions of this article for the purpose of refunding any refunding bonds unless the original bonds refunded by said refunding bonds have previously been paid or redeemed and matured or unless the proceeds of said refunding bonds are immediately applied to the payment or redemption and retirement of the original refunding bonds being refunded.

**Source: L. 64:** R&RE, p. 562, § 3. **C.R.S. 1963:** § 123-12-7. **L. 70:** p. 338, § 16. **L. 75:** (2) and (4) amended, p. 704, § 2, effective March 31. **L. 77:** (9) amended, p. 593, § 2, effective July 1. **L. 89:** (2) and (4) amended, p. 1107, § 11, effective July 1. **L. 92:** (5) amended, p. 516, § 6, effective June 1.

**22-43-108. Reports.** Each school district which issues refunding bonds under the provisions of this article shall file a report within sixty days after the issuance of said bonds with the state board of education. The report shall indicate the principal amount of bonds refunded, the net effective interest rate of both the bonds refunded and the refunding bonds, the net interest cost of both the bonds refunded and the refunding bonds, all school district costs incident to the issuance of refunding bonds, including those of the escrow agent, and such other items as may be determined by the state board of education.

**Source: L. 64:** R&RE, p. 564, § 3. **C.R.S. 1963:** § 123-12-8.

**22-43-109. Validation. (Repealed)**

**Source: L. 64:** p. 566, § 6. **C.R.S. 1963:** § 123-12-9. **L. 2006:** Entire section repealed, p. 609, § 32, effective August 7.

**22-43-110. Prior obligations not impaired. (Repealed)**

**Source: L. 64:** p. 567, § 7. **C.R.S. 1963:** § 123-12-10. **L. 2006:** Entire section repealed, p. 610, § 33, effective August 7.

## ARTICLE 43.5

School District Capital Improvement Zones

**22-43.5-101 to 22-43.5-126. (Repealed)**

**Source: L. 2000:** Entire article repealed, p. 373, § 28, effective April 10.

**Editor's note:** This article was added in 1994. For amendments to this article prior to its repeal in 2000, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

## ARTICLE 43.7

Capital Construction Assistance

**Editor's note:** (1) This article was added in 1998. This article was repealed and reenacted in 2008, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 2008, consult the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

(2) House Bill 08-1335 repealed and reenacted this article and was further amended by House Bill 08-1388 by the addition of a new part 2.

### PART 1

### SCHOOL DISTRICT CAPITAL CONSTRUCTION ASSISTANCE PROGRAM

**22-43.7-101. Short title.** This article shall be known and may be cited as the "Building Excellent Schools Today Act".

**Source: L. 2008:** Entire article R&RE, p. 1040, § 1, effective May 22.

**22-43.7-102. Legislative findings and declarations.** (1) The general assembly hereby finds and declares that:

(a) Colorado school districts, boards of cooperative services, and charter schools have differing financial abilities to meet students' fundamental educational needs, including the need for new public schools and renovations or for controlled maintenance at existing public schools so that unsafe, deteriorating, or overcrowded facilities do not impair students' abilities to learn.

(b) The establishment of a program to provide financial assistance to school districts, boards of cooperative services, and charter schools throughout the state that have difficulty financing new capital construction projects and renovating and maintaining existing facilities will help such districts, boards of cooperative services, and charter schools to meet students' fundamental educational needs.

(2) The general assembly further finds and declares that:

(a) Rental income, royalties, interest, and other income other than land sale proceeds derived from state school lands may be used to support the public schools of the state.

(b) It is necessary and appropriate for the state to build excellent schools today by assisting school districts, boards of cooperative services, and charter schools in completing needed public school facility capital construction projects more quickly by:

(I) Entering into lease-purchase agreements for the purpose of financing such projects; and

(II) Subject to the annual appropriation of such moneys by the general assembly, using a portion of the rental income and royalties derived from state school lands and, unless and until the state treasurer, pursuant to section 22-43.7-104 (2)(b)(I)(B), provides written notice to the joint budget committee of the general assembly that the state treasurer has determined that the use of interest or income earned on the deposit and investment of moneys in the public school fund to make lease payments under a lease-purchase agreement entered into pursuant to section 22-43.7-110 (2) will prevent the interest component of the lease payments from qualifying for exemption from federal income taxation and at any time after the state treasurer, pursuant to section 22-43.7-104 (2)(b)(I)(C), has rescinded any such determination, interest, and other income, other than land sale proceeds, derived from state school lands, as well as certain other available state moneys and matching moneys provided by school districts, boards of cooperative services, and charter schools, to make lease payments payable under the terms of the lease-purchase agreements.

(c) It is also necessary and appropriate for the state to use a portion of such rental income and royalties and, unless and until the state treasurer, pursuant to section 22-43.7-104 (2)(b)(I)(B), provides written notice to the joint budget committee of the general assembly that the state treasurer has determined that the use of interest or income earned on the deposit and investment of moneys in the public school fund to make lease payments under a lease-purchase agreement entered into pursuant to section 22-43.7-110 (2) will prevent the interest component of the lease payments from qualifying for exemption from federal income taxation and at any time after the state treasurer, pursuant to section 22-43.7-104 (2)(b)(I)(C), has rescinded any such determination, interest and other income, as well as certain other available state moneys to continue to provide financial assistance to school districts, boards of cooperative services, and charter schools in the form of cash funding for school renovation and controlled maintenance projects.

(d) In accordance with the decision of the Colorado court of appeals in the case denominated *Colorado Criminal Justice Reform Coalition v. Ortiz*, Case No. 04 CA 0879 (April 7, 2005), the lease-purchase agreements to be entered into by the state pursuant to this article do not constitute a multiple-fiscal year direct or indirect district debt or other financial obligation whatsoever for purposes of section 20 (4)(a) of article X of the state constitution.

(e) The provision of financial assistance for public school facility capital construction pursuant to this article meets the requirements of section 3 of article IX of the state constitution

and shall be applied first to satisfy the legal obligations of the state under the settlement reached in the case denominated *Giardino v. Colorado State Board of Education, et al.*, Case No. 98 CV 246, in the district court for the city and county of Denver.

**Source: L. 2008:** Entire article R&RE, p. 1040, § 1, effective May 22. **L. 2009:** (2)(b)(II) and (2)(c) amended, (SB 09-257), ch. 424, p. 2363, § 1, effective June 4.

**22-43.7-103. Definitions.** As used in this article 43.7, unless the context otherwise requires:

(1) "Applicant" means any entity that may directly or indirectly submit an application for financial assistance to the board if the entity submits such an application, including:

(a) A school district;

(b) A board of cooperative services;

(c) A charter school; and

(d) The Colorado school for the deaf and blind created and existing pursuant to section 22-80-102 (1)(a).

(2) "Assistance fund" means the public school capital construction assistance fund created in section 22-43.7-104 (1).

(3) "Authorizer" means the school district that authorized the charter contract of a charter school or, in the case of an institute charter school, as defined in section 22-30.5-502 (6), the state charter school institute created and existing pursuant to section 22-30.5-503 (1)(a).

(4) "Board" means the public school capital construction assistance board created in section 22-43.7-106 (1).

(5) "Board of cooperative services" means a board of cooperative services created and existing pursuant to section 22-5-104 that is eligible to receive state moneys pursuant to section 22-5-114.

(6) "Capital construction" has the same meaning as set forth in section 24-30-1301 (2); except that the term also includes technology, as defined in section 22-43.7-109 (5)(a)(I)(B), and career and technical education capital construction.

(6.5) "Capital development committee" means the capital development committee of the general assembly established in section 2-3-1302 (1), C.R.S.

(6.7) "Career and technical education capital construction" means:

(a) New construction or retrofitting of public school facilities for career and technical education programs that satisfy the standards prescribed in section 23-8-103 (2); and

(b) Equipment necessary for individual student learning and classroom instruction, including equipment that provides access to instructional materials or that is necessary for professional use by a classroom teacher.

(7) "Charter school" means a charter school as described in section 22-54-124 (1)(f.6)(I)(A) or (1)(f.6)(I)(B).

(8) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(9) "Division" means the division of public school capital construction assistance created in section 22-43.7-105.

(10) "Financial assistance" means matching grants made by the board from the assistance fund to applicants or any other expenditures made from the assistance fund for the purpose of financing public school facility capital construction as authorized by this article.

(11) "Matching moneys" means moneys required to be paid to the state or used directly to pay a portion of the costs of a public school facility capital construction project by an applicant as a condition of an award of financial assistance to the applicant pursuant to section 22-43.7-109 (9).

(12) "Public school facility" means a building or portion of a building used for educational purposes by a school district, a board of cooperative services, the Colorado school for the deaf and blind created and existing pursuant to section 22-80-102 (1)(a), or a charter school, including but not limited to school sites, classrooms, libraries and media centers, cafeterias and kitchens, auditoriums, multipurpose rooms, and other multi-use spaces; except that "public school facility" does not include a learning center, as defined in section 22-30.7-102 (4), that is not used for any other public school purpose and is not part of a building otherwise owned, or leased in its entirety, by a school district, a board of cooperative services, a charter school, or the Colorado school for the deaf and blind for educational purposes.

(13) "Public school lands income" means all income received by the state from:

(a) The sale of timber on public school lands, rental payments for the use and occupation of public school lands, and rentals or lease payments for sand, gravel, clay, stone, coal, oil, gas, geothermal resources, gold, silver, or other minerals on public school lands;

(b) Royalties and other payments for the extraction of any natural resource on public school lands; and

(c) Interest or income earned on the deposit and investment of moneys in the public school fund.

(14) "School district" means a school district, other than a junior or community college district, organized and existing pursuant to law.

(15) "State board" means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

**Source: L. 2008:** Entire article R&RE, p. 1041, § 1, effective May 22. **L. 2013:** (6.5) added, (SB 13-214), ch. 398, p. 2324, § 1, effective June 5. **L. 2014:** (6) amended, (HB 14-1387), ch. 378, p. 1828, § 32, effective June 6. **L. 2016:** (7) amended, (SB 16-072), ch. 180, p. 617, § 1, effective May 19. **L. 2017:** IP and (6) amended, (HB 17-1082), ch. 392, p. 2020, § 1, effective June 6. **L. 2019:** (6) amended and (6.7) added, (HB 19-1008), ch. 19, p. 70, § 1, effective August 2.

**Cross references:** For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of Colorado 2014.

**22-43.7-104. Public school capital construction assistance fund - creation - crediting of money to fund - use of fund - emergency reserve - creation - reserve account - creation and use.** (1) The public school capital construction assistance fund is hereby created in the state treasury. The principal of the assistance fund shall consist of all moneys transferred or credited to the assistance fund pursuant to subsection (2) of this section. All interest and income earned on the deposit and investment of moneys in the assistance fund shall be credited to the assistance

fund and shall not be transferred to the general fund or any other fund at the end of any fiscal year.

(2) (a) On July 1, 2008, the following moneys shall be transferred to the assistance fund:

(I) All moneys remaining in the school construction and renovation fund, as said fund existed prior to July 1, 2008;

(II) All moneys remaining in the school capital construction expenditures reserve and the school capital construction expenditures reserve fund as said reserve and reserve fund existed prior to July 1, 2008; and

(III) All moneys remaining in the lottery proceeds contingency reserve fund as said fund existed prior to July 1, 2008.

(b) For each fiscal year commencing on or after July 1, 2008, the following moneys shall be credited to the assistance fund:

(I) (A) Unless and until the state treasurer, pursuant to sub-subparagraph (B) of this subparagraph (I), provides written notice to the joint budget committee of the general assembly that the state treasurer has determined that the use of interest or income earned on the deposit and investment of moneys in the public school fund to make lease payments under a lease-purchase agreement entered into pursuant to section 22-43.7-110 (2) will prevent the interest component of the lease payments from qualifying for exemption from federal income taxation, the greater of thirty-five percent of the gross amount of public school lands income received during the fiscal year or forty million dollars. The moneys required to be credited to the assistance fund pursuant to this sub-subparagraph (A) may be taken from any single source or combination of sources of public school lands income.

(B) Except as otherwise provided in sub-subparagraph (C) of this subparagraph (I), if the state treasurer determines during any fiscal year that the use of interest or income earned on the deposit and investment of moneys in the public school fund to make lease payments under a lease-purchase agreement will prevent the interest component of the lease payments from qualifying for exemption from federal income taxation and provides written notice to the joint budget committee of the general assembly of the determination, for the portion of the fiscal year beginning on the date the written notice is provided to the joint budget committee and for each subsequent fiscal year, the greater of fifty percent of the gross amount of public school lands income other than interest or income earned on the deposit and investment of moneys in the public school fund received during the fiscal year or forty million dollars. The moneys required to be credited to the assistance fund pursuant to this sub-subparagraph (B) may be taken from any single source or combination of sources of public school lands income other than interest or income earned on the deposit and investment of moneys in the public school fund.

(C) If, after making a determination and providing notice pursuant to sub-subparagraph (B) of this subparagraph (I), the state treasurer makes a new determination during any fiscal year that the use of interest or income earned on the deposit and investment of moneys in the public school fund to make lease payments under a lease-purchase agreement entered into pursuant to section 22-43.7-110 (2) will not prevent the interest component of the lease payments from qualifying for exemption from federal income taxation and the state treasurer provides written notice to the joint budget committee of the general assembly that the state treasurer has made a new determination and is rescinding the determination made pursuant to said sub-subparagraph (B) as of the date the written notice is provided, for the portion of the fiscal year beginning on the date the written notice is provided to the joint budget committee and for each subsequent

fiscal year, the greater of thirty-five percent of the gross amount of public school lands income received during the fiscal year or forty million dollars. The moneys required to be credited to the assistance fund pursuant to this sub-subparagraph (C) may be taken from any single source or combination of sources of public school lands income.

(II) The net proceeds made available to the state from the sale of instruments evidencing rights to receive lease payments made and to be made under the terms of any lease-purchase agreement entered into pursuant to section 22-43.7-110 (2), unless otherwise required by the documents pursuant to which the instruments are issued;

(III) All moneys that would otherwise be transferred to the general fund pursuant to section 3 (1)(b)(III) of article XXVII of the state constitution. The moneys credited to the assistance fund pursuant to this subparagraph (III) and any income and interest derived from the deposit and investment of such moneys shall be exempt from any restriction on spending, revenue, or appropriations, including, without limitation, the restrictions of section 20 of article X of the state constitution.

(IV) Matching moneys paid to the state for use by the state in making scheduled payments payable by the state under the terms of lease-purchase agreements entered into pursuant to section 22-43.7-110 (2);

(V) Any moneys transferred or appropriated to the assistance fund pursuant to subsection (5) of this section.

(c) Reserved.

(d) For the state fiscal year commencing July 1, 2018, the state treasurer, as provided in section 39-28.8-305 (1)(a), shall credit to the assistance fund the greater of the first forty million dollars received and collected from the excise tax on retail marijuana imposed pursuant to part 3 of article 28.8 of title 39 or ninety percent of the money received and collected from the tax. For the state fiscal year commencing July 1, 2019, and for each state fiscal year thereafter except for the state fiscal year commencing July 1, 2020, the state treasurer, as provided in section 39-28.8-305 (1)(a), shall annually credit to the assistance fund all of the money received and collected from the excise tax on retail marijuana imposed pursuant to part 3 of article 28.8 of title 39. For the state fiscal year commencing July 1, 2020, the state treasurer, as provided in section 39-28.8-305 (1)(a), shall credit to the assistance fund the lesser of the first forty million dollars received and collected from the excise tax on retail marijuana imposed pursuant to part 3 of article 28.8 of title 39 or all of the money received and collected from the tax. For state fiscal years commencing before July 1, 2019, the state treasurer shall credit twelve and five-tenths percent of the amount annually credited pursuant to this subsection (2)(d) to the charter school facilities assistance account, which account is created within the assistance fund. For each state fiscal year commencing on or after July 1, 2019, the state treasurer shall credit to the charter school facilities assistance account a percentage of the amount credited pursuant to this subsection (2)(d) that is equal to the percentage of pupil enrollment, as defined in section 22-54-103 (10), statewide represented by pupils who were enrolled in charter schools for the prior school year. The department of education shall notify the state treasurer of the applicable percentage no later than June 1 of the immediately preceding fiscal year.

(e) On May 21, 2019, if possible, or as soon as possible thereafter, the state treasurer shall transfer four million two hundred fifty thousand dollars from the assistance fund to the charter school facilities assistance account of the assistance fund created in subsection (2)(d) of this section.

(f) On July 1, 2020, the state treasurer shall transfer one hundred million dollars from the assistance fund to the state public school fund created in section 22-54-114 (1).

(3) Subject to annual appropriation, the department may expend money in the assistance fund for the purposes of paying the direct and indirect administrative costs, including but not limited to the costs of conducting or contracting for the financial assistance priority assessment required by section 22-43.7-108 (1), incurred by the division, the board, and the department in exercising their powers and duties pursuant to this article 43.7, providing financial assistance, making payments required by section 22-43.7-114, and paying any transaction costs necessarily incurred in connection with the provision of financial assistance as authorized by this article 43.7. For state fiscal year 2020-21, the general assembly shall appropriate sixty million dollars from the assistance fund for use by the board in providing financial assistance in the form of matching cash grants only.

(3.5) In determining the amount of financial assistance that it provides and in so doing managing the balance of the assistance fund, the board shall ensure that, effective June 30, 2013, and effective each June 30 thereafter, the balance of the assistance fund, not including the amounts credited to the charter school facilities assistance account pursuant to paragraph (d) of subsection (2) of this section, is at least equal to the total amount of payments to be made by the state during the next fiscal year under the terms of any lease-purchase agreements entered into pursuant to section 22-43.7-110 (2) less the amount of any school district matching moneys and any federal moneys to be received for the purpose of making the payments.

(4) For each fiscal year commencing on or after July 1, 2008, an emergency reserve of at least one million dollars shall be maintained in the assistance fund except that an emergency reserve need not be maintained in any fiscal year in which the amount of either public school lands income or public school lands income other than interest or income earned on the deposit and investment of moneys in the public school fund, or both, credited to the assistance fund pursuant to subparagraph (I) of paragraph (b) of subsection (2) of this section is an amount equal to the difference between the total amount of lease payments to be made by the state under the terms of lease-purchase agreements entered into pursuant to section 22-43.7-110 (2) and the total amount of matching moneys to be paid to the state as lease payments under the terms of sublease-purchase agreements entered into pursuant to section 22-43.7-110 (2) rather than, to the extent applicable, thirty-five percent of the gross amount of public school lands income received by the state during the fiscal year or fifty percent of the gross amount of public school lands income other than interest or income earned on the deposit and investment of moneys in the public school fund received by the state during the fiscal year. The board may expend moneys from the emergency reserve only to provide emergency financial assistance to address a public school facility emergency in accordance with section 22-43.7-109 (8).

(5) If the state treasurer, pursuant to sub-subparagraph (B) of subparagraph (I) of paragraph (b) of subsection (2) of this section, provides written notice to the joint budget committee of the general assembly that the state treasurer has determined that the use of interest or income earned on the deposit and investment of moneys in the public school fund to make lease payments under a lease-purchase agreement entered into pursuant to section 22-43.7-110 (2) will prevent the interest component of the lease payments from qualifying for exemption from federal income taxation, any such interest or income credited to the assistance fund before the treasurer provides the written notice shall be segregated into a separate restricted account of the assistance fund. All interest and income earned on the deposit and investment of moneys in

the restricted account shall be credited to the restricted account. Moneys in the restricted account shall not be commingled with other moneys in the assistance fund. Notwithstanding any other provision of law, moneys in the restricted account shall not be used and shall not be available to pay lease payments under any lease-purchase agreements entered into pursuant to section 22-43.7-110 (2) unless and until the state treasurer, pursuant to sub-subparagraph (C) of subparagraph (I) of paragraph (b) of subsection (2) of this section, provides written notice to the joint budget committee of the general assembly that the state treasurer is rescinding the determination made pursuant to sub-subparagraph (B) of said subparagraph (I) as of the date the written notice is provided. Moneys in the restricted account may be used for the other purposes for which moneys in the assistance fund may be used under this article.

(6) If the amount of moneys in the assistance fund that, subject to the limitations set forth in subsection (5) of this section, is available to pay lease payments under any lease-purchase agreements entered into pursuant to section 22-43.7-110 (2) will be insufficient to cover the full amount of the lease payments required by the lease-purchase agreements, the general assembly may appropriate or transfer from any legally available source to the assistance fund sufficient moneys to make the lease payments.

**Source: L. 2008:** Entire article R&RE, p. 1043, § 1, effective May 22. **L. 2009:** (2)(b)(I), (2)(b)(II), and (4) amended and (2)(b)(V), (5), and (6) added, (SB 09-257), ch. 424, pp. 2364, 2366, §§ 2, 3, effective June 4. **L. 2013:** (3.5) added, (SB 13-214), ch. 398, p. 2324, § 2, effective June 5. **L. 2014:** (3) amended, (SB 14-112), ch. 47, p. 224, § 1, effective March 20; (2)(d) added, (HB 14-1287), ch. 226, p. 842, § 2, effective May 17; (2)(b)(I), (3), and (3.5) amended and (2)(d) added, (HB 14-1292), ch. 243, p. 910, § 15, effective May 21. **L. 2018:** (2)(d) amended, (HB 18-1070), ch. 322, p. 1929, § 1, effective May 30. **L. 2019:** (2)(d) and (3) amended and (2)(e) added, (HB 19-1055), ch. 246, p. 2402, § 1, effective May 21. **L. 2020:** (2)(d) and (3) amended and (2)(f) added, (HB 20-1418), ch. 197, p. 941, § 6, effective June 30.

**Editor's note:** Amendments to subsection (2)(d) by HB 14-1287 and HB 14-1292 were harmonized. Amendments to subsection (3) by SB 14-112 and HB 14-1292 were harmonized.

**Cross references:** (1) For the short title ("Student Success Act") in HB 14-1292, see section 1 of chapter 243, Session Laws of Colorado 2014.

(2) For the legislative declaration in HB 14-1287, see section 1 of chapter 226, Session Laws of Colorado 2014. For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of Colorado 2014. For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

**22-43.7-105. Division of public school capital construction assistance - creation - director - function - powers and duties.** (1) (a) There is hereby created within the department a division of state government to be known and designated as the division of public school capital construction assistance, the head of which shall be the director of the division of public school capital construction assistance. Pursuant to section 13 of article XII of the state constitution, the commissioner of education shall appoint the director, and the commissioner shall give good faith consideration to the recommendations of the state board and the board prior

to appointing the director. The commissioner shall also appoint such other personnel as may be necessary to fulfill the functions and exercise the powers and duties of the division.

(b) The division and the director of the division shall exercise their powers and perform their duties and functions under the department as if the same were transferred to the department by a **type 2** transfer, as such transfer is defined in the "Administrative Organization Act of 1968", article 1 of title 24, C.R.S.

(2) The function of the division is to provide professional and technical support to the board as the board exercises its powers and duties as specified in this article so that financial assistance can be provided for public schools in an equitable, efficient, and effective manner. In furtherance of its function, the division, subject to board direction, has the following powers and duties:

(a) To support the board in establishing public school facility construction guidelines pursuant to section 22-43.7-107;

(b) To support the board in conducting or causing to be conducted the financial assistance priority assessment of public schools throughout the state required by section 22-43.7-108, and, as part of such support, to inspect and assess public school facilities or evaluate the results of any such inspection and assessment conducted by any contractor retained by the board;

(c) At the request of the board, to undertake a preliminary review of financial assistance applications submitted by applicants and assist the board in the development of the prioritized list of public school facility capital construction projects recommended for financial assistance that the board is required to prepare pursuant to section 22-43.7-106 (2)(c);

(d) To assist applicants and potential applicants in identifying critical capital construction needs using the public school facility construction guidelines as specified in section 22-43.7-107; and

(e) To exercise such other powers and duties as may be necessary to adequately fulfill its function.

(3) In addition to the functions of the division specified in subsection (2) of this section, if the governor declares, by executive order or proclamation, a disaster emergency in any area of the state pursuant to section 24-33.5-704 (4), C.R.S., the division shall, as soon as possible following the declaration of the disaster emergency, contact each affected school facility in any area of the state in which the governor declared the disaster emergency to assess any facility needs resulting from the declared disaster emergency. The division must report its findings to the board as soon as possible following its outreach.

**Source: L. 2008:** Entire article R&RE, p. 1045, § 1, effective May 22. **L. 2014:** (3) added, (HB 14-1287), ch. 226, p. 843, § 3, effective May 17.

**Cross references:** For the legislative declaration in HB 14-1287, see section 1 of chapter 226, Session Laws of Colorado 2014.

**22-43.7-106. Public school capital construction assistance board - creation - general powers and duties - rules.** (1) (a) There is hereby created within the department the public school capital construction assistance board, which shall exercise its powers and perform its duties and functions under the department as if the same were transferred to the department by a **type 1** transfer, as such transfer is defined in the "Administrative Organization Act of 1968",

article 1 of title 24, C.R.S. The board shall consist of nine appointed members, none of whom shall hold any state elective office. Five voting members of the board shall constitute a quorum. Board members shall be appointed as follows:

(I) The state board shall appoint three members from different areas of the state and from urban, suburban, and rural school districts. The members appointed by the state board shall all have demonstrated experience regarding public school facility issues and shall include:

(A) One member who is a school district board member at the time of appointment;

(B) One member who is a public school superintendent or administrator at the time of appointment or has recent experience as a public school superintendent or administrator; and

(C) One member who is a school facilities planner or manager at the time of appointment or has recent experience as a school facilities planner or manager.

(II) The governor shall appoint three members. The members appointed by the governor shall include:

(A) One member who is an architect whose professional practice includes the design and rehabilitation of public school facilities at the time of appointment or who has recent experience rehabilitating existing public school facilities and designing new public school facilities;

(B) One member who is an engineer whose professional practice at the time of appointment includes public school facilities engineering or who has recent experience in public school facilities engineering; and

(C) One member who is a construction manager who at the time of appointment manages public school facilities construction projects or who has recent experience managing such projects.

(III) The general assembly shall appoint three members, one of whom shall be appointed by the speaker of the house of representatives, one of whom shall be appointed by the president of the senate, and one of whom shall be appointed jointly by the minority leaders of the house of representatives and the senate. The members appointed by the general assembly shall include:

(A) One member who is a school facilities planner or manager at the time of appointment or has recent experience as a school facilities planner or manager;

(B) One member who has expertise in technology, including but not limited to technology for individual student learning and classroom instruction; and

(C) One member who has public school finance expertise and knowledge regarding public school trust lands.

(b) Members of the board shall serve for terms of two years and may serve up to three consecutive terms; except that the initial terms of one of the members appointed by the state board, one of the members appointed by the governor, and the members appointed by the president of the senate and the minority leaders of the house of representatives and the senate shall be one year. The appointing authority for a member may remove the member for any cause that renders the member incapable of discharging or unfit to discharge the member's duties. The appropriate appointing authority shall fill any vacancy in the membership of the board by appointment, and a member appointed to fill a vacancy shall serve until the expiration of the term for which the vacancy was filled. Members of the board shall serve without compensation but shall receive reimbursement for travel and other necessary expenses actually incurred in the performance of their duties. The board shall elect a chair at its initial meeting.

(2) The function of the board is to protect the health and safety of students, teachers, and other persons using public school facilities and maximize student achievement by ensuring that

the condition and capacity of public school facilities are sufficient to provide a safe and uncrowded environment that is conducive to students' learning. In performing its function, the board shall ensure the most equitable, efficient, and effective use of state revenues dedicated to provide financial assistance for capital construction projects pursuant to the provisions of this article by assessing public school capital construction needs throughout the state and providing expert recommendations based on objective criteria to the state board regarding the appropriate prioritization and allocation of such financial assistance. To further the performance of its function, the board, in addition to any other powers and duties specified in this article, has the following powers and duties:

(a) To establish public school facility construction guidelines as specified in section 22-43.7-107 to use in reviewing financial assistance applications and recommending to the state board a prioritized list of projects recommended to receive financial assistance as specified in paragraph (c) of this subsection (2);

(b) As soon as possible following the establishment of school facility construction guidelines pursuant to paragraph (a) of this subsection (2), to conduct or contract for a financial assistance priority assessment of public school buildings and facilities in this state based on the criteria set forth in section 22-43.7-107 (2);

(c) To review financial assistance applications and prepare and submit to the state board a prioritized list of projects to receive financial assistance and the amount and type of financial assistance that should be provided for each project;

(d) To establish guidelines for the division to follow when assisting potential applicants in identifying critical capital construction needs and preparing financial assistance applications pursuant to section 22-43.7-105 (2)(d);

(e) With the support of the division, to assist applicants that cannot feasibly maintain their own construction management staff in implementing the projects for which financial assistance is provided, including but not limited to providing assistance with the preparation of requests for bids or proposals, contract negotiations, contract implementation, and project and construction management;

(f) With the support of the division, to assist applicants in implementing energy-efficient public school facility design and construction practices;

(g) To authorize the state treasurer to enter into lease-purchase agreements on behalf of the state as authorized by this article in order to finance public school facility capital construction;

(h) To enter into sublease-purchase agreements on behalf of the state to sublease public school facilities financed by the lease-purchase agreements to applicants; and

(i) (I) To promulgate such rules, in accordance with article 4 of title 24, C.R.S., as are necessary and proper for the administration of this article, including but not limited to:

(A) Conflict of interest rules for board members;

(B) Rules establishing evaluation criteria for matching moneys requirement waiver or reduction applications submitted to the board pursuant to section 22-43.7-109 (10); and

(C) Rules establishing the means by which public school facilities and projects financed in whole or in part with financial assistance provided pursuant this article are to be publicly identified as having been so financed.

(II) The board shall provide a copy of any proposed board rule to the state board on or before the date on which the board issues a notice of proposed rule-making for the rule pursuant to section 24-4-103 (3), C.R.S.

**Source: L. 2008:** Entire article R&RE, p. 1046, § 1, effective May 22. **L. 2009:** IP(1)(a) amended, (SB 09-257), ch. 424, p. 2367, § 4, effective June 4.

**22-43.7-107. Public school facility construction guidelines - establishment by board - use.** (1) (a) The board shall establish public school facility construction guidelines for use by the board in assessing and prioritizing public school capital construction needs throughout the state as required by section 22-43.7-108, reviewing applications for financial assistance, and making recommendations to the state board regarding appropriate allocation of awards of financial assistance from the assistance fund only to applicants. The board shall establish the guidelines in rules promulgated in accordance with article 4 of title 24, C.R.S.

(b) It is the intent of the general assembly that the public school facility construction guidelines established by the board be used only for the purposes specified in paragraph (a) of this subsection (1).

(2) The public school facility construction guidelines must identify and describe the capital construction, renovation, and equipment needs in public school facilities and means of addressing those needs that will provide educational and safety benefits at a reasonable cost. In preparing the guidelines, the board shall address the following considerations:

(a) Health and safety issues, including security needs and all applicable building, health, safety, and environmental codes and standards required by state and federal law;

(b) Technology, including but not limited to telecommunications and internet connectivity technology, technology for individual student learning and classroom instruction, and technology, as defined in section 22-43.7-109 (5)(a)(I)(B), which includes hardware, devices, or equipment necessary for individual student learning and classroom instruction, including access to electronic instructional materials, or necessary for professional use by a classroom teacher;

(c) Building site requirements;

(d) Building performance standards and guidelines, including but not limited to green building and energy efficiency criteria as specified in executive order D0012 07, "Greening of State Government: Detailed Implementation", issued by the governor on April 16, 2007, or any subsequent executive orders or other policy directives concerning green building and energy efficiency criteria issued by the governor or the Colorado energy office;

(e) Consultation with the incumbent electric utility regarding energy efficiency; beneficial electrification, as defined in section 40-3.2-106 (6)(a); and renewable distributed generation opportunities;

(f) Functionality of existing and planned public school facilities for core educational programs, particularly those educational programs for which the state board has adopted state model content standards;

(g) Capacity of existing and planned public school facilities, taking into consideration potential expansion of services for the benefit of students such as full-day kindergarten and preschool- and school-based health services;

(h) Public school facility accessibility; and

(i) The historic significance of existing public school facilities and the potential to meet current programming needs by rehabilitating such facilities.

(3) The board and the division shall apply the public school facility construction guidelines in conducting the financial assistance priority assessment required by section 22-43.7-108.

**Source: L. 2008:** Entire article R&RE, p. 1049, § 1, effective May 22. **L. 2012:** (2)(d) amended, (HB 12-1315), ch. 224, p. 958, § 4, effective July 1. **L. 2017:** (2)(b) amended, (HB 17-1082), ch. 392, p. 2020, § 2, effective June 6. **L. 2020:** (2) amended, (SB 20-124), ch. 223, p. 1098, § 1, effective September 14.

**22-43.7-108. Statewide financial assistance priority assessment - public school facilities.** (1) (a) As soon as possible following the establishment of the public school facility construction guidelines pursuant to section 22-43.7-107, the board shall conduct with the assistance of the division, or contract for, a financial assistance priority assessment of public school facilities throughout the state as provided in this section. The board shall order payment of the costs incurred in conducting or contracting for the financial assistance priority assessment from the assistance fund.

(b) It is the intent of the general assembly that the financial assistance priority assessment required by this section be used only for the purposes specified in paragraph (a) of this subsection (1) and section 22-43.7-107 (1)(a).

(2) (a) The financial assistance priority assessment shall assess public school facility capital construction projects based on:

(I) The condition of the public school facility;

(II) Air and water quality in the public school facility;

(III) Public school facility space requirements;

(IV) The ability to accommodate educational technology, including but not limited to technology for individual student learning and classroom instruction;

(V) Site requirements for the public school facility;

(VI) Public school facility demographics, including a five-year projection concerning anticipated substantial changes in the pupil count of individual public school facilities; and

(VII) Annualized utility costs, including electricity, natural gas, propane, water, sewer, waste removal, telecommunications, internet, or other monthly billed utility services.

(b) The financial assistance priority assessment shall include five-year projections regarding the issues described in paragraph (a) of this subsection (2).

(c) The board, or the division upon the board's request, shall establish a database to store the data collected through the financial assistance priority assessment conducted pursuant to this section. The board or the division shall make the data collected available to the public in a form that is easily accessible and complies with any federal or state laws or regulations concerning privacy.

(3) The board shall use the public school facility construction guidelines established pursuant to section 22-43.7-107 in conducting the financial assistance priority assessment described in this section.

**Source: L. 2008:** Entire article R&RE, p. 1050, § 1, effective May 22. **L. 2017:** (2)(a)(V) and (2)(a)(VI) amended and (2)(a)(VII) added, (HB 17-1082), ch. 392, p. 2021, § 3, effective June 6.

**22-43.7-109. Financial assistance for public school capital construction - application requirements - evaluation criteria - local match requirements - technology grants - career and technical education capital construction grants - rules - definition.** (1) For fiscal years commencing on or after July 1, 2008, the board, with the support of the division and subject to the approval of the state board and, in the case of financial assistance that involves lease-purchase agreements, subject to both the preliminary approval of the state board and the final approval of the capital development committee, regarding financial assistance awards as specified in this section, shall provide financial assistance as specified in this section subject to the following limitations:

(a) The board may only provide financial assistance for a capital construction project for a public school facility that the applicant owns or will have the right to own in the future under the terms of a lease-purchase agreement with the owner of the facility or a sublease-purchase agreement with the state entered into pursuant to section 22-43.7-110 (2).

(b) The board may only provide financial assistance for a capital construction project for a public school in existence for at least three years at any time before the board receives an application for financial assistance.

(1.5) (a) Notwithstanding any provision of this article to the contrary, for fiscal years commencing on or after July 1, 2016, and subject to rules adopted by the board pursuant to paragraph (b) of this subsection (1.5), the board, with the support of the division and subject to the approval of the state board and the lessor of the property, may provide financial assistance as specified in this section to an applicant that is operating or will operate in the next budget year in a leased facility that is:

(I) Listed on the state inventory of real property and improvements and other capital assets maintained by the office of the state architect pursuant to section 24-30-1303.5, C.R.S.; or

(II) State-owned property leased by the state board of land commissioners, described in section 36-1-101.5, C.R.S., to the applicant.

(b) The board shall promulgate rules relating to the award of financial assistance pursuant to this subsection (1.5).

(c) It is the intent of the general assembly that an award of financial assistance pursuant to this subsection (1.5) must be used to preserve or enhance the value of state-owned, leased property.

(2) (a) Except as otherwise provided in subparagraph (II) of paragraph (b) of this subsection (2), the board shall establish an annual financial assistance timeline for use by applicants in applying for financial assistance and otherwise meeting financial assistance requirements and for use by the board in reviewing financial assistance applications and recommending financial assistance awards to the state board. The timeline shall specify:

(I) A deadline for applicants to submit financial assistance applications to the board that allows sufficient time for submission of such applications;

(II) The period in which the board, with the support of the division, will review financial assistance applications;

(III) A deadline, no later than June 7, 2013, and no later than June 1 of each year thereafter, for the board to submit to the state board the prioritized list of projects for which the board recommends the provision of financial assistance as required by subsection (7) of this section; and

(IV) Any additional deadlines or deadline extension periods needed to ensure that applicants seeking voter approval to obtain matching moneys required pursuant to subsection (9) of this section have sufficient opportunity to obtain such voter approval or otherwise needed to ensure the efficient and effective administration of this article.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (2):

(I) The board:

(A) After receiving an application for emergency financial assistance made pursuant to subsection (8) of this section, may provide emergency financial assistance to an applicant at any time; and

(B) May establish a timeline for the 2008-09 fiscal year or the 2008-09 and 2009-10 fiscal years only that takes into account any incomplete status of the priority assessment required by section 22-43.7-108, allows awards of financial assistance to be made based on consideration of so much of the assessment as has been completed, and differs from subsequent annual timelines.

(II) In order to ensure efficient submission and review of financial assistance applications and allow the board to provide financial assistance as soon as is feasible, on and after May 22, 2008, but before the appointment of the board, the state board, or such personnel of the department as the state board may designate, may establish interim financial assistance application deadlines and applications for use by applicants in applying for financial assistance for the 2008-09 fiscal year only. The state board may also designate department personnel to preliminarily review financial assistance applications until such time as the board and the director of the division have been appointed.

(3) A charter school that chooses to apply for financial assistance must apply directly to the board. A charter school shall notify its authorizer if the charter school applies for financial assistance. The authorizer for an applying charter school may submit a letter to the board stating its position on the application. The Colorado school for the deaf and blind shall also apply for financial assistance directly. Financial assistance awarded to a charter school as a matching cash grant shall be provided to the authorizer, which shall distribute all financial assistance received as a grant to the charter school and may not retain any portion of such moneys for any purpose. All other financial assistance shall be provided in the form of lease payments made by the board directly to a lessor or trustee as required by the terms of the applicable lease-purchase agreement.

(4) Applications for financial assistance submitted to the board must be in a form prescribed by the board and must include:

(a) A description of the scope and nature of the public school facility capital construction project for which financial assistance is sought;

(b) A description of the architectural, functional, and construction standards that are to be applied to the capital construction project that indicates whether the standards are consistent with the public school facility construction guidelines established by the board pursuant to section 22-43.7-107 and provides an explanation for the use of any standard that is not consistent with the guidelines;

(c) The estimated amount of financial assistance needed for the capital construction project and the form and amount of matching moneys that the applicant will provide for the project;

(d) (I) If the capital construction project involves the construction of a new public school facility or a major renovation of an existing public school facility, a demonstration of the ability and willingness of the applicant to maintain the project over time that includes, at a minimum, the establishment of a capital renewal budget and a commitment to make annual contributions to a capital renewal reserve within a school district's capital reserve fund or any functionally similar reserve fund separately maintained by an applicant that is not a school district.

(II) As used in this paragraph (d), "capital renewal reserve" means moneys set aside by an applicant for the specific purpose of replacing major public school facility systems with projected life cycles such as roofs, interior finishes, electrical systems and heating, ventilating, and air conditioning systems.

(e) If the application is for financial assistance for the renovation, reconstruction, expansion, or replacement of an existing public school facility, a description of the condition of the public school facility at the time the applicant purchased or completed the construction of the public school facility and, if the public school facility was not new or was not adequate at that time, the rationale of the applicant for purchasing the public school facility or constructing it in the manner in which it did;

(e.5) If the application is for financial assistance for state fiscal year 2019-20 or for any subsequent state fiscal year and is for either the construction of a new public school facility that will replace one or more existing public school facilities or the reconstruction or expansion of an existing public school facility and if the applicant will stop using an existing public school facility for its current use if it receives the grant, the applicant's plan for the future use or disposition of the existing public school facility and the estimated cost of implementing the plan.

(f) A statement regarding the means by which the applicant intends to provide matching money required for the projects, including but not limited to means such as voter-approved multiple-fiscal year debt or other financial obligations; utility cost savings associated with any utility costs-savings contract, as defined in section 24-30-2001 (6); gifts, grants, donations, a loan obtained pursuant to section 22-43.7-110.5, or any other means of financing permitted by law; or the intent of the applicant to seek a waiver of the matching money requirement pursuant to subsection (10) of this section. If an applicant that is a school district or a board of cooperative services with a participating school district intends to raise matching money by obtaining voter approval to enter into a sublease-purchase agreement that constitutes an indebtedness of the district as authorized by section 22-32-127, it shall indicate whether it has received the required voter approval or, if the election has not already been held, the anticipated date of the election.

(g) A description of any efforts by the applicant to coordinate capital construction projects with local governmental entities or community-based or other organizations that provide facilities or services that benefit the community in order to more efficiently or effectively provide such facilities or services, including but not limited to a description of any financial commitment received from any such entity or organization that will allow better leveraging of any financial assistance awarded;

(g.5) If deemed relevant by the applicant, a statement of the applicant's annualized utility costs, including electricity, natural gas, propane, water, sewer, waste removal,

telecommunications, internet, or other monthly billed utility services, and the amount of any reduction in such costs expected to result if the applicant receives financial assistance; and

(h) Any other information that the board may require for the evaluation of the project.

(5) The board, taking into consideration the financial assistance priority assessment conducted pursuant to section 22-43.7-108, shall prioritize applications that describe public school facility capital construction projects deemed eligible for financial assistance based on the following criteria, in descending order of importance:

(a) (I) (A) Projects that will address safety hazards or health concerns at existing public school facilities, including concerns relating to public school facility security, and projects that are designed to incorporate technology into the educational environment.

(B) As used in this subsection (5)(a)(I), "technology" means hardware, devices, or equipment necessary for individual student learning and classroom instruction, including access to electronic instructional materials, or necessary for professional use by a classroom teacher.

(II) In prioritizing an application for a public school facility renovation project that will address safety hazards or health concerns, the board shall consider the condition of the entire public school facility for which the project is proposed and determine whether it would be more fiscally prudent to replace the entire facility than to provide financial assistance for the renovation project.

(b) Projects that will relieve overcrowding in public school facilities, including but not limited to projects that will allow students to move from temporary instructional facilities into permanent facilities;

(b.5) Projects that will provide career and technical education capital construction in public school facilities; and

(c) Repealed.

(d) All other projects.

(6) The board may request that the division undertake a preliminary review of any or all applications for financial assistance, and the board may also request that any department, agency, or institution of state government with expertise or experience in construction management provide assistance to the board with regard to the evaluation of such applications for financial assistance.

(7) (a) Pursuant to the timelines established pursuant to subsection (2) of this section for any fiscal year for which financial assistance is to be awarded, and after prioritizing public school facility capital construction projects as specified in subsection (5) of this section, the board shall submit to the state board a prioritized list of projects for which the board recommends the provision of financial assistance. The prioritized list must include the board's recommendation as to the amount and type of financial assistance to be provided and a statement of the source and amount of applicant matching moneys for each recommended project based upon information provided by the applicant. The board may recommend that any specific project only receive financial assistance if another higher priority project or group of projects becomes ineligible for financial assistance due to the inability of an applicant to raise required matching moneys by a deadline prescribed by the board as a condition of a financial assistance award for the higher priority project or group of projects. If an applicant is approved for an award of financial assistance as an alternate award recipient and the applicant successfully raises required matching moneys through voter-approval of a ballot question for contracting bonded indebtedness but does not actually receive financial assistance because all primary award

recipients or higher priority alternate award recipients also successfully raised required matching moneys, the alternate award recipient may resubmit its application for financial assistance as previously approved during the next application cycle. If the board, in consultation with the state treasurer, determines that the combination of matching moneys raised by the alternate award recipient, plus either unspent proceeds from completed lease-purchase agreements or moneys to be raised through entry into an additional lease-purchase agreement that the state has the capacity to execute, or both, are sufficient to fund the applicant's project, the board may award financial assistance to the applicant and, if necessary, order the state treasurer to enter into a lease-purchase agreement on behalf of the state. The state board shall review and make decisions regarding the prioritized list no later than June 20 of each year and may approve, disapprove, or modify the provision of financial assistance for any project recommended by the board if the state board concludes that the board misinterpreted the results of the prioritization assessment conducted pursuant to section 22-43.7-108 or misapplied the prioritization criteria specified in subsection (5) of this section. The state board shall specifically explain in writing its reasons for finding that the board misinterpreted the results of the priority assessment or misapplied the prioritization criteria when disapproving or modifying any financial assistance award recommended by the board.

(b) No later than June 25 of each year, the state board shall submit to the capital development committee a revised prioritized list that includes only those projects for which the state board is recommending awards of financial assistance that involve lease-purchase agreements. The state board shall submit with the list the information regarding the details of the financing of the listed projects that the board submitted to the state board as required by paragraph (a) of this subsection (7). No later than July 15 of each year, the capital development committee may approve the list or may disapprove the list if the committee concludes that the inclusion of one or more of the projects on the list will unreasonably increase the cost of providing financial assistance that involves lease-purchase agreements for all of the projects on the list. If the capital development committee does not approve or disapprove the list by July 15, it is deemed to have approved the list as submitted.

(c) If the capital development committee disapproves the revised prioritized list, it shall provide its reasons for doing so in writing to the board no later than July 20. No later than August 1, the board may resubmit the list with modifications or additional information, or both, that address the committee's concerns. No later than August 15, the capital development committee may approve the entire resubmitted list or may disapprove one or more projects on the resubmitted list if the committee again concludes that the inclusion of the project or projects will unreasonably increase the cost of providing financial assistance that involves lease-purchase agreements for all of the projects on the list. If the capital development committee disapproves a project on the resubmitted list, the project shall not receive financial assistance that involves lease-purchase agreements, and the remaining projects on the resubmitted list shall receive such financial assistance as recommended by the state board. If the capital development committee does not approve or disapprove the resubmitted list by August 15, it is deemed to have approved the list as resubmitted.

(8) (a) Notwithstanding any other provision of this section, in the event of a public school facility emergency, an entity that may be an applicant and that is operating in the affected public school facility may submit an application to the board for emergency financial assistance to address the emergency. The application shall disclose any insurance proceeds, cash reserves,

or capital construction reserves available to pay the costs of addressing the emergency, and insurance proceeds that become available only after an applicant has received emergency financial assistance shall be used first to reimburse the assistance fund for the emergency financial assistance. The board shall meet within fifteen days of receiving the application to determine whether to recommend to the state board that emergency financial assistance be provided, the amount of any assistance recommended to be provided, and any recommended conditions that the applicant must meet to receive the assistance. The state board shall meet within five days of receiving the board's recommendations to determine whether to authorize the board to award emergency financial assistance as recommended by the board, modify the recommended award of assistance, or prohibit the board from awarding assistance. The board may use any unencumbered and unexpended moneys in the assistance fund, including the emergency reserve of the assistance fund, to provide emergency financial assistance. The board may use up to ten percent of the moneys in the assistance fund that have been transferred to the fund pursuant to section 22-43.7-104 (2)(d) during the applicable fiscal year to prioritize financial assistance to applicants pursuant to paragraph (c) of this subsection (8).

(b) As used in this subsection (8), "public school facility emergency" means an unanticipated event that makes all or a significant portion of a public school facility unusable for educational purposes or threatens the health or safety of persons using the public school facility.

(c) An entity that may be an applicant, that is operating a public school facility that is located in an area of the state in which the governor declared a disaster emergency pursuant to section 24-33.5-704 (4), C.R.S., and that experienced a public school facility emergency as a result of the disaster emergency may apply to the board for emergency financial assistance to address the emergency pursuant to this subsection (8). In determining whether to recommend to the state board that emergency financial assistance be provided, the amount of any assistance recommended to be provided, and any recommended conditions that the applicant must meet to receive assistance, the board shall consider the findings that the division provided to the board pursuant to section 22-43.7-105 (3). Based on the criteria specified in paragraph (b) of subsection (10) of this section, the board may waive or reduce the matching moneys requirement specified in subsection (9) of this section for any recipient of emergency financial assistance pursuant to this paragraph (c).

(9) Except as otherwise provided in subsection (10) of this section, the board may recommend, and the state board may approve financial assistance that does not involve a lease-purchase agreement for or recommend to the capital development committee the approval of financial assistance that involves a lease-purchase agreement for a public school facility capital construction project only if the applicant provides matching moneys in an amount equal to a percentage of the total financing for the project determined by the board after consideration of the applicant's financial capacity, as determined by the following factors:

(a) With respect to a school district's application for financial assistance:

(I) The school district's assessed value per pupil relative to the state average;

(II) The school district's median household income relative to the state average;

(III) The school district's bond redemption fund mill levy relative to the statewide average;

(IV) The percentage of pupils enrolled in the school district who are eligible for free or reduced-cost lunch;

(V) The school district's current available bond capacity remaining;

(VI) The school district's unreserved fund balance as a percentage of its annual budget; and

(VII) The amount of effort put forth by the school district to obtain voter approval for a ballot question for bonded indebtedness, including but not limited to a ballot question for entry by the district into a sublease-purchase agreement of the type that constitutes an indebtedness of the district pursuant to section 22-32-127, during the ten years preceding the year in which the district submitted the application, which factor may be used only to reduce the percentage of matching moneys required from a district that has put forth such effort and not to increase the amount of matching moneys required from any district;

(b) With respect to a board of cooperative services' application for financial assistance:

(I) The average assessed value per pupil of all members of the board of cooperative services participating in the capital construction project relative to the state average;

(II) The average median household income of all members of the board of cooperative services participating in the capital construction project relative to the state average;

(III) The average bond redemption fund mill levy of all members of the board of cooperative services participating in the capital construction project relative to the statewide average;

(IV) The percentage of pupils enrolled in the member schools within the board of cooperative services that are participating in the capital construction project who are eligible for free or reduced-cost lunch;

(V) The average available bond capacity remaining of all members of the board of cooperative services participating in the capital construction project;

(VI) The average unreserved fund balance as a percentage of the annual budget of all members of the board of cooperative services participating in the capital construction project; and

(VII) The amount of effort put forth by the members of the board of cooperative services to obtain voter approval for a ballot question for bonded indebtedness, including but not limited to a ballot question for entry by any member into a sublease-purchase agreement of the type that constitutes an indebtedness of the member pursuant to section 22-32-127, during the ten years preceding the year in which the board of cooperative services submitted the application. This factor may be used only to reduce the percentage of matching moneys required from a board of cooperative services if one or more of its members have put forth such effort and may not be used to increase the amount of matching moneys required from any board of cooperative services.

(c) With respect to a charter school's application for financial assistance:

(I) The weighted average of the match percentages for the school districts of residence for the students enrolled in a district charter school or fifty percent of the average of the match percentages for all school districts in the state for an institute charter school;

(II) Whether the charter school's authorizer retains no more than ten percent of its capacity to issue bonds pursuant to article 42 of this title;

(III) Whether the charter school is operating in a district-owned facility at the time it submits its application;

(IV) In the ten years preceding the year in which the charter school submits the application, the number of times the charter school has attempted to obtain or has obtained:

(A) Bond proceeds pursuant to section 22-30.5-404 through inclusion in a ballot measure submitted by the charter school's authorizer to the registered electors of the school district;

(B) Proceeds from a special mill levy for capital needs pursuant to section 22-30.5-405;

(C) Grant funding for capital needs from a source other than the assistance fund; and

(D) Funding for capital construction from bonds issued on its behalf by the Colorado educational and cultural facilities authority created and existing pursuant to section 23-15-104 (1)(a), C.R.S., or from some other source of financing;

(V) If the charter school is a district charter school, the student enrollment of the charter school as a percentage of the student enrollment of the charter school's authorizing school district;

(VI) The percentage of students enrolled in the charter school who are eligible for the federal free and reduced-cost lunch program in relation to the overall percentage of students enrolled in the public schools in the state who are eligible for the federal free and reduced-cost lunch program;

(VII) The percentage of the per pupil revenue received by the charter school that the charter school spends on facility costs other than facilities operations and maintenance; and

(VIII) The charter school's unreserved fund balance as a percentage of its annual budget.

(10) (a) A school district shall not be required to provide any amount of matching moneys in excess of the difference between the school district's limit of bonded indebtedness, as calculated pursuant to section 22-42-104, and the total amount of outstanding bonded indebtedness already incurred by the school district.

(b) An applicant may apply to the board for a waiver or reduction of the matching moneys requirement specified in subsection (9) of this section. The board may grant a waiver or reduction if it determines that the waiver or reduction would significantly enhance educational opportunity and quality within a school district, board of cooperative services, or applicant school, that the cost of complying with the matching moneys requirement would significantly limit educational opportunities within a school district, board of cooperative services, or applicant school, or that extenuating circumstances deemed significant by the board make a waiver appropriate.

(c) The amount of bonded indebtedness that a school district that is a member of a board of cooperative services incurs in order to provide matching moneys for the board of cooperative services shall not constitute bonded indebtedness of the school district subject to the limits on bonded indebtedness specified in section 22-42-104.

(11) In determining the amount of each recommended award of financial assistance, the board shall seek to be as equitable as practicable by considering the total financial capacity of each applicant.

(12) Notwithstanding any provision of this section to the contrary, the match percentage for a charter school calculated pursuant to paragraph (c) of subsection (9) of this section shall not be higher than the highest match percentage for a school district, or lower than the lowest match percentage for a school district, in the same grant cycle.

(13) For fiscal year 2018-19 and for each succeeding fiscal year, the board, with the support of the division and subject to the approval of the state board regarding financial assistance awards as specified in this section, may provide financial assistance in the form of technology grants. In conjunction with its establishment of an annual financial assistance timeline as required by subsection (2)(a) of this section, the board shall annually notify all

potential applicants, by such means as the board deems appropriate, that it will accept and consider applications for financial assistance in the form of technology grants. To be eligible for a technology grant, an applicant for financial assistance must apply specifically for such a grant in accordance with the financial assistance timeline established by the board pursuant to subsection (2)(a) of this section and must submit an application in the form prescribed by the board pursuant to subsection (4) of this section. The board may award a technology grant to fund technology, including but not limited to communications and internet connectivity technology, technology for individual student learning and classroom instruction, and technology as defined in subsection (5)(a)(I)(B) of this section.

(14) For fiscal year 2019-20 and for each succeeding fiscal year, the board, with the support of the division and subject to the approval of the state board regarding financial assistance awards as specified in this section, may provide financial assistance in the form of career and technical education capital construction grants. In conjunction with its establishment of an annual financial assistance timeline as required by subsection (2)(a) of this section, the board shall annually notify all potential applicants, by such means as the board deems appropriate, that it will accept and consider applications for financial assistance in the form of career and technical education capital construction grants. To be eligible for a career and technical education capital construction grant, an applicant for financial assistance must apply specifically for that grant in accordance with the financial assistance timeline established by the board pursuant to subsection (2)(a) of this section and must submit an application in the form prescribed by the board pursuant to subsection (4) of this section. The board may award career and technical education capital construction grants to fund career and technical education capital construction projects. In awarding grants, the board shall consider whether each grant application describes a career and technical education capital construction project that concerns a professional field that is identified as a key industry in the most recent annual Colorado talent report produced by the state work force development council pursuant to section 24-46.3-103 (3). Nothing in this subsection (14) prohibits the board from considering other factors in awarding and denying career and technical education capital construction grants.

**Source: L. 2008:** Entire article R&RE, p. 1051, § 1, effective May 22. **L. 2009:** (9)(c)(II) repealed, (SB 09-256), ch. 294, p. 1569, § 37, effective May 21; (2)(b)(I)(B) amended, (SB 09-257), ch. 424, p. 2367, § 5, effective June 4; (9)(c)(III.5) added, (SB 09-089), ch. 440, p. 2442, § 8, effective June 4; (9)(c)(IV) amended, (SB 09-292), ch. 369, p. 1963, § 63, effective August 5. **L. 2010:** (9)(c)(I) amended, (HB 10-1013), ch. 399, p. 1914, § 40, effective June 10; (9)(c)(III.5) amended, (SB 10-111), ch. 170, p. 602, § 8, effective August 11. **L. 2012:** (3), (4)(f), and (9)(c) amended and (12) added, (SB 12-121), ch. 177, p. 633, § 1, effective May 11. **L. 2013:** IP(1), (2)(a)(III), (7), and IP (9) amended, (SB 13-214), ch. 398, p. 2325, § 3, effective June 5. **L. 2014:** (9)(a)(IV), (9)(a)(V), (9)(b)(IV), and (9)(b)(V) amended and (9)(a)(VI), (9)(a)(VII), (9)(b)(VI), and (9)(b)(VII) added, (HB 14-1190), ch. 38, p. 196, § 1, effective March 14; (8) amended, (HB 14-1287), ch. 226, p. 843, § 4, effective May 17; (7)(a) amended, (HB 14-1387), ch. 378, p. 1829, § 33, effective June 6. **L. 2016:** (1)(b), (3), (5)(a)(I), and (5)(b) amended and (5)(c) repealed, (SB 16-072), ch. 180, p. 617, § 2, effective May 19; (1.5) added, (HB 16-1422), ch. 351, p. 1432, § 8, June 10. **L. 2017:** (4)(f), (4)(g), and (5)(a)(I) amended and (4)(g.5) and (13) added, (HB 17-1082), ch. 392, p. 2021, § 4, effective June 6. **L. 2018:** IP(4) amended

(4)(e.5) added, (HB 18-1277), ch. 283, p. 1765, § 1, effective August 8. **L. 2019:** (5)(b) amended and (5)(b.5) and (14) added, (HB 19-1008), ch. 19, p. 71, § 2, effective August 2.

**Cross references:** For the legislative declaration in HB 14-1287, see section 1 of chapter 226, Session Laws of Colorado 2014. For the legislative declaration in HB 14-1387, see section 1 of chapter 378, Session Laws of Colorado 2014.

**22-43.7-110. Financial assistance - grants - lease-purchase agreements.** (1) The board may provide financial assistance for those public school facility capital construction projects for which the state board has authorized the provision of financial assistance pursuant to section 22-43.7-109 (7) by providing matching grants from the assistance fund.

(2) Subject to the following requirements and limitations, the board may also instruct the state treasurer to enter into lease-purchase agreements on behalf of the state to provide financial assistance to applicants by financing public school facility capital construction projects for which the state board has recommended and the capital development committee has authorized the provision of financial assistance that involves a lease-purchase agreement pursuant to section 22-43.7-109 (7):

(a) Subject to the limitation specified in subsection (2)(b) of this section, the maximum total amount of annual lease payments payable by the state during any fiscal year under the terms of all outstanding lease-purchase agreements entered into by the state treasurer as instructed by the board pursuant to this subsection (2) is:

(I) Twenty million dollars for the 2008-09 fiscal year;

(II) Forty million dollars for the 2009-10 fiscal year;

(III) Sixty million dollars for the 2010-11 fiscal year;

(IV) Eighty million dollars for the 2011-12 fiscal year and for each fiscal year thereafter through the 2015-16 fiscal year;

(V) Ninety million dollars for the 2016-17 fiscal year;

(VI) One hundred million dollars for the 2017-18 and 2018-19 fiscal years;

(VII) One hundred five million dollars for the 2019-20 fiscal year; and

(VIII) One hundred twenty-five million dollars for the 2020-21 fiscal year and for each fiscal year thereafter.

(b) (I) The state treasurer may enter into lease-purchase agreements for which the aggregate annual lease payments of principal or interest for any fiscal year exceed one-half of the maximum total amount of annual lease payments permitted for the fiscal year pursuant to paragraph (a) of this subsection (2) only if the aggregate amount of matching moneys expected to be credited to the assistance fund pursuant to paragraph (c) of this subsection (2) and section 22-43.7-104 (2)(b)(IV) and any interest or income derived from the deposit and investment of the matching moneys is at least equal to the annual lease payments of principal and interest that exceed one-half of said maximum total amount.

(II) For purposes of subparagraph (I) of this paragraph (b), in calculating one-half the maximum total amount of annual lease payments permitted for the fiscal year pursuant to paragraph (a) of this subsection (2), the state treasurer shall not include any amount of annual lease payments of principal or interest that are attributable to loans of matching moneys for eligible charter schools that the board approves pursuant to section 22-43.7-110.5.

(c) Whenever the state treasurer enters into a lease-purchase agreement on behalf of the state pursuant to this subsection (2) to finance a public school facility, the board shall enter into a sublease-purchase agreement for the facility on behalf of the state with the applicant that will use the facility. The sublease-purchase agreement shall require the applicant to perform for the state all duties of the state to maintain and operate the public school facility that are required by the lease-purchase agreement and to make periodic rental payments to the state, which payments shall be credited to the assistance fund as matching moneys of the applicant. The sublease-purchase agreement shall also provide for the transfer of ownership of the public school facility from the state to the applicant upon the fulfillment of both the state's obligations under the lease-purchase agreement and the applicant's obligations under the sublease-purchase agreement. A sublease-purchase agreement may provide that the legal obligation of an applicant to make periodic rental payments is subject to the annual appropriation of moneys for that purpose by the applicant if the absence of such a provision would create a district multiple-year fiscal obligation without voter approval in advance in violation of section 20 (4)(b) of article X of the state constitution.

(d) A lease-purchase agreement entered into by the state treasurer on behalf of the state pursuant to this subsection (2) shall provide that all payment obligations of the state under the agreement are subject to annual appropriation by the general assembly and that obligations shall not be deemed or construed as creating an indebtedness of the state within the meaning of any provision of the state constitution or the laws of the state concerning or limiting the creation of indebtedness by the state.

(e) A lease-purchase agreement entered into by the state treasurer on behalf of the state pursuant to this subsection (2) may contain such terms, provisions, and conditions as the state treasurer may deem appropriate. The provisions shall allow the state to receive title to the real and personal property that is the subject of the agreement on or prior to the expiration of the entire term of the agreement, including all optional renewal terms. Such a lease-purchase agreement may further provide for the issuance, distribution, and sale of instruments evidencing rights to receive rentals and other payments made and to be made under the agreement. Such instruments shall not be notes, bonds, or any other evidence of indebtedness of the state within the meaning of any provision of the state constitution or the laws of the state concerning or limiting the creation of indebtedness by the state. Interest paid under a lease-purchase agreement, including interest represented by such instruments, shall be exempt from Colorado income tax.

(f) The board may only enter into a sublease-purchase agreement on behalf of the state pursuant to this subsection (2) if the state treasurer has reviewed the agreement and provided written authorization to the board to enter into the agreement.

(g) If the state treasurer deems it to be necessary or advisable, the state treasurer may enter into a lease-purchase agreement on behalf of the state for only a portion of a public school facility for which financial assistance is being provided or for all or a portion of a different public school facility or other property of a school district.

(h) Notwithstanding the authority of the board to instruct the state treasurer to enter into lease-purchase agreements on behalf of the state, in order to ensure that lease-purchase agreements are entered into under favorable financial market conditions, the state treasurer shall have sole discretion to determine the timing of the state treasurer's entry into any lease-purchase agreement on behalf of the state pursuant to this subsection (2).

**Source: L. 2008:** Entire article R&RE, p. 1058, § 1, effective May 22. **L. 2009:** (2)(b) amended and (2)(g) and (2)(h) added, (SB 09-257), ch. 424, p. 2367, § 6, effective June 4. **L. 2012:** (2)(b) amended, (SB 12-121), ch. 177, p. 635, § 2, effective May 11. **L. 2013:** IP(2) amended, (SB 13-214), ch. 398, p. 2326, § 4, effective June 5. **L. 2016:** (2)(a)(III) and (2)(a)(IV) amended and (2)(a)(V) and (2)(a)(VI) added, (SB 16-072), ch. 180, p. 618, § 3, effective May 19. **L. 2019:** IP(2)(a), (2)(a)(V), and (2)(a)(VI) amended and (2)(a)(VII) and (2)(a)(VIII) added, (HB 19-1055), ch. 246, p. 2403, § 2, effective May 21. **L. 2020:** (2)(a)(VIII) amended, (HB 20-1418), ch. 197, p. 955, § 39, effective June 30.

**Cross references:** For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

**22-43.7-110.3. Department - charter school facilities assistance account - distribution - definitions.** (1) Subject to annual appropriations, the department shall distribute the moneys credited to the charter school facilities assistance account created in section 22-43.7-104 (2)(d) as provided in this section. A qualified charter school may use moneys received from the charter school facilities assistance account for capital construction purposes.

(2) (a) The department shall annually distribute the moneys credited to the charter school facilities assistance account based on each school district's certified charter school pupil enrollment and each institute charter school's certified pupil enrollment for the applicable fiscal year.

(b) (I) Each school district that provides funding pursuant to section 22-30.5-112 or 22-30.5-112.1 to at least one qualified charter school in a fiscal year shall, for that fiscal year, receive an amount equal to the percentage of the total certified charter school pupil enrollment for all qualified charter schools statewide for the applicable fiscal year that is attributable to the district's certified charter school pupil enrollment, multiplied by the amount credited to the charter school facilities assistance account for the applicable fiscal year.

(II) A school district shall distribute the moneys received pursuant to this paragraph (b) to each qualified charter school of the school district in an amount equal to the percentage of the school district's certified charter school pupil enrollment that is attributable to pupils expected to be enrolled in the qualified charter school, multiplied by the total amount of moneys received by the school district pursuant to this paragraph (b) for the applicable fiscal year. The school district shall not retain any portion of the moneys received pursuant to this paragraph (b) to defray administrative expenses or for any other purpose.

(c) (I) The state charter school institute, in each fiscal year in which it distributes moneys to at least one institute charter school that is a qualified charter school, shall, for that fiscal year, receive an amount equal to the percentage of the total certified charter school pupil enrollment for all qualified charter schools for the applicable fiscal year that is attributable to institute charter schools that are qualified charter schools, multiplied by the amount credited to the charter school facilities assistance account for the applicable fiscal year.

(II) The state charter school institute shall distribute the moneys received pursuant to this paragraph (c) to each institute charter school that is a qualified charter school in an amount equal to the percentage of the total institute charter school certified pupil enrollment that is attributable to pupils expected to be enrolled in the qualified institute charter school, multiplied by the total amount of moneys received by the state charter school institute pursuant to this paragraph (c) for

the applicable fiscal year. The state charter school institute shall not retain any portion of the moneys received pursuant to this paragraph (c) to defray administrative expenses or for any other purpose.

(d) As used in this section:

(I) "Capital construction" has the same meaning as provided in section 22-54-124 (1)(a).

(II) "District's certified charter school pupil enrollment" has the same meaning as provided in section 22-54-124 (1)(c).

(III) "Institute charter school's certified pupil enrollment" has the same meaning as provided in section 22-54-124 (1)(c.5).

(IV) "Qualified charter school" has the same meaning as provided in section 22-54-124 (1)(f.6).

(V) "Total certified charter school pupil enrollment" means the pupil enrollment certified by the department pursuant to section 22-54-124 (3)(b).

**Source: L. 2014:** Entire section added, (HB 14-1292), ch. 243, p. 912, § 16, effective May 21.

**Cross references:** For the short title ("Student Success Act") in HB 14-1292, see section 1 of chapter 243, Session Laws of Colorado 2014.

**22-43.7-110.5. Charter school matching moneys loan program - rules - definitions.** (1) As used in this section, unless the context otherwise requires:

(a) "Eligible charter school" means a charter school that is:

(I) A qualified charter school as defined in section 22-30.5-408 (1)(c); and

(II) Authorized to receive financial assistance pursuant to section 22-43.7-109 (7).

(b) "Loan program" means the charter school matching moneys loan program created in this section.

(2) (a) There is hereby created the charter school matching moneys loan program to assist eligible charter schools in obtaining the matching moneys required for an award of financial assistance pursuant to section 22-43.7-109. Through the loan program, the board may approve a loan for an eligible charter school in an amount that does not exceed fifty percent of the amount of matching moneys calculated for the eligible charter school pursuant to section 22-43.7-109 (9)(c).

(b) The board shall direct the state treasurer to include the amount of a loan approved pursuant to this section in the lease-purchase agreement entered into pursuant to section 22-43.7-110 (2) to provide financial assistance to the eligible charter school for which the loan is approved.

(3) An eligible charter school that chooses to seek a loan through the loan program shall apply to the board to receive a loan. The board shall promulgate rules pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., establishing the contents of a loan application and the timelines and procedures for applying for a loan through the loan program.

(4) To receive a loan through the loan program, an eligible charter school shall:

(a) Authorize the state treasurer to withhold moneys payable to the eligible charter school in the amount of the loan payments pursuant to the procedure described in section 22-30.5-406;

(b) Pay an interest rate on the loan that is equal to the interest rate paid by the state treasurer on the lease-purchase agreement entered into pursuant to section 22-43.7-110 to provide financial assistance to the eligible charter school for which the loan is approved;

(c) Amortize the loan payments over the same period in years as the lease-purchase agreement entered into pursuant to section 22-43.7-110 to provide financial assistance to the eligible charter school for which the loan is approved; except that the eligible charter school may pay the full amount of the loan early without incurring a prepayment penalty; and

(d) Create an escrow account for the benefit of the state with a balance in the amount of six months of loan payments.

**Source: L. 2012:** Entire section added, (SB 12-121), ch. 177, p. 636, § 3, effective May 11.

**22-43.7-111. Reporting requirements - auditing by state auditor.** (1) Notwithstanding section 24-1-136 (11)(a)(I), no later than February 15, 2010, and no later than each February 15 thereafter, the board shall present a written report to the education and finance committees of the house of representatives and the senate and the capital development committee, or any successor committees, regarding the provision of financial assistance to applicants pursuant to this article 43.7. The report must include, at a minimum:

(a) An accounting of the financial assistance provided through the prior fiscal year that includes:

(I) A statement of the aggregate amount of financial assistance awarded through the prior fiscal year, including statements of the amount of grants provided, and the amount of payments made and payments committed to be made but not yet made in connection with lease-purchase agreements;

(II) A statement of the aggregate amount of financial assistance provided as grants and the aggregate amount of payments made in connection with lease-purchase agreements during the prior fiscal year;

(III) A list of the public school facility capital construction projects for which financial assistance has been provided, which must include:

(A) A sublist of projects for which financial assistance has been provided in the form of technology grants pursuant to section 22-43.7-109 (13);

(B) A sublist of projects for which financial assistance has been provided in the form of career and technical education capital construction grants pursuant to section 22-43.7-109 (14);

(C) A brief description of each project;

(D) A statement of the amount and type of financial assistance provided for each project and, where applicable, the amount of financial assistance committed to be provided for but not yet provided for each project;

(E) A statement of the amount of matching money provided by the applicant for each project and, where applicable, the amount of matching money committed to be provided by the applicant but not yet provided for each project; and

(F) A summary of the reasons of the board and the state board for providing financial assistance for the project; and

(IV) A list of the public school facility capital construction projects for which financial assistance has been provided during the prior fiscal year, which must include:

(A) A sublist of projects for which financial assistance has been provided in the form of technology grants pursuant to section 22-43.7-109 (13);

(B) A sublist of projects for which financial assistance has been provided in the form of career and technical education capital construction grants pursuant to section 22-43.7-109 (14);

(C) A brief description of each project;

(D) A statement of the amount and type of financial assistance provided for each project; and

(E) A statement of the amount of matching money provided by the applicant for each project.

(b) A summary of the findings and conclusions of any public school facility inspections conducted during the prior fiscal year;

(c) A summary of any differences between the common physical design elements and characteristics of the highest performing schools in the state and the lowest performing schools in the state as measured by academic productivity measures such as the state assessments administered pursuant to section 22-7-1006.3 or Colorado ACT results; and

(d) A list of the financial assistance applications for public school facility capital construction that were denied financial assistance during the prior fiscal year, which must include a sublist of denied applications for projects for which financial assistance in the form of technology grants was requested pursuant to section 22-43.7-109 (13) and a sublist of denied applications for which financial assistance in the form of career and technical education capital construction grants was requested pursuant to section 22-43.7-109 (14), and that includes for each project:

(I) A brief project description;

(II) A statement of the amount and type of financial assistance requested for the project;

(III) A statement indicating whether or not the board recommended a financial assistance award for the project; and

(IV) A summary of the reasons why the board or the state board denied financial assistance for the project.

(e) An estimate, to the extent feasible, of the total amounts of revenues to be credited to the assistance fund during the current fiscal year and the next fiscal year and financial assistance to be awarded during the next fiscal year, including separate estimates of the total amounts of financial assistance to be awarded as cash grants and under the terms of lease-purchase agreements entered into pursuant to section 22-43.7-110 (2).

(2) No later than February 15, 2014, the board shall prepare and make available electronically on the website of the department a report to the taxpayers of the state regarding the provision of financial assistance to applicants pursuant to this article during the five prior fiscal years. The report shall include, at a minimum, the information specified in subsection (1) of this section for each of the five prior fiscal years and an aggregation of any of such information that can feasibly be aggregated for the full five-year period.

(3) Repealed.

**Source: L. 2008:** Entire article R&RE, p. 1060, § 1, effective May 22. **L. 2013:** IP(1) amended and (1)(e) added, (SB 13-214), ch. 398, p. 2327, § 5, effective June 5. **L. 2015:** IP(1) and (1)(c) amended, (HB 15-1323), ch. 204, p. 725, § 36, effective May 20. **L. 2017:** (3) repealed, (SB 17-294), ch. 264, p. 1396, § 50, effective May 25; IP(1), (1)(a)(III), (1)(a)(IV), and

IP(1)(d) amended, (HB 17-1082), ch. 392, p. 2022, § 5, effective June 6; IP(1) amended, (HB 17-1267), ch. 242, p. 997, § 17, effective August 9. **L. 2019:** (1)(a)(III), (1)(a)(IV), and IP(1)(d) amended, (HB 19-1008), ch. 19, p. 71, § 3, effective August 2.

**Editor's note:** Amendments to the introductory portion of subsection (1) by HB 17-1082 and HB 17-1267 were harmonized.

**22-43.7-112. Attorney general as legal advisor.** The attorney general shall act as legal advisor for the board, and with the consent of the attorney general, the board may employ additional legal counsel.

**Source: L. 2008:** Entire article R&RE, p. 1062, § 1, effective May 22.

**22-43.7-113. Colorado school for the deaf and blind - special rules.** Except to the extent otherwise provided by the board in rules promulgated in accordance with article 4 of title 24, C.R.S., in order to account for any revenue-raising limitations of the Colorado school for the deaf and blind created and existing pursuant to section 22-80-102 (1)(a) not shared by school districts, the school shall be subject to the same financial assistance application requirements and financial assistance prioritization criteria as a school district.

**Source: L. 2008:** Entire article R&RE, p. 1062, § 1, effective May 22.

**22-43.7-114. Capital construction assistance awarded for fiscal year 2007-08 - continued payment.** Any capital construction assistance awarded to school districts or charter schools prior to the end of the 2007-08 fiscal year pursuant to this article, as it existed prior to May 22, 2008, shall continue to be paid.

**Source: L. 2008:** Entire article R&RE, p. 1062, § 1, effective May 22.

**22-43.7-115. Tax increases not required.** Nothing in this article shall be deemed to require a school district to increase taxes.

**Source: L. 2008:** Entire article R&RE, p. 1062, § 1, effective May 22.

**22-43.7-116. Open record and open meetings.** In exercising their powers and duties pursuant to this article, the board and the division shall be subject to the open meetings provisions of the "Colorado Sunshine Act of 1972", article 6 of title 24, C.R.S., as set forth in part 4 of said article, and the open records provisions set forth in article 72 of title 24, C.R.S.

**Source: L. 2008:** Entire article R&RE, p. 1062, § 1, effective May 22.

PART 2

FULL-DAY KINDERGARTEN FACILITY
CAPITAL CONSTRUCTION ASSISTANCE

**Cross references:** For the legislative declaration contained in the 2008 act enacting this part 2, see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-43.7-201. Full-day kindergarten facility capital construction fund - creation - grants - definitions.** (1) The full-day kindergarten facility capital construction fund, referred to in this part 2 as the "fund", is hereby created in the state treasury. The fund consists of any money that the general assembly may appropriate or transfer to the fund. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund. Subject to annual appropriation by the general assembly, the public school capital construction assistance board may expend money from the fund as specified in this part 2.

(2) Except as otherwise provided in subsection (4) of this section, the public school capital construction assistance board shall use the money in the fund to provide grants or matching grants to any school district or institute charter school that is undertaking a capital construction project to renovate a facility, rent a facility, or provide a temporary auxiliary facility that will be used in conjunction with providing a full-day kindergarten program. The board shall award a grant or matching grant pursuant to this part 2 to a school district or institute charter school only if, without the grant or matching grant, the school district or institute charter school would be unable to provide a facility in which to offer a full day of kindergarten to more students than were offered a full day of kindergarten in the 2007-08 budget year. For purposes of this part 2, "temporary auxiliary facility" means a temporary building that will be placed on the same campus as a main educational facility.

(3) Except as otherwise provided in subsection (4) of this section, each budget year, the board shall use fifty percent of the money in the fund to provide grants pursuant to this part 2 and fifty percent of the money in the fund to provide matching grants pursuant to this part 2.

(4) (a) As used in this subsection (4), unless the context otherwise requires:

(I) "Applicant share percentage" means, with respect to an applicant, the percentage of total equitably adjusted funding statewide for both all applicants and all potential applicants who do not actually apply for grants as authorized by this subsection (4) represented by the equitably adjusted funding for the applicant.

(II) "Equitable adjustment factor" means, with respect to both an applicant and a potential applicant that does not actually apply for a grant as authorized by this subsection (4), the sum of the applicant's:

(A) Size factor, as determined pursuant to section 22-54-104 (5)(b)(I.5);

(B) Percentage of enrolled pupils who are eligible for free or reduced-price lunch;

(C) Percentage of enrolled pupils who are English language learners, as defined in section 22-24-103 (4); and

(D) Percentage of enrolled pupils who are special education students.

(III) "Equitably adjusted funding" means, with respect to both an applicant and a potential applicant who does not actually apply for a grant as authorized by this subsection (4), the product of total applicant per pupil funding and the equitable adjustment factor.

(IV) "Total applicant per pupil funding" means, with respect to both an applicant and a potential applicant who does not actually apply for a grant as authorized by this subsection (4), the product of the number of children enrolled in a full-day kindergarten educational program provided by the applicant during the 2019-20 budget year and the applicant's per pupil funding amount, after application of section 22-54-104 (5)(g), for the 2019-20 budget year.

(b) On July 1, 2019, the state treasurer shall transfer twenty-five million dollars from the assistance fund to the fund. During the 2018-19 budget year, the board shall accept applications from applicants that will provide a full-day kindergarten educational program for the 2019-20 budget year for financial assistance in the form of formula-based grants in a total amount of up to twenty-five million dollars for the 2019-20 budget year. The board shall establish grant application requirements and deadlines that allow applicants to efficiently provide the information needed to allow the board to quickly determine the estimated amount of the formula-based grant to be awarded to each applicant and expedite distribution of the formula-based grants.

(c) The amount of the grant to be provided to each applicant pursuant to subsection (4)(b) of this section is determined by the following formula:

The lesser of $25,000,000 x the applicant share percentage or the amount actually applied for by the applicant.

On July 1, 2020, the state treasurer shall transfer all unexpended and unencumbered state money in the full-day kindergarten facility capital construction fund to the state education fund created in section 17 (4) of article IX of the state constitution.

(d) On July 1, 2019, or as soon as feasible thereafter, the board shall cause to be distributed to each applicant eighty percent of the estimated amount of the applicant's formula-based grant. As soon as feasible following the final determination of statewide and applicant full-day kindergarten enrollment for the 2019-20 budget year and no later than February 15, 2020, the board shall determine the final amount of each applicant's formula-based grant and cause to be distributed to each applicant any additional amount needed to ensure that each applicant receives the full final amount of its grant.

(e) As soon as possible after receiving each distribution described in this section, the authorizer for a charter school that operates a full-day kindergarten educational program shall distribute to the charter school, in a lump sum, one hundred percent of the amount received that is attributable to the full-day kindergarten pupils enrolled in the charter school.

(f) An applicant may expend a formula-based grant received pursuant to this subsection (4) during the 2019-20 budget year for the purpose of acquiring furniture, fixtures, or other fixed or moveable equipment, excluding construction equipment, that is needed to conduct a full-day kindergarten educational program or a preschool educational program.

**Source: L. 2008:** Entire part added, p. 1214, § 26, effective May 22. **L. 2011:** (1) amended, (SB 11-218), ch. 151, p. 526, § 4, effective May 5. **L. 2015:** (1) amended, (SB 15-264), ch. 259, p. 956, § 53, effective August 5. **L. 2019:** Entire section amended, (HB 19-1055), ch. 246, p. 2404, § 3, effective May 21. **L. 2020:** (4)(c) amended, (HB 20-1418), ch. 197, p. 948, § 27, effective June 30.

**Cross references:** For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

**22-43.7-202. Applications for grants and matching grants - rules.** (1) Each applicant for a grant or matching grant pursuant to this part 2 shall submit an application to the board no

later than July 1 for the budget year commencing on that July 1. An individual school of a school district, including a district charter school, may apply for a grant or matching grant through the school district in which the school is located, and the school district may then apply to the board for the grant or matching grant on behalf of the school. An institute charter school may apply directly to the board.

(2) The board or its designees shall evaluate each application submitted by a school district or an institute charter school based on the factors set forth in this section and such other factors as the board may establish by rule.

(3) Each application for a grant or a matching grant submitted to the board pursuant to this section shall be in a form prescribed by the board and shall include:

(a) A description of the scope and nature of the capital construction project to renovate a facility or provide a temporary auxiliary facility for a full-day kindergarten program;

(b) A description of the architectural, functional, and construction standards that are to be applied to the facility that is the subject of the capital construction project;

(c) The total estimated cost of the capital construction project;

(d) The form and amount of financial effort that will be provided by the school district or the institute charter school for the capital construction project;

(e) A demonstration of the school district's or the institute charter school's ability and willingness to maintain a capital construction project funded pursuant to this part 2; and

(f) Any other information the board may reasonably require for the evaluation of the capital construction project.

(4) The board shall prioritize each application for a grant or a matching grant that describes a capital construction project deemed eligible by the board for a grant or matching grant pursuant to this part 2. The board shall prioritize the applications based on the following criteria, in descending order of importance:

(a) Capital construction projects in school districts or for institute charter schools in accounting districts that have reached ninety percent or more of their limit on bonded indebtedness under section 22-42-104; and

(b) Capital construction projects in school districts or for institute charter schools that have previously demonstrated consistent efforts to allocate moneys to the school districts' or institute charter schools' capital reserve fund.

**Source: L. 2008:** Entire part added, p. 1214, § 26, effective May 22. **L. 2009:** (4)(b) amended, (SB 09-256), ch. 294, p. 1570, § 38, effective May 21.

**22-43.7-203. Full-day kindergarten facility capital construction projects - prioritization.** (1) From the applications submitted for grants or matching grants pursuant to section 22-43.7-202, the board shall annually prepare a prioritized list of capital construction projects to provide facilities for full-day kindergarten programs. The board shall then determine the type and amount of the grant or matching grant to be awarded to each eligible capital construction project based on the information provided by the school district or the institute charter school in the application.

(2) The board shall submit to the state board the prioritized list of capital construction projects prepared pursuant to subsection (1) of this section. The prioritized list shall include the board's recommendations as to the amount of financial assistance to be provided to applicants

and whether the assistance should be in the form of a grant or a matching grant. The state board may approve, disapprove, or modify the provision of financial assistance to any applicant recommended by the board if the state board finds that the board incorrectly prioritized the capital construction projects pursuant to this part 2. The state board shall specifically explain in writing its reasons for finding that the board incorrectly prioritized any capital construction project pursuant to this part 2.

(3) In prioritizing capital construction projects and awarding grants and matching grants pursuant to this part 2, the board shall attempt to maximize the total number of students statewide who will be able to attend a full day of kindergarten due to the availability of a renovated facility or temporary auxiliary facility for a full-day kindergarten program.

(4) It is the intent of the general assembly that school districts give consideration to the needs of both traditional public schools and charter schools established pursuant to article 30.5 of this title when submitting applications for grants or matching grants pursuant to this section.

(5) It is the intent of the general assembly that a grant or matching grant awarded to a school district or institute charter school pursuant to this part 2 shall not be taken into consideration when the board prioritizes capital construction projects pursuant to part 1 of this article. Nothing in this part 2 shall be construed to limit or otherwise affect the authority of the board to prioritize capital construction projects pursuant to part 1 of this article.

**Source: L. 2008:** Entire part added, p. 1215, § 26, effective May 22.

## ARTICLE 44

Budget Policies and Procedures

**Cross references:** For the constitutional provision that establishes limitations on spending, the imposition of taxes, and the incurring of debt, see section 20 of article X of the state constitution.

### PART 1

### SCHOOL DISTRICT BUDGET LAW

**22-44-101. Short title.** This part 1 shall be known and may be cited as the "School District Budget Law of 1964".

**Source: L. 64:** p. 617, § 1. **C.R.S. 1963:** § 123-32-1.

**22-44-102. Definitions.** As used in this part 1, unless the context otherwise requires:

(1) "Appropriation" means the setting aside by resolution of a specified amount of money for a fund with an authorization to make expenditures and incur obligations for the purposes thereof.

(2) "Board of education" or "board" means the governing body of a school district.

(3) "Contingency" means an act of God or the public enemy, or some event which could not have been reasonably foreseen at the time of the adoption of the budget of a school district.

(4) (a) and (b) Repealed.

(c) Effective July 1, 1992, "fiscal year" means the period beginning on July 1 of each year and ending on the following June 30.

(5) "Function" means a classification within a fund in accordance with a major purpose including, but not limited to, administration, instruction, operation, or maintenance of a physical plant.

(6) "Fund" means a sum of money or other resource set aside for a specific purpose of a school district. The accounts thereof constitute a complete entity, and all of the financial transactions for a particular fund shall be recorded in said fund.

(7) "Object" means a classification within a function in accordance with the article or service received in return for expenditures including, but not limited to, personal services, materials, supplies, or equipment.

(7.3) "Ongoing deficit" means any negative amount reported in the annual financial audit or submitted through the department's financial data-collection process by the school district, board of cooperative services, charter school, or charter school institute in the unassigned fund balance for governmental funds or unrestricted net assets for proprietary funds as identified in the standard statewide chart of accounts.

(7.5) "Pupil enrollment count day" has the same meaning as set forth in section 22-54-103 (10.5).

(8) "School district" or "district" means a school district or a local college district organized and existing pursuant to law.

**Source: L. 64:** p. 617, § 2. **C.R.S. 1963:** § 123-32-2. **L. 74:** (4) amended, p. 378, § 1, effective April 1; (4) amended, p. 379, effective May 14. **L. 81:** (1) amended, p. 2026, § 23, effective July 14. **L. 87:** (4) amended, p. 831, § 2, effective July 1. **L. 88:** (4)(b) and (4)(c) repealed, p. 824, § 39, effective May 24. **L. 89:** (4)(b) RC&RE, p. 966, § 13, effective June 7. **L. 90:** (4) R&RE, p. 1052, § 1, effective May 31. **L. 2012:** (7.5) added, (HB 12-1090), ch. 44, p. 154, § 18, effective March 22; (7.3) added, (HB 12-1240), ch. 258, p. 1312, § 17, effective June 4.

**Editor's note:** Subsection (4)(a) provided for the repeal of subsection (4)(a), effective January 1, 1992. (See L. 90, p. 1052.) Subsection (4)(b) provided for the repeal of subsection (4)(b), effective July 1, 1992. (See L. 90, p. 1052.)

**22-44-103. Budget and appropriation - required.** (1) The board of education of each school district shall adopt a budget and an appropriation resolution for each fiscal year, prior to the beginning of the fiscal year. The board shall ensure that the district uses the full accrual basis of accounting when budgeting and accounting for any enterprise funds included in the district budget.

(2) If a new school district is organized during a fiscal year and the school districts included therein do not operate the schools until the end of the school year, the board of education of the newly organized district shall adopt a budget and appropriation resolution to cover only the remaining portion of the fiscal year. Such budget shall be based on the total of the amounts budgeted and appropriated by the board of education of any former district wholly included in the new district and the pro rata amounts budgeted and appropriated by the board of

education of any district only partly included therein, to the respective funds, functions, and objects in the budget of the newly organized district.

**Source: L. 64:** p. 618, § 3. **C.R.S. 1963:** § 123-32-3. **L. 2003:** (1) amended, p. 1284, § 3, effective July 1.

**22-44-103.5. Budget for 1992 transitional fiscal year - budget years thereafter.** (1) In order to implement the change in the school district fiscal year on July 1, 1992, the six-month period beginning on January 1, 1992, and ending on June 30, 1992, shall be the 1992 transitional fiscal year. The board of education of each school district shall adopt a budget and an appropriation resolution for such transitional fiscal year in the manner provided by this part 1; except that the total amount that may be budgeted and appropriated from revenues in the general fund generated pursuant to the "Public School Finance Act of 1988", former article 53 of this title, for expenditure during such transitional fiscal year shall not exceed the equalization program funding of such district as determined pursuant to former section 22-53-107 (5), the preschool program funding as determined pursuant to former section 22-53-115.5 (1.5), if any, and the program funding for three- and four-year-old children with disabilities as determined pursuant to former section 22-53-116.5 (2), if any.

(2) (a) Notwithstanding the provisions of section 39-1-112, C.R.S., revenues generated pursuant to the "Public School Finance Act of 1988" to fund the equalization program funding, the preschool program funding, and the program funding for three- and four-year-old children with disabilities of the district for the transitional fiscal year and any additional funds generated pursuant to the provisions of former section 22-53-114 (10) of said act, including property tax revenues collected during the 1992 calendar year which are in excess of the funding for such programs during such fiscal year, shall not be expended during such fiscal year but shall be carried forward in the general fund to the 1992-93 fiscal year.

(b) (I) Except as otherwise provided in paragraph (c) of this subsection (2), the property tax revenue carried forward to the 1992-93 fiscal year and any property tax revenue collected during the first six months of the 1992-93 budget year shall be used to offset the state's share of the district's equalization program funding for said fiscal year. Any property tax revenue not used to offset state aid during the 1992-93 fiscal year shall not be expended in said fiscal year but shall be carried forward in the general fund to the 1993-94 fiscal year.

(II) The property tax revenue carried forward to the 1993-94 fiscal year shall be used to offset the state's share of the district's equalization program funding for said fiscal year.

(III) (A) Of the districts subject to the provisions of this paragraph (b), this subparagraph (III) shall only apply to those districts with property tax revenue carried forward which is not completely offset against the state's share of the district's equalization program funding in the 1992-93 and 1993-94 fiscal years.

(B) The board of education of a district subject to the provisions of this subparagraph (III) shall reduce its mill levy for the 1993 property tax year so that the property tax revenue collected in 1994, assuming one hundred percent collection, equals the district's share of equalization program funding for the 1993-94 fiscal year plus any amount of categorical support funds the district is required to replace with property tax revenue during the 1993-94 fiscal year reduced by the amount of property tax revenue carried forward which was not offset against the state's share of equalization program funding for the 1992-93 and 1993-94 fiscal years. Any

district that reduces its mill levy for the 1993 property tax year shall be subject to the provisions of former section 22-53-114 (9.2).

(C) In lieu of reducing the mill levy pursuant to the provisions of sub-subparagraph (B) of this subparagraph (III), the board of education of any district subject to the provisions of this subparagraph (III) may, by a two-thirds vote of the board, elect to keep the amount of property tax revenue carried forward which was not offset against the state's share of equalization program funding for the 1992-93 and 1993-94 fiscal years. Once such an election is made, the board of education may use its excess property tax revenue for any lawful purpose during the 1993-94 fiscal year and fiscal years thereafter. Notwithstanding the provisions of former section 22-53-114 (1) or section 22-54-106, no district which elects to keep its excess property tax revenue pursuant to the provisions of this sub-subparagraph (C) shall receive state aid or receive categorical support funds which the district would otherwise be eligible to receive from the state during the 1994-95 fiscal year and fiscal years thereafter until such time as the amount of state aid or categorical support funds the district would have received during said years equals the amount of the excess property tax revenue.

(D) Notwithstanding the provisions of sub-subparagraph (C) of this subparagraph (III), for the 1995-96 fiscal year and fiscal years thereafter, the amount of property tax revenue carried forward shall be offset against any state aid or categorical support funds that the district would otherwise be eligible to receive from the state during the 1995-96 fiscal year and fiscal years thereafter. After the offset is made in each fiscal year, the board of education may use its excess property tax revenue for any capital projects and may use no more than ten percent of the excess property tax revenue remaining to be offset at the end of the fiscal year for any lawful purpose. The amount of excess property tax revenue remaining to be offset shall be reduced each year by ten percent and the amount of any capital projects on which the money is spent. By January 30 of each fiscal year, the board of education shall certify to the state department of education the total amount of excess property tax revenue spent or otherwise encumbered on capital projects for the fiscal year. Once the amount of excess property tax revenue remaining to be offset reaches zero, the district shall receive state aid or receive categorical support funds that the district would otherwise be eligible to receive from the state.

(c) (I) The provisions of this paragraph (c) shall only apply to districts that were eligible to receive only minimum state aid under former section 22-53-114 (1) of the "Public School Finance Act of 1988".

(II) The board of education of a district subject to the provisions of this paragraph (c) shall reduce its mill levy for the 1992 property tax year so that the property tax revenue collected in 1993, assuming one hundred percent collection, equals the district's share of equalization program funding for the 1992-93 fiscal year plus any amount of categorical support funds the district is required to replace with property tax revenue during the 1992-93 fiscal year reduced by the amount of excess property tax revenue collected during the 1992 calendar year.

(III) In lieu of reducing the mill levy pursuant to the provisions of subparagraph (II) of this paragraph (c), the board of education of any district subject to the provisions of this paragraph (c) may, by a two-thirds vote of the board, elect to keep its excess property tax revenue. Once such an election is made, the board of education may then use its excess property tax revenue for any lawful purpose during the 1992-93 fiscal year and fiscal years thereafter. Notwithstanding the provisions of former section 22-53-114 (1) or section 22-54-106, no district which elects to keep its excess property tax revenue pursuant to the provisions of this

subparagraph (III) shall receive state aid during the 1992-93 fiscal year and fiscal years thereafter or receive categorical support funds which the district would otherwise be eligible to receive from the state for the 1993-94 fiscal year and fiscal years thereafter, until such time as the amount of state aid or categorical support funds the district would have received during said years equals the amount of the excess property tax revenue.

(IV) Notwithstanding the provisions of subparagraph (III) of this paragraph (c), for the 1995-96 fiscal year and fiscal years thereafter, the amount of property tax revenue carried forward shall be offset against any state aid or categorical support funds that the district would otherwise be eligible to receive from the state during the 1995-96 fiscal year and fiscal years thereafter. After the offset is made in each fiscal year, the board of education may use its excess property tax revenue for any capital projects and may use no more than ten percent of the excess property tax revenue remaining to be offset at the end of the fiscal year for any lawful purpose. The amount of excess property tax revenue remaining to be offset shall be reduced each year by ten percent and the amount of any capital projects on which the money is spent. By January 30 of each fiscal year, the board of education shall certify to the state department of education the total amount of excess property tax revenue spent or otherwise encumbered on capital projects for the fiscal year. Once the amount of excess property tax revenue remaining to be offset reaches zero, the district shall receive state aid or receive categorical support funds that the district would otherwise be eligible to receive from the state.

**Source: L. 90:** Entire section added, p. 1052, § 2, effective May 31. **L. 91:** Entire section amended, p. 448, § 1, effective April 11. **L. 91, 2nd Ex. Sess.:** Entire section amended, p. 32, § 1, effective November 8. **L. 92:** (2)(b) amended, p. 548, § 23, effective May 28. **L. 93:** (2)(b)(III)(B), (2)(b)(III)(C), and (2)(c)(III) amended, p. 890, § 15, effective May 6; (1) and (2)(a) amended, p. 1649, § 43, effective July 1. **L. 94:** (1), (2)(a), (2)(b)(III)(B), (2)(b)(III)(C), (2)(c)(I), and (2)(c)(III) amended, p. 816, § 35, effective April 27. **L. 95:** (2)(b)(III)(D) added, p. 610, § 9, effective May 22. **L. 96:** (2)(b)(III)(D) amended and (2)(c)(IV) added, p. 1797, §§ 14, 13, effective June 4.

**22-44-103.7. Budget provisions for the 2020-21 budget year - repeal.** (1) Notwithstanding any provision of law to the contrary, for the 2020-21 budget year:

(a) A board of education shall prepare and submit a proposed budget in accordance with section 22-44-108 not later than June 23, 2020;

(b) After submission of a proposed budget, but not later than June 25, 2020, the board of education shall publish a notice of proposed school budget. The notice must be published in a newspaper having general circulation in the school district at least once prior to the date specified in the notice for consideration of the proposed school budget. If there is no newspaper having general circulation in the school district, or the notice cannot be published in the newspaper prior to the date specified in the notice for consideration of the budget, the secretary of the board of education shall cause the notice to be posted for at least two business days in the administrative offices of the district and in two other public places in the district prior to the date specified in the notice for consideration of the budget.

(c) The provisions of section 22-44-104 apply if a board of education does not adopt a budget and an appropriation resolution by June 30, 2020. After the adoption of the budget, the board may review and change the budget pursuant to section 22-44-110 (5).

(2) This section is repealed, effective July 1, 2021.

**Source: L. 2020:** Entire section added, (HB 20-1418), ch. 197, p. 940, § 3, effective June 30.

**Cross references:** For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

**22-44-104. Failure to adopt budget or appropriation.** If a board of education fails or neglects to adopt a budget or an appropriation resolution prior to the beginning of the ensuing fiscal year as required by section 22-44-103, then ninety percent of the amounts budgeted and appropriated to the funds, functions, and objects by the last duly adopted budget and appropriation resolution shall be deemed to be budgeted and appropriated by operation of law for the fiscal year for which no budget or appropriation resolution was adopted prior thereto; but an amount of money sufficient to satisfy all obligations of bonded indebtedness which will be due and payable during said fiscal year shall be deemed to be budgeted and appropriated by operation of law.

**Source: L. 64:** p. 618, § 4. **C.R.S. 1963:** § 123-32-4.

**22-44-105. Budget - contents - mandatory.** (1) The budget shall be presented in the standard budget report format established by the state board of education by rule pursuant to subsection (5) of this section. The standard budget report format established by the state board shall be substantially consistent from year to year and shall adhere to the following guidelines:

(a) The budget shall be presented in a summary format which is understandable by any layperson reviewing such budget.

(a.5) (Deleted by amendment, L. 93, p. 1873, § 1, effective June 6, 1993.)

(b) The budget shall be presented in a summary format which will allow for comparisons of revenues and expenditures among school districts by pupil.

(c) The budget shall be presented in a format that itemizes expenditures of the district by fund and by pupil. The budget shall:

(I) Describe the expenditure;

(II) Show the amount budgeted for the current fiscal year;

(III) Show the amount estimated to be expended for the current fiscal year; and

(IV) Show the amount budgeted for the ensuing fiscal year.

(V) Repealed.

(c.4) Upon review of the letter of intent submitted to the state treasurer and the department of education, the department of education will notify the board of education of the acceptance, if appropriate, of the use of real property for the establishment of a district emergency reserve pursuant to paragraph (c.5) of this subsection (1).

(c.5) The budget shall ensure that the school district holds unrestricted general fund or cash fund emergency reserves in the amount required under the provisions of section 20 (5) of article X of the state constitution; except that, if a board of education provides for a district emergency reserve in the general fund for the budget year, established at an amount equal to at least three percent of the amount budgeted to the general fund, the board may:

(I) Designate real property owned by the district as all or a portion of the reserve required by section 20 (5) of article X of the state constitution so long as the board has filed with the state treasurer and the department of education a letter of intent that expresses the intent of the board to increase the liquidity of such property upon the occurrence of a declared emergency within the meaning of section 20 (5) of article X of the state constitution by entering into one or more lease-purchase agreements with respect to such property or by other means acceptable to the state treasurer; or

(II) Secure a letter of credit from an investment-grade bank as all or a portion of the reserve required by section 20 (5) of article X of the state constitution so long as the board has filed with the state treasurer and the department of education a letter of intent that expresses the intent of the board to satisfy its obligation to reimburse the bank for moneys drawn on the letter of credit upon the occurrence of a declared emergency within the meaning of section 20 (5) of article X of the state constitution that are not reimbursed to the bank within the same fiscal year by entering into lease-purchase agreements with respect to real property owned by the district.

(c.6) If at any time the board of education expends any moneys from the district emergency reserve created pursuant to paragraph (c.5) of this subsection (1), the board shall restore the reserve to three percent of the amount budgeted to the general fund as follows:

(I) If the board of education expends moneys from the district emergency reserve in a single fiscal year, the board shall restore the reserve pursuant to this paragraph (c.6) within thirty-six months of the first draw of the money from the reserve; and

(II) If the board of education expends moneys from the district emergency reserve in two consecutive fiscal years, the board shall restore the reserve pursuant to this paragraph (c.6) by the end of the fiscal year following the second fiscal year in which the board expended moneys from the reserve.

(c.7) The budget shall summarize revenues by revenue source and shall summarize expenditures by function, fund, and object.

(d) (Deleted by amendment, L. 97, p. 948, § 3, effective August 6, 1997.)

(d.5) The budget shall include a uniform summary sheet for each fund administered by the district that details the following for each fund:

(I) The beginning fund balance and the anticipated ending fund balance for the budget year;

(II) The anticipated fund revenues for the budget year, delineated by the program and source codes identified in the chart of accounts created pursuant to subsection (4) of this section;

(III) The anticipated transfers and allocations that will occur to and from the fund during the budget year;

(IV) The anticipated expenditures that will be made from the fund during the budget year, delineated by the program and object codes identified in the chart of accounts created pursuant to subsection (4) of this section; and

(V) The amount of reserves in the fund.

(e) (I) For the 1993-94 fiscal year, the budget format shall contain a provision under which any district which has a reduction in its 1993-94 per pupil funding, as defined in former section 22-53-107.3 (3)(a), of four and seven-tenths percent or more may declare an extreme emergency and may apply for additional funding from the contingency reserve pursuant to former section 22-53-124 (4). Such additional funding shall not result in a percentage reduction for an individual district which is less than the greater of four and five-tenths percent or four

percent plus the percentage change in the district's per pupil funding from the 1992-93 budget year to the 1993-94 budget year which results from the application of former section 22-53-107 (5.5)(b)(II) or (5.5)(b)(III).

(II) If a district which declares an extreme emergency pursuant to subparagraph (I) of this paragraph (e) has property tax revenue carried forward under the provisions of section 22-44-103.5, such district shall not be eligible to receive additional funding from the contingency reserve. However, the district may expend such property tax revenue in the 1993-94 budget year in response to such extreme emergency and, if the district advises the state board of education of such expenditure, the amount expended, not to exceed the amount of additional funding allowed the district pursuant to subparagraph (I) of this paragraph (e), shall be subtracted from the amount of excess property tax revenue of the district which must be offset against state aid and categorical support funds pursuant to section 22-44-103.5 (2)(b)(III)(B) and (2)(c)(III).

(III) For purposes of determining the percentage change in the district's per pupil funding from the 1992-93 budget year to the 1993-94 budget year, the district's per pupil funding for the 1992-93 budget year shall be the amount derived by dividing the district's 1992-93 equalization program funding, as calculated pursuant to former section 22-53-107 (3), including the district's 1992-93 preschool program funding, if any, as calculated pursuant to former section 22-53-115.5, and the district's 1992-93 program funding for three- and four-year-old children with disabilities, if any, as calculated pursuant to former section 22-53-116.5, by the district's 1992-93 funded pupil count as defined in former section 22-53-107 (5.5)(c)(II). The district's per pupil funding for the 1993-94 budget year shall be the amount derived by dividing the district's 1993-94 equalization program funding, as calculated pursuant to former section 22-53-107 (5.5)(b)(II) or (5.5)(b)(III), whichever is applicable, by the district's 1993-94 funded pupil count as defined in former section 22-53-107 (5.5)(c)(III).

(1.5) (a) A budget adopted pursuant to this article shall not provide for expenditures, interfund transfers, or reserves, in excess of available revenues and beginning fund balances. If the budget includes the use of a beginning fund balance, the school district board of education shall adopt a resolution specifically authorizing the use of a portion of the beginning fund balance in the school district's budget. The resolution, at a minimum, shall specify the amount of the beginning fund balance to be spent under the school district budget, state the purpose for which the expenditure is needed, and state the school district's plan to ensure that the use of the beginning fund balance will not lead to an ongoing deficit.

(b) Each school district shall annually prepare an itemized reconciliation between the fiscal year end fund balances based on the budgetary basis of accounting used by the school district and the fiscal year end fund balances based on the modified accrual basis of accounting. The reconciliation shall include, but need not be limited to, the liability for accrued salaries and related benefits. The reconciliation shall be included with the final version of the amended budget and the annual audited financial statements.

(c) If at any time during the fiscal year following the adoption of a budget by a board of education the school district determines that the use of an additional portion of the school district's beginning fund balance is necessary, the board of education shall adopt a resolution that meets at least the minimum requirements specified in paragraph (a) of this subsection (1.5) before using the additional portion of the beginning fund balance.

(2) The proposed expenditures and anticipated revenues in the budget shall be supported as needed by explanatory schedules or statements of sufficient detail to judge the validity

thereof, including a statement which summarizes the aggregate of revenues, appropriations, assets, and liabilities of each fund in balanced relations. The budget shall disclose planned compliance with section 20 of article X of the state constitution.

(3) (Deleted by amendment, L. 93, p. 1873, § 1, effective June 6, 1993.)

(4) (a) The state board of education, with input from the financial policies and procedures advisory committee, shall establish, implement, and maintain a statewide financial, student management, and human resource electronic data communications and reporting system that is based on a standard chart of accounts, a standard information system, and a standard personnel classification system. The department of education, the state charter school institute, and all district charter schools, institute charter schools, school districts, and boards of cooperative services in the state shall use the system to report and obtain necessary financial information.

(b) In implementing and maintaining the financial and human resource reporting system pursuant to paragraph (a) of this section, the state board of education shall adhere to, but is not limited to, the following guidelines:

(I) The reporting system must be based on a standard chart of accounts that makes school-to-school and school district-to-school district comparisons accurate and meaningful;

(II) The reporting system must provide standard definitions for employment positions such that full, accurate disclosure of administrative costs is made within the budgets and the financial statements of every school district; and

(III) The reporting system must make it possible to collect comparable data by program and school site.

(c) Nothing in this section shall be interpreted to require accounting of salary and benefit costs by school site.

(d) The financial policies and procedures advisory committee shall consider and make a recommendation to the state board of education concerning whether the standard chart of accounts should include the reporting of revenues received at all levels, including public revenues received from private gifts, grants, and donations, and, if so, how the reporting of revenues would be included in the standard chart of accounts.

(e) (I) The department shall issue a request for proposals and contract for the creation of a website view that, at a minimum, translates the expenditures for each of the major categories specified in the chart of accounts for school sites, school districts, the state charter school institute, and boards of cooperative services, as posted on the website maintained by each local education provider pursuant to section 22-44-304, into a format that is readable by a layperson. The department and the entity with which the department contracts, if any, shall work with the financial policies and procedures advisory committee and a representative from the office of state planning and budgeting in designing the presentation of data on the website view to ensure the greatest degree of clarity and comparability by laypersons of expenditures among school sites, school districts, the state charter school institute, and boards of cooperative services.

(II) The department shall ensure that the website created pursuant to this paragraph (e) is available to the public no later than July 1, 2017, and is updated annually.

(5) No later than July 1, 2008, the state board of education, with input and recommendations from the financial policies and procedures advisory committee created in the department of education, shall establish by rule the standard budget report format to be used by each board of education.

(6) (a) There is created in the state treasury the financial reporting fund, referred to in this subsection (6) as the "fund". For the 2014-15 budget year, the state treasurer shall transfer three million dollars from the state education fund, created in section 17 (4) of article IX of the state constitution, to the fund to offset the costs incurred by the department in implementing paragraph (e) of subsection (4) of this section. The moneys in the fund are continuously appropriated to the department of education beginning in the 2014-15 budget year and continuing through the 2017-18 budget year, after which time any moneys remaining in the fund are subject to annual appropriation.

(b) The state treasurer may invest any moneys in the fund not expended for the purpose of paragraph (e) of subsection (4) of this section as provided by law. The state treasurer shall credit all interest and income derived from the investment and deposit of moneys in the fund to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year remain in the fund and shall not be credited or transferred to the general fund or another fund.

(c) The general assembly hereby declares that, for purposes of section 17 of article IX of the state constitution, creating and maintaining the website described in paragraph (e) of subsection (4) of this section is an important element in implementing accountability reporting and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 64:** p. 619, § 5. **C.R.S. 1963:** § 123-32-5. **L. 75:** (1)(a) and (1)(b) amended, (1)(c) repealed, and (3) added, pp. 706, 708, §§ 1, 10, 2, effective July 14. **L. 88:** (1)(a.5) added, p. 814, § 19, effective May 24. **L. 93:** Entire section amended, p. 1873, § 1, effective June 6. **L. 94:** (1)(b) and (1)(c) amended and (4) added, p. 589, § 2, effective April 7; (1)(e)(I) and (1)(e)(III) amended, p. 817, § 36, effective April 27; (1)(e)(III) amended, p. 1634, § 41, effective May 31; (1)(c) amended, p. 1791, § 6, effective January 1, 1995. **L. 96:** (4)(d) amended, p. 1800, § 24, effective June 4. **L. 97:** IP(1) and (1)(d) amended, p. 948, § 3, effective August 6. **L. 2003:** IP(1) amended and (1)(c.5) and (1.5) added, p. 1283, § § 1, 2, effective July 1. **L. 2006:** (4)(d) repealed, p. 610, § 34, effective August 7. **L. 2007:** IP(1) amended and (1)(c.7) and (5) added, p. 743, §§ 19, 20, effective May 9. **L. 2008:** (1.5)(c) added, p. 1216, § 27, effective May 22; (1)(c)(V) repealed, p. 1901, § 83, effective August 5. **L. 2009:** (1)(c.5) amended and (1)(c.6) added, (SB 09-256), ch. 294, p. 1559, § 20, effective May 21. **L. 2010:** (1)(d.5) added, (HB 10-1013), ch. 399, p. 1900, § 8, effective June 10. **L. 2012:** (1)(c.4) added, (HB 12-1240), ch. 258, p. 1313, § 18, effective June 4. **L. 2014:** (4) amended and (6) added, (HB 14-1292), ch. 243, p. 906, § 10, effective May 21.

**Editor's note:** Amendments to subsection (1)(c) in House Bill 94-1213 and House Bill 94-1298 were harmonized. Amendments to subsection (1)(e)(III) in House Bill 94-1001 and Senate Bill 94-206 were harmonized.

**Cross references:** (1) For the legislative declaration contained in the 2008 act enacting subsection (1.5)(c), see section 1 of chapter 286, Session Laws of Colorado 2008.

(2) For the short title ("Student Success Act") in HB 14-1292, see section 1 of chapter 243, Session Laws of Colorado 2014.

**22-44-106. Contingency reserve - operating reserve.**

(1) Repealed.

(2) A board of education may provide for an operating reserve in the general fund, which reserve shall not exceed fifteen percent of the amount budgeted to the general fund for the current fiscal year. Such operating reserve shall not be appropriated nor shall any moneys therein be expended during the fiscal year covered by the budget, but such moneys shall be a continuing reserve and be considered as a beginning general fund balance for the next following fiscal year.

**Source: L. 64:** p. 619, § 6. **C.R.S. 1963:** § 123-32-6. **L. 90:** (1) repealed, p. 1099, § 64, effective May 31.

**22-44-107. Appropriation resolution - required.** (1) The board of education of each school district shall adopt an appropriation resolution at the time it adopts the budget. The appropriation resolution shall specify the amount of money appropriated to each fund; except that the operating reserve authorized by section 22-44-106 (2) shall not be subject to appropriation for the fiscal year covered by the budget and except that the appropriation resolution may by reference incorporate the budget as adopted by a board of education for the current fiscal year.

(2) The amounts appropriated to a fund shall not exceed the amount thereof as specified in the adopted budget.

**Source: L. 64:** p. 620, § 7. **C.R.S. 1963:** § 123-32-7. **L. 75:** Entire section amended, p. 706, § 3, effective July 14.

**22-44-108. Preparation of budget.** (1) (a) The board of education shall each year cause to be prepared a proposed budget for the ensuing fiscal year. A statement shall be submitted with the proposed budget describing the major objectives of the educational program to be undertaken by the school district during the ensuing fiscal year and the manner in which the budget proposes to fulfill such objectives.

(b) Repealed.

(c) The proposed budget shall be submitted to the board at least thirty days prior to the beginning of the next fiscal year.

(2) Upon receipt of the proposed budget and statement, the board of education may change the proposed budget and statement prior to the publication of the notice of budget required by section 22-44-109.

**Source: L. 64:** p. 620, § 8. **C.R.S. 1963:** § 123-32-8. **L. 74:** (1) amended, p. 379, § 2, effective July 1. **L. 89:** (1) amended, p. 1463, § 23, effective June 7. **L. 90:** (1) amended, p. 1053, § 3, effective May 31. **L. 2006:** (1)(c) amended, p. 610, § 35, effective August 7.

**Editor's note:** Subsection (1)(b) provided for the repeal of subsection (1)(b), effective July 1, 1992. (See L. 90, p. 1053.)

**22-44-109. Notice of budget - publication.** (1) Within ten days after submission of the proposed budget, the board of education shall cause to be published a notice stating that the

proposed budget is on file at the principal administrative offices of the school district; that the proposed budget is available for inspection during reasonable business hours; that any person paying school taxes in the district may file or register an objection thereto at any time prior to its adoption; and that the board of education of the school district will consider adoption of the proposed budget for the ensuing fiscal year on the date, time, and place specified in the notice.

(2) Such notice shall be in substantially the following form:

**NOTICE OF PROPOSED SCHOOL BUDGET**

Notice is hereby given that a proposed budget has been submitted to the Board of Education of ..... (Name of school district) for the fiscal year beginning ..... and has been filed in the office of ..... where it is available for public inspection. Such proposed budget will be considered for adoption at a ..... (Regular or Special) meeting of the Board of Education of said District at ..... (Place) on ..... (Date) at ..... (Time).

Any person paying school taxes in said district may at any time prior to the final adoption of the budget file or register his objections thereto.

BOARD OF EDUCATION

Dated.....

.....

(Name of school district)

.....

(Secretary)

(3) Such notice shall be published at least once prior to the date specified for consideration of the budget in a newspaper having general circulation in the school district. If there is no newspaper having general circulation in the district, the secretary of the board of education shall cause the notice to be posted for at least fifteen days in the administrative offices of the district and in two other public places in the district.

**Source: L. 64:** p. 620, § 9. **C.R.S. 1963:** § 123-32-9.

**22-44-110. Budget - consideration - adoption.** (1) Any person paying school taxes in the school district is entitled to attend the meeting of the board of education at which the proposed budget for the district will be considered. At such meeting, the board shall review the functions and objects of the proposed budget. Any taxpayer or his representative is entitled to file or register objections to the proposed budget prior to its final adoption.

(2) It is not necessary for a board of education to formally adopt the budget on the date specified in the notice of consideration of the proposed budget, but if the budget is to be adopted at a future meeting, the date, time, and place of such meeting shall be entered in the minutes of the meeting of the board held for consideration of the proposed budget as specified in such notice.

(3) After the board of education has considered the objections of taxpayers, it may change the proposed budget in any manner deemed advisable. If a board increases the total expenditures, it shall provide also for increased revenues at least equal to or greater than the proposed increased expenditures.

(4) Prior to the beginning of the ensuing fiscal year, the board of education shall formally adopt the budget by appropriate resolution duly recorded. The words "Adopted Budget", the name of the school district, the date of adoption, and the signature of the president of the board shall be entered upon the adopted budget.

(5) After the adoption of the budget, the board may review and change the budget, with respect to both revenues and expenditures, at any time prior to January 31 of the fiscal year for which the budget was adopted. After January 31, the board shall not review or change the budget except as authorized by this article; except that, where money for a specific purpose from other than ad valorem taxes subsequently becomes available to meet a contingency, the board may adopt a supplemental budget for expenditures not to exceed the amount of said money and may appropriate said money therefrom.

(6) Effective July 1, 1992, if a school district is authorized to raise and expend additional local property tax revenues at an election held in November of any fiscal year pursuant to former section 22-53-117 or section 22-54-108 or 22-54-108.5, the board of education may adopt a supplemental budget and supplemental appropriation resolution to cover that portion of the fiscal year following such election. Such supplemental budget shall be based on the additional dollar amount authorized to be raised and expended at such election.

**Source: L. 64:** p. 621, § 10. **C.R.S. 1963:** § 123-32-10. **L. 90:** (6) added, p. 1053, § 4, effective May 31. **L. 93:** (5) amended, p. 888, § 11, effective May 6. **L. 94:** (5) amended, p. 590, § 3, effective April 7; (6) amended, p. 818, § 37, effective April 27. **L. 99:** (5) amended, p. 178, § 9, effective March 30. **L. 2007:** (6) amended, p. 38, § 5, effective March 7. **L. 2008:** (5) amended, p. 1216, § 28, effective May 22.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsection (5), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-44-111. Budget - filing.** (1) The board of education shall cause the adopted budget and the appropriation resolution to be placed on file at the principal administrative office of the school district, where they shall remain throughout the fiscal year and be open for inspection during reasonable business hours.

(2) and (3) Repealed.

**Source: L. 64:** p. 622, § 11. **C.R.S. 1963:** § 123-32-11. **L. 93:** (2) amended, p. 888, § 12, effective May 6. **L. 99:** (2) repealed, p. 178, § 10, effective March 30. **L. 2007:** (3) added, p. 743, § 21, effective May 9. **L. 2010:** (3) repealed, (HB 10-1171), ch. 401, p. 1934, § 3, effective August 11.

**22-44-112. Transfer of moneys.** (1) A board of education shall not transfer moneys from one fund to another, except as authorized and in the manner prescribed by this part 1.

(2) (a) A board of education may transfer by resolution any unencumbered moneys from one fund to another, except the transportation fund, the special building and technology fund, or the bond redemption fund.

(b) Repealed.

(3) (a) and (b) Repealed.

(c) If the resolution authorizes expenditures in excess of the amount budgeted and appropriated to a particular function, and there is no unencumbered appropriation available in another function to transfer to the function wherein additional expenditures are needed, the board of education may issue warrants to be registered, in order to provide for such excess expenditures. The total amount of warrants which may be issued and registered pursuant to this paragraph (c) during any one fiscal year shall not exceed an amount equal to that which could be raised by a two mill levy for the calendar year in which the second half of such fiscal year is included on the valuation for assessment of the taxable property located within the territorial limits of the school district. Transfers and excess expenditures pursuant to this paragraph (c) shall be deemed to be budgeted and appropriated for the purpose specified in the resolution upon the effective date of the resolution.

(4) Proceeds from the sale of bonds remaining after the completion of the project for which such bonds were authorized may be transferred to the bond redemption fund or, in the event all bonds have been redeemed, to the general fund. Moneys remaining in the bond redemption fund after all obligations of bonded indebtedness have been satisfied shall be transferred to the general fund. Any moneys remaining in a particular account in the bond redemption fund, after all obligations of bonded indebtedness of that particular account have been satisfied, shall be transferred to another account within said bond redemption fund which still has outstanding obligations of bonded indebtedness.

(5) Repealed.

(6) Notwithstanding the provisions of this section, a local district college board of trustees may transfer moneys from the student activity fund and the food-service fund, or moneys from any other auxiliary enterprise fund, to the general obligation or revenue bond fund.

**Source: L. 64:** p. 622, § 12. **C.R.S. 1963:** § 123-32-12. **L. 67:** p. 975, § 1. **L. 75:** (1) and (2)(a) amended and (2)(b), (3)(a), (3)(b), and (5) repealed, pp. 707, 708, §§ 4, 10, effective July 14. **L. 83:** (2)(a) amended, p. 758, § 2, effective April 21. **L. 86:** (6) amended, p. 844, § 2, effective July 1. **L. 88:** (2)(a) amended, p. 814, § 20, effective May 24. **L. 90:** (3)(c) amended, p. 1083, § 42, effective May 31. **L. 91:** (2)(a) amended, p. 539, § 5, effective May 1. **L. 97:** (2)(a) amended, p. 75, § 3, effective March 24; (2)(a) amended, p. 585, § 12, effective April 30. **L. 2009:** (2)(a) amended, (SB 09-256), ch. 294, p. 1570, § 39, effective May 21.

**Editor's note:** Amendments to subsection (2)(a) by House Bill 97-1200 and House Bill 97-1249 were harmonized.

**22-44-113. Borrowing from funds.** (1) A board of education may borrow unencumbered moneys from any one fund, except the bond redemption fund, for the use of another fund at any time. All moneys borrowed from a fund pursuant to this subsection (1) shall be repaid to said fund when needed to meet the obligations of said fund, and all revenues credited to the borrowing fund shall be used first to repay the loan. Any such loan shall be repaid not later than three months after the beginning of the following budget year. In the event moneys are not forthcoming from designated sources, an amount equal to the outstanding liability shall be expended from the general fund and used to repay the loan. Such amount from the general fund shall be recorded as revenue in the receiving fund.

(2) Borrowing moneys from a fund pursuant to subsection (1) of this section shall be evidenced by a resolution duly adopted by the board of education authorizing such borrowing and shall be recorded in the minutes of the meeting of the board at which adopted. A copy of said resolution shall be filed with the employee or officer who issues checks, warrants, or orders on said school district.

(3) The provisions of this section shall apply to all funds created by law or regulation or by action of a school district.

**Source: L. 64:** p. 624, § 13. **C.R.S. 1963:** § 123-32-13. **L. 81:** (1) amended, p. 1073, § 1, effective July 1. **L. 2003:** (1) amended and (3) added, p. 1285, § 5, effective July 1.

**22-44-114. Record of expenditures.** Each board of education shall maintain a complete set of books of account as required by law.

**Source: L. 64:** p. 624, § 14. **C.R.S. 1963:** § 123-32-14.

**22-44-115. No obligation in excess of appropriation.** (1) A board of education of a school district shall not expend any moneys in excess of the amount appropriated by resolution for a particular fund.

(2) Repealed.

(3) Except as provided otherwise by this section, any obligation of a contract, verbal or written, which requires expenditures contrary to the provisions of subsection (1) of this section shall be void, and no school district moneys shall be paid thereon.

(4) Notwithstanding any provisions of this section to the contrary, the board of education of a school district may enter into a contract for administrative services with a term not to exceed five years, for capital outlay purposes in accordance with articles 32, 42, 43, and 45 of this title, or for the purchase of real property by local college districts in accordance with section 23-71-122 (1)(c), C.R.S. Such a contract shall be valid and enforceable between parties to the contract. The provisions of this subsection (4) shall be subject to annual appropriation by the general assembly, the board of education, or the governing board.

**Source: L. 64:** p. 624, § 15. **C.R.S. 1963:** § 123-32-15. **L. 67:** p. 797, § 1. **L. 75:** (1) and (3) amended and (2) repealed, pp. 707, 708, §§ 5, 10, effective July 14; (4) amended, p. 1269, § 2, effective July 1. **L. 83:** (4) amended, p. 820, § 1, effective July 1. **L. 85:** (4) amended, p. 734, § 5, effective May 31.

**22-44-115.5. Fiscal emergency - effect on budget.** (1) During any budget year, if the board of education of the school district determines that the anticipated revenues specified in the budget and the amounts appropriated in the budget for expenditure exceed the actual revenues available to the school district due, in whole or in part, to action by the general assembly or the governor relating to the state appropriation for the district's total program pursuant to article 54 of this title, the board may declare a fiscal emergency in such budget year. A declaration of fiscal emergency may only occur upon an affirmative vote of two-thirds of the members of the board at a public meeting. Prior to any vote taken pursuant to this subsection (1), the board of

education shall hold at least one public hearing within the district after full and timely notice to the public.

(2) If a fiscal emergency is declared by the board of education pursuant to subsection (1) of this section, the board may implement a reduction in salaries for all employees of the school district on a proportional basis or may alter the work year of such employees. Such reduction in salaries may be made notwithstanding the provisions of section 22-63-401 (3).

**Source: L. 92:** Entire section added, p. 541, § 15, effective May 28. **L. 94:** (1) amended, p. 818, § 38, effective April 27.

**22-44-116. Malfeasance - removal.** Any school director, officer, or employee of a school district who knowingly and willfully violates any provision of this part 1 or fails to perform any duty required by this part 1 is guilty of malfeasance in office or position of employment and, upon conviction thereof, the court shall order that such school director, officer, or employee be removed from his office or position of employment.

**Source: L. 64:** p. 624, § 16. **C.R.S. 1963:** § 123-32-16.

**22-44-117. Budget - minimum content. (Repealed)**

**Source: L. 64:** p. 625, § 17. **C.R.S. 1963:** § 123-32-17. **L. 93:** Entire section amended, p. 889, § 13, effective May 6; entire section repealed, p. 1875, § 2, effective June 6.

**22-44-118. Full-day kindergarten reserve - tracking of expenditures - preschool programs - rules. (Repealed)**

**Source: L. 2008:** Entire section added, p. 1217, § 29, effective May 22. **L. 2009:** (1) amended, (SB 09-256), ch. 294, p. 1568, § 34, effective May 21. **L. 2012:** (1) amended, (HB 12-1090), ch. 44, p. 154, § 19, effective March 22. **L. 2019:** Entire section repealed, (HB 19-1262), ch. 245, p. 2401, § 11, effective May 21.

**22-44-119. Fiscal emergency restricted reserve.** For the 2009-10 budget year, each school district and the state charter school institute shall budget a total dollar amount determined by the department of education to a fiscal emergency restricted reserve in the general fund. The amount budgeted by each school district and the state charter school institute shall be released for expenditure by the district or for distribution to institute charter schools by the state charter school institute, as applicable, on January 29, 2010, if a negative supplemental appropriation to effect a recision of the total amount of the restricted reserve as specified in section 22-54-106.5 (3), or any portion thereof, has not been enacted and become law by said date.

**Source: L. 2009:** Entire section added, (SB 09-256), ch. 294, p. 1560, § 21, effective May 21.

PART 2

FINANCIAL POLICIES AND PROCEDURES

**Editor's note:** This part 2 was numbered as article 42 of chapter 123, C.R.S. 1963. The provisions of this part 2 were repealed and reenacted in 1973, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this part 2 prior to 1973, consult the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

**22-44-201. Short title.** This part 2 shall be known and may be cited as the "Financial Policies and Procedures Act".

**Source: L. 73:** R&RE, p. 1298, § 1. **C.R.S. 1963:** § 123-42-1.

**22-44-202. Legislative declaration.** It is the purpose of this part 2 to develop for the public schools a program-oriented budget format which will relate anticipated costs and actual costs to designated programs.

**Source: L. 73:** R&RE, p. 1298, § 1. **C.R.S. 1963:** § 123-42-2.

**22-44-203. Adoption and compatibility of handbook.** (1) The state board of education shall have the authority to adopt a financial policies and procedures handbook that will meet the needs of the existing statutes and of such other rules and regulations as may be necessary to fulfill the intent of this part 2.

(2) Repealed.

**Source: L. 73:** R&RE, p. 1298, § 1. **C.R.S. 1963:** § 123-42-3. **L. 81:** (2) amended, p. 2026, § 24, effective July 14. **L. 97:** (2) amended, p. 461, § 9, effective August 6. **L. 2009:** (2) repealed, (SB 09-163), ch. 293, p. 1544, § 50, effective May 21.

**22-44-204. Use of handbook by school districts.**

(1) and (2) Repealed.

(3) The financial policies and procedures handbook adopted by the state board of education shall be used by every school district in this state in the development of the budget for the district, in the keeping of financial records of the district, and in the periodic presentation of financial information to the board of education of the district.

**Source: L. 73:** R&RE, p. 1298, § 1. **C.R.S. 1963:** § 123-42-4. **L. 88:** (3) amended, p. 815, § 21, effective May 24. **L. 2006:** (1) and (2) repealed, p. 610, § 36, effective August 7.

**22-44-205. Reports. (Repealed)**

**Source: L. 73:** R&RE, p. 1299, § 1. **C.R.S. 1963:** § 123-42-5. **L. 81:** Entire section amended, p. 1074, § 1, effective May 18. **L. 88:** Entire section repealed, p. 824, § 39, effective May 24.

**22-44-206. Administration.** This part 2 shall be administered by the state board of education. The state board of education has the authority to adopt reasonable rules and regulations for the administration of this part 2.

**Source: L. 73:** R&RE, p. 1299, § 1. **C.R.S. 1963:** § 123-42-6.

PART 3

PUBLIC SCHOOL FINANCIAL TRANSPARENCY ACT

**22-44-301. Short title.** This part 3 shall be known and may be cited as the "Public School Financial Transparency Act".

**Source: L. 2010:** Entire part added, (HB 10-1036), ch. 79, p. 267, § 1, effective April 12.

**22-44-302. Legislative declaration.** The general assembly finds that members of the public, as taxpayers and parents, have a strong interest in how public moneys are expended in Colorado in the pursuit of a quality education for all of Colorado's public school students. The general assembly further finds that educators and administrators, as education innovators and stewards of these public moneys, are eager to learn from one another and evaluate best practices that may result in efficiencies and potential cost savings for their schools. While achieving these important ends through the statewide dissemination of public school financial information may have been cumbersome in the past, new technologies and the ease with which the public can access electronic information now make greater transparency in public school finances not only important but practical. Therefore, it is the intent of the general assembly to ensure public access to public school financial information through the adoption of the "Public School Financial Transparency Act", which directs public schools to post financial information online, in a downloadable format, for free public access.

**Source: L. 2010:** Entire part added, (HB 10-1036), ch. 79, p. 267, § 1, effective April 12.

**22-44-303. Definitions.** As used in this part 3, unless the context otherwise requires:

(1) "Board of cooperative services" or "BOCES" means a board of cooperative services created pursuant to article 5 of this title 22.

(2) "Charter school" means a district charter school authorized pursuant to part 1 of article 30.5 of this title 22 or an institute charter school authorized pursuant to part 5 of article 30.5 of this title 22.

(3) "Department" means the department of education created and operating pursuant to section 24-1-115.

(4) "Institute" means the state charter school institute established pursuant to section 22-30.5-503.

(5) "School district" means a school district, other than a local college district, organized and existing as provided by law.

**Source: L. 2010:** Entire part added, (HB 10-1036), ch. 79, p. 268, § 1, effective April 12. **L. 2017:** Entire section amended, (HB 17-1375), ch. 287, p. 1592, § 3, effective June 2.

**22-44-304. Financial reporting - online access to information.** (1) (a) Commencing July 1, 2010, and on a continuing basis thereafter, the institute and each school district, board of cooperative services, and charter school shall post the following information online, in a downloadable format, for free public access:

(I) The institute's, school district's, BOCES's, or charter school's annual budget, adopted pursuant to section 22-44-110 (4), commencing with the budget for the 2009-10 budget year;

(II) The institute's, school district's, BOCES's, or charter school's annual audited financial statements, prepared pursuant to section 22-32-109 (1)(k), commencing with the audits prepared for the 2009-10 budget year;

(III) Repealed.

(IV) The institute's, school district's, BOCES's, or charter school's salary schedules or policies, adopted pursuant to sections 22-32-109.4 and 22-63-401, commencing with those applicable to the 2010-11 budget year.

(b) and (c) Repealed.

(d) (I) Additionally, commencing July 1, 2015, the institute and each school district, board of cooperative services, and charter school shall post in a format that can be downloaded and sorted, for free public access, the institute's, school district's, BOCES's, or charter school's actual expenditures, including but not limited to actual salary expenditures and actual benefit expenditures reported by job category specified in the standard chart of accounts, at the institute, school district, and BOCES level and at the school-site level.

(II) Notwithstanding any provision of subsection (1)(d)(I) of this section to the contrary, a school district that the department determines is rural, based on the geographic size of the school district and the distance of the school district from the nearest large, urbanized area, and that enrolls fewer than one thousand students in kindergarten through twelfth grade is not required to report expenditures at the school-site level except for those school-site level expenditures that the school district charges any portion of to a district charter school.

(e) Additionally, commencing July 1, 2018, the institute and each school district, board of cooperative services, and charter school shall post on its website for free public access an easily accessible link to the federal form 990, 990-EZ, or 990-PF and any associated schedules that the institute, school district, board of cooperative services, or charter school files, if any.

(f) Additionally, commencing July 1, 2018, and on a continuing basis thereafter, each school district, if required in section 22-32-108.5, shall:

(I) Post a copy of the school district's plan for distributing the additional mill levy revenue collected by the school district; or

(II) For the 2018-19 budget year, post a statement of intent to distribute the additional mill levy revenue to the charter schools and innovation schools of the school district on a per-pupil basis and, for the 2019-20 budget year and for each budget year thereafter, a statement of the total amount of additional mill levy revenue collected by the school district for each property tax year, the amount distributed to support specific student populations as described in section 22-32-108.5 (5)(b), and the total amount distributed for said student populations and on a per-pupil basis to each charter school and innovation school of the school district, as a percentage and as a dollar amount.

(2) This section does not direct or require the institute or a school district, board of cooperative services, or charter school to post online, pursuant to subsection (1) of this section, personal information relating to payroll, including but not limited to payroll deductions or contributions, or any other information that is confidential or otherwise protected from public disclosure pursuant to state or federal law.

(3) (a) The institute and each school district, board of cooperative services, and charter school shall update the information specified in subsections (1)(a) to (1)(c) and subsection (1)(e) of this section within sixty days after the institute's, school district's, BOCES's, or charter school's completion or receipt of the applicable report, statement, or document. The institute and each school district, BOCES, and charter school shall update the information specified in subsection (1)(d) of this section annually by a date specified by the financial policies and procedures advisory committee. Each school district shall update the information specified in subsection (1)(f) of this section within thirty days after the school district board of education adopts a new or updated plan for distribution of additional mill levy revenue or, if the school district distributes the additional mill levy revenue on a per-pupil basis to the charter schools and innovation schools of the school district, within thirty days after the end of each budget year.

(b) The institute and each school district, BOCES, and charter school shall maintain the prior two budget years' financial information online, in a downloadable format, for free public access, until the end of the institute's, school district's, BOCES's, or charter school's current budget year.

(4) No later than July 1, 2015, the financial policies and procedures advisory committee of the department shall create a template that the institute and school districts, BOCES, and charter schools must use to post all of the information specified in subsection (1) of this section, including but not limited to the site-level reporting requirements. The template may include both the type of electronic file posted as well as the information to be included in the posting.

(5) In addition to the information required in subsection (1) of this section, the institute and each school district, BOCES, and charter school shall provide a link to the department's website or the location information for the department's website where a member of the public may access information or reports that are submitted directly to the department.

**Source: L. 2010:** Entire part added, (HB 10-1036), ch. 79, p. 268, § 1, effective April 12. **L. 2014:** (1), (3)(a), and (4) amended, (HB 14-1292), ch. 243, p. 908, § 11, effective May 21. **L. 2015:** (1)(d) amended, (HB 15-1321), ch. 217, p. 799, § 7, effective May 22. **L. 2017:** Entire section amended, (HB 17-1375), ch. 287, p. 1592, § 4, effective June 2.

**Editor's note:** Subsections (1)(a)(III)(B), (1)(b)(II), and (1)(c)(II) provided for the repeals of subsections (1)(a)(III), (1)(b), and (1)(c), respectively, effective July 1, 2017. (See L. 2014, p. 908.)

**Cross references:** For the short title ("Student Success Act") in HB 14-1292, see section 1 of chapter 243, Session Laws of Colorado 2014.

**22-44-305. Waivers of state statute - reporting.** (1) (a) Commencing July 1, 2017, and on a continuing basis thereafter, each school district and charter school shall post, in a location and format that can be easily accessed and downloaded, for free public access on its website

maintained pursuant to this part 3 a list of the statutes for which the school district or charter school has received a waiver from the state board of education and, for each waiver that is not an automatic waiver, a copy of the plan that explains the manner in which the school district or charter school will meet the intent of the waived statute.

(b) Commencing July 1, 2018, each charter school shall post, in a location and format that can be easily accessed and downloaded, for free public access on its website the standardized description and rationale created pursuant to subsection (2) of this section for each of the automatic waivers that it invokes. Each charter school shall post with the list of automatic waivers the name of and contact information for a person employed by the charter school and available during regular school hours who can provide additional information concerning the charter school's automatic waivers.

(c) In listing its waivers, a school district shall include waivers granted to the school district as a whole and waivers granted to one or more schools of the school district, other than a charter school. The school district shall list separately each waiver granted to an innovation school or to schools in an innovation school zone, as defined in section 22-32.5-103.

(2) By July 1, 2018, the department and the institute, working with a statewide association that represents charter schools, shall develop a standardized description for each statute that the state board of education includes in the list of automatic waivers for charter schools pursuant to section 22-30.5-104 (6) and the rationale for including the statute on the list of automatic waivers.

(3) Each school district and charter school shall update the information provided pursuant to subsection (1) of this section within thirty days after a waiver is revoked or a new waiver is granted.

**Source: L. 2017:** Entire section added, (HB 17-1375), ch. 287, p. 1595, § 5, effective June 2.

## ARTICLE 45

Accounting and Reporting

**22-45-101. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Board of education" or "board" means the governing body authorized by law to administer the affairs of any school district.

(2) "Capital outlay expenditures" means those expenditures that result in the acquisition of fixed assets or additions to fixed assets that the board anticipates will have benefits for more than one year. They are expenditures, whether by purchase or lease, for land or existing buildings, improvements of grounds, construction of buildings, additions to buildings, software licensing agreements, or initial, additional, or replacement equipment. Equipment shall include, but not be limited to, those items set forth in the financial policies and procedures handbook authorized in section 22-44-203.

(2.2) "Eligible elector" means an elector who has complied with the registration provisions of article 2 of title 1, C.R.S., and who resides within the jurisdiction of the political subdivision calling the election.

(2.3) "Instructional capital outlay" includes those expenditures which result in the acquisition of fixed assets for instructional purposes, or additions thereto, which the board of education anticipates will have benefits for more than one year.

(2.5) "Instructional supplies and materials" includes, but is not limited to, supplies, textbooks, library books, periodicals, warehouse inventory adjustment, and other supplies and materials.

(3) "School district" or "district" means a school district or a local college district organized and existing pursuant to law.

**Source: L. 64:** p. 627, § 1. **C.R.S. 1963:** § 123-33-1. **L. 65:** p. 1025, § 1. **L. 83:** (2) amended, p. 751, § 5, effective July 1. **L. 88:** (2.3) and (2.5) added, p. 815, § 22, effective May 24. **L. 92:** (2.2) added, p. 840, § 37, effective January 1, 1993. **L. 2000:** (2) amended, p. 520, § 4, effective August 2.

**22-45-102. Accounts.** (1) (a) Each school district shall use the full accrual basis of accounting when budgeting and accounting for any enterprise funds included in the district budget. The board of education of each school district shall cause financial records to be kept in accordance with generally accepted principles of governmental accounting. The financial transactions of the school district shall be recorded in general, appropriation, revenue, and expenditure records. Appropriate entries from the adopted budget shall be made in the records for the respective funds. Separate accounts shall be maintained for each of the several funds prescribed by this article. Continuing balances of the various budgetary accounts shall be maintained on at least a monthly basis.

(b) The board of education of each school district shall review the financial condition of said school district at least quarterly during the fiscal year. The board shall require the secretary, treasurer, or any employee who has duties which relate to the fiscal affairs of said school district to submit a financial report covering the fiscal actions involving the general fund, and other funds that the board may request, at least quarterly. At a minimum, the report shall include:

(I) The actual amounts spent and received as of the date of the report from each of the several funds budgeted by the district for the fiscal year, expressed as dollar amounts and as percentages of the annual budget;

(II) The actual amounts spent and received for each fund for the same period in the preceding fiscal year, expressed as dollar amounts and as percentages of the annual budget;

(III) The expected year-end fund balances, expressed as dollar amounts and as percentages of the annual budget; and

(IV) A comparison of the expected year-end fund balances with the amount budgeted for that fiscal year.

(2) All records shall be maintained at the principal administrative offices of the school district. Accounts shall be posted and reconciled with fund resources at least monthly. Records shall be open for public inspection during reasonable business hours. The state board of education shall prescribe the minimum accounts to be maintained under the provisions of this article.

**Source: L. 64:** p. 627, § 2. **C.R.S. 1963:** § 123-33-2. **L. 2003:** (1) amended, p. 1284, § 4, effective July 1.

**22-45-103. Funds.** (1) The following funds are created for each school district for purposes specified in this article 45:

(a) **General fund.** (I) All revenues, except those revenues attributable to the bond redemption fund, the capital reserve fund, the special building and technology fund, a fund created solely for the management of risk-related activities, and any other fund authorized by this section or by the state board of education, as provided in subsection (2) of this section, shall be accounted for in the general fund. Any lawful expenditure of the school district, including any expenditure of a nature that could be made from any fund, may be made from the general fund. All expenditures from the general fund shall be recorded therein.

(II) Moneys allocated pursuant to the provisions of section 22-54-105 (1) shall be recorded in the instructional supplies and materials account, the instructional capital outlay account, and the other instructional purposes account in the general fund. Expenditures from the instructional supplies and materials account shall be limited to instructional supplies and materials, expenditures from the instructional capital outlay account shall be limited to instructional capital outlay, and expenditures from the other instructional purposes account shall be limited to other instructional purposes. Moneys in such accounts may not be expended for any other purpose. Moneys may be transferred among the three accounts but may not be transferred to any other account in the general fund or to any other fund of the school district. Any moneys in such accounts which are not projected to be expended during a budget year shall be budgeted for the purposes set forth in this subparagraph (II) in the next budget year. Nothing in this subparagraph (II) shall be construed to require that interest on moneys in such accounts be specifically allocated to such accounts.

(III) Repealed.

(IV) Moneys collected pursuant to section 22-32-109.8 (9) shall be credited to the fingerprint processing account. Moneys in said account shall be used for the purposes set forth in section 22-32-109.8 and may not be expended by the district for any other purpose; however, moneys in said account shall not be used for the purposes of section 22-32-109.8 (6). Any moneys in said account which are not expended during a budget year shall be carried forward and budgeted for the purposes set forth in section 22-32-109.8 in the next budget year.

(V) The revenues from a tax levied pursuant to section 22-40-109 shall be credited to the school facilities account. Moneys in said account shall be used for the purposes set forth in section 22-40-109 and may not be expended by the district for any other purpose. Any moneys remaining in the account at the end of any fiscal year shall remain in the account and may be budgeted in the next fiscal year.

(VI) Repealed.

(b) **Bond redemption fund.** (I) The revenues from a tax levy for the purpose of satisfying bonded indebtedness obligations, both principal and interest, shall be recorded in the bond redemption fund, which shall be administered by at least one third-party custodian designated by the school district as provided in subparagraph (V) of this paragraph (b), unless the school district meets one of the exceptions specified in subparagraph (VI) or (VII) of this paragraph (b). The bond redemption fund may include more than one subsidiary account for which a separate tax levy is made to satisfy the obligations of bonded indebtedness, including a separate tax levy to satisfy the obligations of bonded indebtedness incurred by a former school district. The revenues from each separate tax levy shall be held in trust for the purpose of satisfying the obligations of the bonded indebtedness for which the tax levy was made; except

that revenues, if any, remaining to the credit of a separate subsidiary account after satisfaction of all such obligations of that subsidiary account may be transferred to another subsidiary account in the same fund.

(II) The revenues from a tax levy for the purpose of making payments for which the district is obligated under an installment purchase agreement or under a lease or rental agreement having a term of more than one year, which has been approved at an election pursuant to section 22-32-127 (2), for the purpose of obtaining the use of real property or equipment for school sites, buildings, or structures or for any school purpose authorized by law shall also be recorded in the bond redemption fund. Subsidiary accounts may be established if separate tax levies are made for different installment purchase agreements, or for different lease or rental agreements, and the revenues in such accounts may be expended and treated in the same manner as revenues from a tax levy to satisfy bonded indebtedness obligations.

(III) Nothing in subparagraph (II) of this paragraph (b) or in section 22-32-127 shall be construed to authorize a school district to make any levy for its bond redemption fund, or to use any moneys in its bond redemption fund, to make payments with regard to any installment purchase agreement or lease or rental agreement with an option to purchase which has not been approved at an election.

(IV) Moneys in the bond redemption fund shall be used only for the payment of principal and interest on obligations of the school district having a term greater than one year and approved at an election, which obligations constitute an indebtedness of the school district. Whenever the issuance of refunding bonds or other refunding obligations of the district results in moneys on deposit in the bond redemption fund which are not needed to satisfy the principal and interest obligations of the district as they become due, such moneys shall be used to reduce the levy for the bond redemption fund in future years or to pay any then existing obligations of the district payable from the bond redemption fund at a date earlier than they become due.

(V) Except as otherwise provided in subparagraph (VI) or (VII) of this paragraph (b), on or before July 1, 2003, each school district shall select at least one commercial bank or depository trust company that has full trust powers, is located within the state of Colorado, and is a member of the federal deposit insurance corporation to act as a third-party custodian to administer the school district's bond redemption fund. A school district may select multiple third-party custodians to administer the district's bond redemption fund, so long as each custodian selected meets the requirements for a custodian specified in this subparagraph (V). The custodian shall be responsible for making payments from the bond redemption fund as provided by law. The custodian, with the agreement of the school district, may withdraw any or all of the moneys in the bond redemption fund that are temporarily not needed to satisfy the school district's obligations, for purposes of depositing or investing the moneys in any investments permitted by law.

(VI) A school district is not required to designate a third-party custodian to administer the school district's bond redemption fund if the county treasurer keeps the funds and accounts of the school district as provided in section 22-40-104. A school district is not required to designate a third-party custodian to administer any portion of the school district's bond redemption fund that consists of revenues received from bonds or other obligations for which the school district has given notice to the state treasurer that it will not accept payment by the state treasurer on behalf of the school district as provided in section 22-41-110 (1)(a).

(VII) A school district is not required to select a commercial bank or depository trust company that has full trust powers to administer the school district's bond redemption fund if the school district places the funds in an escrow account with a financial institution eligible to receive public deposits, pursuant to escrow instructions which are acceptable to the state treasurer. At a minimum, the escrow instructions shall include provisions prohibiting payment or transfer of the funds to the school district without the state treasurer's prior written consent.

(c) **Capital reserve fund.** (I) Moneys allocated pursuant to the provisions of section 22-54-105 (2) shall be transferred from the general fund and recorded in the capital reserve fund along with the revenues received pursuant to section 39-5-132, C.R.S. Such revenues may be supplemented by gifts, grants, and donations. Unencumbered moneys in the fund may be transferred to a fund or an account within the general fund established in accordance with generally accepted accounting principles solely for the management of risk-related activities as identified in section 24-10-115, C.R.S., and article 13 of title 29, C.R.S., by resolution of the board of education when such transfer is deemed necessary by the board; except that a local board of education may, in its discretion, transfer any unrestricted moneys into or out of the capital reserve fund in the 2009-10 budget year or any budget year thereafter. Nothing in this subparagraph (I) shall be construed to prohibit a local board of education from transferring unrestricted moneys from the general fund or any other fund to the capital reserve fund in the 2009-10 budget year or any budget year thereafter. Except as provided in subparagraph (V) of this paragraph (c), expenditures from the fund shall be limited to long-range capital outlay expenditures and shall be made only for the following purposes:

(A) Any acquisition of land, improvements, construction of structures or addition to existing structures, and acquisition of equipment and furnishings;

(B) and (C) (Deleted by amendment, L. 2000, p. 520, § 5, effective August 2, 2000.)

(D) Alterations and improvements to existing structures;

(E) Acquisition of a school vehicle, as defined in section 42-1-102 (88.5), C.R.S., or other equipment, except equipment specified in sub-subparagraph (H) of this subparagraph (I);

(F) Any installment purchase agreements or lease agreements with an option to purchase for a period not to exceed twenty years and any lease agreement without the option to purchase entered into by a school district or a charter school;

(G) Any software licensing agreement;

(H) Acquisition of computer equipment.

(II) Expenditures from the fund, other than for installment purchase agreements with an option to purchase, as provided in subparagraph (II.5) of this paragraph (c), shall be authorized by a resolution adopted by the board of education of a school district at any regular or special meeting of the board. The resolution shall specifically set forth the purpose of the expenditure, the estimated total cost of the project, the location of the structure to be constructed, added to, altered, or repaired, a description of any school vehicles or equipment to be purchased, and where such equipment will be installed.

(II.5) A board of education may enter into an installment purchase agreement or lease agreement with option to purchase for a period exceeding one year and not to exceed twenty years for expenditures from the fund if the agreement is first approved by a majority of the eligible electors of the district voting on the question at an election held pursuant to this subparagraph (II.5). The board of education may submit to the eligible electors of the district the question of whether to enter into such an agreement at any general election, regular biennial

school election, or special election called for such purpose. The secretary of the board of education shall be the designated election official and shall conduct the election pursuant to articles 1 to 13 of title 1, C.R.S. Any special election called pursuant to this subparagraph (II.5) shall be held on the first Tuesday after the first Monday in February, May, October, November, or December. The question of whether to enter into an installment agreement or lease agreement with option to purchase may be submitted or resubmitted after the same, or after any other such question, has previously been rejected at an election held pursuant to this subparagraph (II.5), but no such question shall be submitted or resubmitted at any election held less than one hundred twenty days after a previous submission of such question, and the board of education of any school district shall not submit any question of entering into such an agreement at more than two elections within any twelve-month period. The board of education of a school district may enter into an installment purchase agreement or lease agreement with option to purchase for a term not to exceed twenty years for the purposes provided for in sub-subparagraph (F) of subparagraph (I) of this paragraph (c). When authorized by the election as provided in this subparagraph (II.5), the agreement shall be valid, binding, and enforceable between the parties to the agreement. The provisions of this subparagraph (II.5) shall have no application to any installment purchase agreement or lease agreement with option to purchase, even though the term thereof may be greater than one year, if the district's obligation to make payments thereunder is expressly subject to the making of annual appropriations therefor in accordance with law. This subparagraph (II.5) shall have no application to any lease agreement with option to purchase for a period of one year or less, including lease agreements consisting of a series of one-year terms renewable at the option of the district.

(III) Any balance remaining upon the completion of any authorized project may be encumbered for future projects which are authorized as provided in this paragraph (c).

(IV) The revenues from a tax levied pursuant to section 22-40-110 shall be credited to the capital reserve fund. Moneys in said fund shall be used for the purposes set forth in section 22-40-110 and may not be expended by the district for any other purpose. Any moneys remaining in the fund at the end of any fiscal year shall remain in the fund and may be budgeted in the next fiscal year.

(V) Upon receipt from a school district of an accounting of any expenditures made or moneys encumbered for the purchase of new textbooks in the 2002-03 budget year, including copies of invoices, contracts, or other documentation of the amount and purpose of the expenditures or encumbrances, the department of education may allow the school district to expend moneys from the district's capital reserve fund during the 2002-03 and 2003-04 budget years to offset the elimination of additional moneys that the district would have received in the 2002-03 budget year pursuant to section 22-54-105 (1)(b)(III) to purchase new textbooks; except that any expenditure of moneys from the fund made pursuant to this subparagraph (V) shall be limited to the amount of moneys the district has expended or encumbered as of January 31, 2003, for the purchase of new textbooks.

(d) **Special building and technology fund.** (I) The revenues from a tax levy for the purpose of acquiring, maintaining, or constructing schools or for the purchase and installation of instructional and informational technology shall be recorded in the special building and technology fund to remain in the custody of the treasurer of any district that has elected under law to withdraw its funds from the custody of the county treasurer or, in any other case, to the treasurer of the county in which the district is located and may be invested or deposited by such

district or county treasurer pursuant to the provisions of sections 24-75-601.1, 24-75-602, and 24-75-603, C.R.S. Expenditures from the fund shall be limited to acquiring land; acquiring or constructing structures; maintaining structures to enhance their function, protect their value, and extend their economic life; and purchasing and installing instructional and informational technology, including expenditures for software and staff training related to the new technology.

(II) Expenditures from the fund shall be authorized by a resolution adopted by the board of education of a school district at any regular or special meeting of the board. The resolution shall specifically set forth the purpose of the expenditure, the estimated total cost of the project, and the location of the land to be acquired, the structure to be acquired or constructed, or the nature of the building security technology or instructional and informational technology to be acquired. Such resolution shall constitute authorization to the treasurer of any district that has elected under law to withdraw its funds from the custody of the county treasurer or, in any other case, to the treasurer of the county in which the district is located for application of the funds under his or her control to the specified expenditure.

(III) Any balance remaining upon the completion of any authorized project may be encumbered for future projects that are authorized as provided in this paragraph (d).

(IV) Any moneys in the fund that have not been authorized for expenditure within three years after being recorded in the fund shall revert to the capital reserve fund.

(e) **Risk management reserves.** Moneys allocated pursuant to the provisions of section 22-54-105 (2) shall be recorded in a fund or in an account within the general fund established in accordance with generally accepted accounting principles solely for the management of risk-related activities as identified in section 24-10-115, C.R.S., and article 13 of title 29, C.R.S. Unencumbered moneys in such fund or account may be transferred to the capital reserve fund or to any other fund or account established solely for the management of risk-related activities by resolution of the board of education when such transfer is deemed necessary by the board; except that a local board of education may, in its discretion, transfer any unrestricted moneys into or out of such fund or account in the 2009-10 budget year or any budget year thereafter. Expenditures from any such fund or account shall be limited to the purposes set forth in section 24-10-115, C.R.S., and article 13 of title 29, C.R.S. Nothing in this paragraph (e) shall be construed to prohibit a local board of education from transferring unrestricted moneys from the general fund or any other fund to a fund or account for the management of risk-related activities in the 2009-10 budget year or any budget year thereafter.

(f) **Transportation fund.** The revenues from a tax levied or fee imposed for the purpose of paying excess transportation costs, as authorized pursuant to the provisions of section 22-40-102 (1.7) or the provisions of section 22-32-113 (5), and revenues received from the state pursuant to the provisions of section 22-51-102 (4) shall be deposited in the transportation fund of the district. Expenditures from the fund shall be limited to payment of transportation costs as authorized in the budget of the district. Any moneys remaining in the fund at the end of any fiscal year shall remain in the fund and shall be used to reduce the levy for transportation costs in future years.

(g) Repealed.

(h) **Full-day kindergarten fund.** (I) The revenues from a tax levied pursuant to section 22-54-108.5 for the purpose of paying excess full-day kindergarten program costs shall be deposited in the full-day kindergarten fund of the district. Expenditures from the fund shall be limited to payment of excess full-day kindergarten program costs as authorized in the budget of

the district. Any moneys remaining in the fund at the end of any fiscal year shall remain in the fund and shall be used to reduce the levy for excess full-day kindergarten program costs in future years.

(II) The revenues from a tax levied pursuant to section 22-54-108.5 to meet the capital construction needs associated with a district's full-day kindergarten program shall be credited to the capital construction account in the district's full-day kindergarten fund. Moneys in the account shall be used to meet the district's capital construction needs associated with the full-day kindergarten program and may not be expended by the district for any other purpose. Any moneys remaining in the account at the end of any fiscal year shall remain in the account and may be budgeted in the next fiscal year.

(i) Reserved.

(j) **Supplemental capital construction, technology, and maintenance fund.** The revenue from a tax levied pursuant to section 22-54-108.7 for the purpose of providing ongoing cash funding for the capital construction, new technology, existing technology upgrade, and maintenance needs of a school district, and no other money other than interest and income credited to the fund pursuant to this paragraph (j), shall be deposited in the supplemental capital construction, technology, and maintenance fund of the district. The district may expend money from the fund only for the purpose of providing cash funding for capital construction, new technology, existing technology upgrade, and maintenance needs of the district and may not pledge any money in the fund for the repayment of any existing or new borrowing. All interest and income derived from the deposit and investment of money in the supplemental capital construction, technology, and maintenance fund shall be credited to the fund.

(k) **Total program reserve fund.** A school district shall deposit the property tax revenues that it collects from a tax levy imposed pursuant to section 22-54-107 (5) in the total program reserve fund of the district. The district may expend money from the total program reserve fund only to offset the amount of a reduction in the district's state share caused by application of the budget stabilization factor pursuant to section 22-54-104 (5)(g); except that, in a budget year in which the school district levies for its total program the number of mills calculated pursuant to section 22-54-106 (2)(a)(II), (2.1)(b)(I)(C) or (2.1)(c)(I), whichever is applicable, if the balance of the total program reserve fund exceeds an amount equal to the district's total program for that budget year multiplied by the budget stabilization factor calculated pursuant to section 22-54-104 (5)(g) for that budget year, the district may expend the amount of the excess balance. Any money remaining in the fund at the end of a fiscal year must remain in the fund and may be used in future years only as provided in this subsection (1)(k).

(2) The state board of education may authorize by regulation additional funds not provided for in this section, together with proper accounting procedures for the same.

(3) Each school district shall ensure that the district holds unrestricted general fund or cash fund emergency reserves in the amount required under the provisions of section 20 (5) of article X of the state constitution; except that a district may designate property owned by the district as all or a portion of the required reserve in accordance with section 22-44-105 (1)(c.5).

**Source: L. 64:** p. 628, § 3. **C.R.S. 1963:** § 123-33-3. **L. 65:** pp. 1025, 1026, §§ 2, 3. **L. 73:** pp. 1276, 1292, §§ 3, 1. **L. 77:** (1)(c)(I)(F) and (1)(c)(II.5) added and (1)(c)(II) amended, p. 1051, §§ 4, 5, effective June 10. **L. 83:** (1)(a) amended and (1)(d) added, p. 758, § 3, effective April 21; (1)(b)(II), IP(1)(c)(I), (1)(c)(I)(E), (1)(c)(I)(F), and (1)(c)(II.5) amended, p. 751, § 6,

effective July 1. **L. 85:** (1)(b)(II) amended and (1)(b)(III) and (1)(b)(IV) added, p. 732, § 1, effective May 31; IP(1)(c)(I), (1)(c)(I)(A), and (1)(c)(I)(D) amended, p. 1226, effective January 1, 1986. **L. 86:** (1)(c)(II.5) amended, p. 813, § 5, effective July 1. **L. 87:** (1)(c)(II.5) amended, p. 317, § 55, effective July 1. **L. 88:** (1)(a), IP(1)(c)(I), (1)(c)(I)(E), and (1)(c)(II.5) amended and (1)(e) added, p. 815, § 23, effective May 24. **L. 89:** (1)(a)(II), IP(1)(c)(I), and (1)(e) amended and (1)(a)(III) added, pp. 966, 971, §§ 15, 21, 14, effective June 7. **L. 90:** (1)(a)(III)(A) amended, p. 1083, § 43, effective May 31; (1)(a)(IV) added, p. 1115, § 4, effective June 7. **L. 91:** (1)(f) added, p. 540, § 6, effective May 1. **L. 92:** (1)(a)(III)(A) amended and (1)(a)(V) added, p. 542, § 16, effective May 28; (1)(a)(II) amended, p. 520, § 2, effective July 1; (1)(c)(II.5) amended, p. 840, § 38, effective January 1, 1993. **L. 93:** (1)(a)(III) repealed and IP(1)(c)(I) and (1)(e) amended, pp. 891, 880, §§ 16, 3, effective May 6. **L. 94:** (1)(a)(II), IP(1)(c)(I), and (1)(e) amended, p. 819, § 39, effective April 27. **L. 95:** (1)(c)(I)(E) amended, p. 610, § 10, effective May 22; (1)(d)(I) amended, p. 1101, § 29, effective May 31. **L. 97:** (1)(a)(I), (1)(d)(I), and (1)(d)(II) amended, p. 74, § 1, effective March 24; (1)(a)(I), IP(1)(c)(I), and (1)(e) amended and (1)(a)(VI) added, pp. 584, 588, §§ 11, 22, effective April 30. **L. 98:** (1)(a)(VI) and (1)(c)(I)(E) amended, pp. 973, 974, §§ 18, 19, effective May 27. **L. 2000:** (1)(d)(I) and (1)(d)(II) amended, p. 254, § 1, effective March 31; (1)(c)(I)(A), (1)(c)(I)(B), (1)(c)(I)(C), and (1)(c)(I)(F) amended and (1)(c)(I)(G) added, p. 520, § 5, effective August 2; (1)(d) amended, p. 247, § 1, effective August 2. **L. 2001:** (1)(g) added, p. 558, § 2, effective May 23. **L. 2002:** (1)(c)(IV) added, p. 1746, § 19, effective June 7. **L. 2003:** IP(1)(c)(I) amended and (1)(c)(V) added, p. 516, § 4, effective March 5; (1)(b)(I) amended and (1)(b)(V) and (1)(b)(VI) added, p. 1295, § 1, effective April 22; (3) added, p. 1285, § 6, effective July 1. **L. 2004:** (1)(b)(I) and (1)(b)(V) amended and (1)(b)(VII) added, p. 424, § 1, effective August 4. **L. 2006:** (1)(c)(I)(E) and (1)(g) amended and (1)(c)(I)(H) added, pp. 676, 696, §§ 16, 41, effective April 28. **L. 2007:** (1)(a)(I) amended and (1)(h) added, p. 37, § 2, effective March 7. **L. 2008:** (1)(g) repealed, p. 1228, § 44, effective May 22. **L. 2009:** (1)(c)(I)(D), (1)(c)(I)(E), (1)(c)(I)(G), (1)(c)(I)(H), and (3) amended, (SB 09-256), ch. 294, pp. 1560, 1561, §§ 22, 23, effective May 21. **L. 2010:** (1)(c)(I)(E) and (1)(c)(II) amended, (HB 10-1232), ch. 163, p. 571, § 9, effective April 28; IP(1)(c)(I) and (1)(e) amended, (HB 10-1013), ch. 399, p. 1899, § 7, effective June 10. **L. 2016:** (1)(j) added, (HB 16-1354), ch. 166, p. 529, § 2, effective May 17; (1)(k) added, (HB 16-1422), ch. 351, p. 1432, § 7, effective June 10. **L. 2017:** IP(1) and (1)(k) amended, (SB 17-296), ch. 313, p. 1681, § 2, effective June 2. **L. 2020:** (1)(k) amended, (HB 20-1418), ch. 197, p. 953, § 36, effective June 30.

**Editor's note:** (1) Amendments to subsection (1)(a)(I) by House Bill 97-1200 and House Bill 97-1249 were harmonized. Amendments to subsection (1)(d) by Senate Bill 00-039 and Senate Bill 00-098 were harmonized.

(2) Subsection (1)(a)(VI)(B) provided for the repeal of subsection (1)(a)(VI), effective July 1, 1998. (See L. 98, p. 973.)

(3) Section 22-54-105 (1)(b)(III) referenced in subsection (1)(c)(V) was repealed, effective July 1, 2003. (See L. 2001, p. 564.)

**Cross references:** For the legislative declaration contained in the 2008 act repealing subsection (1)(g), see section 1 of chapter 286, Session Laws of Colorado 2008. For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

**22-45-103.5. Legislative declaration - construction of statute - no impairment of contract.** (1) The general assembly hereby finds and declares that a small number of school districts have entered into financing arrangements which contemplate that moneys in the districts' bond redemption fund may be used, or that a levy for the bond redemption fund may be made, to pay for capital projects which have not been authorized by the voters of the districts. In light of the long-standing view that the bond redemption fund is reserved for voter-approved projects, the general assembly finds that such financing arrangements are not in the interests of school district taxpayers and declares that its intent in enacting section 22-45-103 (1)(b) is to assure that such arrangements will not be entered into in the future.

(2) In recognition of the fact that some school districts have entered into financing arrangements which may not comply with the provisions of section 22-45-103 (1)(b), the general assembly declares that nothing in said section or in any other law shall be construed to impair any contract in existence on May 31, 1985, if said contract was validly entered into under the statutes in force at the time of entering said contract. Nothing in this section or in section 22-45-103 (1)(b) shall be construed to validate or to invalidate any financial arrangement entered into prior to May 31, 1985.

**Source: L. 85:** Entire section added, p. 733, § 2, effective May 31.

**22-45-104. Fees - fines - disposition.** All moneys collected from fees or fines fixed and imposed by the board of education of any school district shall be paid over to the treasurer of such board as received, or in no event later than the tenth day of the month following that in which collected, and shall be credited and deposited in the same manner as other moneys belonging to the district.

**Source: L. 64:** p. 629, § 4. **C.R.S. 1963:** § 123-33-4. **L. 75:** Entire section amended, p. 707, § 6, effective July 14.

**22-45-105. Moneys from school activities. (Repealed)**

**Source: L. 64:** p. 629, § 5. **C.R.S. 1963:** § 123-33-5. **L. 75:** Entire section repealed, p. 708, § 10, effective July 14.

**22-45-106. Food-service or lunchroom account. (Repealed)**

**Source: L. 64:** p. 630, § 6. **C.R.S. 1963:** § 123-33-6. **L. 75:** Entire section repealed, p. 708, § 10, effective July 14.

**22-45-107. Audit of certain moneys. (Repealed)**

**Source: L. 64:** p. 630, § 7. **C.R.S. 1963:** § 123-33-7. **L. 75:** Entire section repealed, p. 708, § 10, effective July 14.

**22-45-108. Report of county treasurer.** (1) The county treasurer shall, no later than the tenth day of each month, render a monthly itemized statement of account, on a form prescribed

by the state board of education, to each school district in his county, and to each joint school district if the headquarters thereof are located in his county, in cases where the board of education of such school district or joint school district has elected, pursuant to law, to have school district moneys received by the county treasurer paid over to the treasurer of the district.

(2) Repealed.

**Source: L. 64:** p. 630, § 8. **C.R.S. 1963:** § 123-33-8. **L. 88:** (2) repealed, p. 824, § 39, effective May 24.

**22-45-109. Financial statements - publication. (Repealed)**

**Source: L. 64:** p. 631, § 9. **C.R.S. 1963:** § 123-33-9. **L. 75:** Entire section repealed, p. 708, § 10, effective July 14.

**22-45-110. Violation - malfeasance.** Any school director, officer, or employee of any school district who knowingly or willfully fails to perform any of the duties imposed upon him by this article is guilty of malfeasance in office and, upon conviction thereof, the court shall enter judgment that such director, officer, or employee so convicted shall be removed from office or his position of employment.

**Source: L. 64:** p. 631, § 10. **C.R.S. 1963:** § 123-33-10.

**22-45-111. Local college districts - powers.** Nothing in this article shall be construed to restrict the power of any local college district to pledge to the payment of revenue bonds all or part of the revenue of such district, other than revenues derived from ad valorem taxes of the district, pursuant to section 23-71-122 (1)(r), C.R.S.

**Source: L. 64:** p. 631, § 11. **C.R.S. 1963:** § 123-33-11. **L. 76:** Entire section amended, p. 304, § 36, effective May 20.

**22-45-112. Sale of assets.** (1) Except as authorized by subsection (2) or (3) of this section, if lands, buildings, or lands and buildings are sold by a school district, the proceeds, less the costs, of such sale shall be deposited in and expended from either the bond redemption fund or the capital reserve fund, or both such funds of the school district, as determined by the board of education. This provision shall apply also to the proceeds from any insurance which may accrue as a result of fire, explosion, or other casualty when such insurance proceeds cannot be used in an advantageous manner to repair the property to which the damage occurred.

(2) (a) Prior to July 1, 2005, a school district may sell land, buildings, or land and buildings and deposit in and expend from its general fund the proceeds, less costs, of the sale if:

(I) The board of education of the school district declares a fiscal shortfall emergency pursuant to paragraph (b) of this subsection (2);

(II) The school district sells the property to a lessor, including but not limited to the state treasurer pursuant to section 22-54-110 (2)(d), who, at the time of the sale, leases all of the property back to the district pursuant to a lease-purchase agreement that is subject to annual appropriation by the school district and has a term of no more than one year; and

(III) The state treasurer approves in writing the terms of the sale and lease-purchase agreements.

(b) A board of education of a school district may declare a fiscal shortfall emergency if:

(I) The district either:

(A) Is denied a loan by the state treasurer pursuant to section 22-54-110; or

(B) Notifies the state treasurer that the district is unable to repay a loan obtained pursuant to section 22-54-110 in the same state fiscal year that the loan was made;

(II) The board of education of the school district holds at least one public hearing, after full and timely notice to the public, on the existence of a fiscal shortfall emergency; and

(III) At a public meeting held after the hearing held pursuant to subparagraph (II) of this paragraph (b), at least two-thirds of the members of the board of education of the school district approve a resolution declaring the fiscal shortfall emergency.

(3) The proceeds, less the costs, of the sale of lands, buildings, or lands and buildings that are sold by a school district may be applied, in the discretion of the board of education, to pension liabilities of the district or to make payments to the public employees' retirement association of Colorado or to the refinancing of any transaction entered into for such purposes. Notwithstanding any other provision of law, any such proceeds that are held in a separate account to secure the school district's obligation to make payments to the association may be invested by the district in any investment in which moneys of the association may be invested.

**Source: L. 69:** p. 1037, § 1. **C.R.S. 1963:** § 123-33-12. **L. 2003:** Entire section amended, p. 1286, § 1, effective April 22. **L. 2005:** (1) amended and (3) added, p. 527, § 3, effective May 24. **L. 2009:** (3) amended, (SB 09-282), ch. 288, p. 1399, § 64, effective January 1, 2010.

**22-45-112.5. Sale of certificates of participation - use of proceeds. (Repealed)**

**Source: L. 96:** Entire section added, p. 1800, § 25, effective June 4. **L. 98:** Entire section repealed, p. 974, § 20, effective May 27.

**22-45-113. Validation - effect - limitations.** (1) All bonds issued and other contracts, leases, or agreements executed by school districts, all district bond elections held and carried, and all acts and proceedings had or taken prior to July 1, 1973, by or on behalf of such districts, preliminary to and in the authorization, execution, sale, and issuance of all bonds, the authorization and execution of all other contracts, leases, or agreements, and the exercise of other powers in section 22-45-103 are hereby validated, ratified, approved, and confirmed, notwithstanding any defects and irregularities, other than constitutional, in such bonds, acts, and proceedings, in such authorization, execution, sale, and issuance, and in such exercise of powers; and such bonds and other contracts, leases, or agreements are and shall be binding, legal, valid, and enforceable obligations of the district to which they appertain in accordance with their terms and their authorization proceedings.

(2) This section shall operate to supply such legislative authority as may be necessary to accomplish the validations provided and authorized in this section but shall be limited to validations consistent with all provisions of applicable law in effect at the time of such action or other matter. This article shall not operate to validate any action or other matter the legality of which is being contested or inquired into in any legal proceedings pending and undetermined

prior to July 1, 1973, nor to validate any action or other matter which has been determined in any legal proceedings prior to July 1, 1973, to be illegal, void, or ineffective.

**Source: L. 73:** p. 1277, § 6. **C.R.S. 1963:** § 123-33-13.

## FINANCING OF SCHOOLS

## ARTICLE 50

Public School Finance Act of 1973

**22-50-101 to 22-50-120. (Repealed)**

**Editor's note:** (1) This article was numbered as article 44 of chapter 123 in C.R.S. 1973. For amendments to this article prior to its repeal in 1989, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 22-50-120 provided for the repeal of this article, effective January 1, 1989. (See L. 1988, p. 808.)

## ARTICLE 51

Public School Transportation Fund

**Editor's note:** This article was numbered as article 10 of chapter 123, C.R.S. 1963. The provisions of this article were repealed and reenacted in 1975, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1975, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

**22-51-101. Legislative declaration.** It is declared to be the policy of this state to furnish financial aid to school districts and the state charter school institute of the state for the transportation of pupils to and from their places of residence and the public schools which they attend, including transportation for purposes of special education and career and technical education, and for board in lieu of transportation. It is further declared to be the policy of this state to furnish aid to facility schools for the transportation of pupils in facilities to and from the facilities in which they reside and the facilities in which they receive educational services.

**Source: L. 75:** Entire article R&RE, p. 714, § 1, effective July 14. **L. 88:** Entire section amended, p. 773, § 1, effective May 29. **L. 2004:** Entire section amended, p. 1587, § 16, effective June 3. **L. 2008:** Entire section amended, p. 1401, § 45, effective May 27. **L. 2017:** Entire section amended, (SB 17-294), ch. 264, p. 1396, § 51, effective May 25.

**Editor's note:** This section is similar to former § 22-51-101 as it existed prior to 1975.

**22-51-102. Definitions.** As used in this article 51, unless the context otherwise requires:

(1) (a) "Current operating expenditures for pupil transportation" means expenditures for providing pupil transportation, exclusive of purchase or lease of pupil transportation vehicles or other capital outlays. The term includes expenditures for the following: Motor fuel and oil; maintenance and repair of vehicles (including additions to and alterations of pupil transportation vehicles built since 1977 that will increase efficiency and safety or that are necessary to meet current minimum standards), equipment, and facilities; costs of employment for drivers while employed in pupil transportation; costs of employment paid specifically for providing transportation supervision and support services; insurance; contracted services; reimbursements to pupils who utilize public transportation services; and, for entitlement periods ending on June 30, 1989, and thereafter, amounts spent for pupil transportation for special education and career and technical education programs.

(b) "Current operating expenditures for pupil transportation" shall not be reduced by revenues received by a school district or the state charter school institute from fees imposed and collected for pupil transportation pursuant to a resolution adopted by the board of education of such district in accordance with the provisions of section 22-32-113 (5) or by the state charter school institute board.

(2) "Entitlement period" means the twelve-month period ending June 30 of each year.

(2.5) "Facility" means any of the following facilities that operates a facility school:

(a) 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.;

(b) A hospital licensed by the department of public health and environment pursuant to section 25-1.5-103, C.R.S.

(2.7) "Facility school" means an approved facility school as defined in section 22-2-402 (1).

(3) "Pupil transportation" means:

(a) The transportation of pupils regularly enrolled in the public schools through grade twelve to and from their places of residence and the public schools in which they are enrolled, including any site attended for special education or career and technical education, and to and from one school of attendance and another in vehicles owned or rented and operated by a school district or state charter school or under contract with a school district or state charter school; and

(b) The transportation of students who are receiving educational services from facility schools to and from the facility in which the students reside and the place at which the students receive the educational services.

(4) "Reimbursement entitlement" means the amount of reimbursement to which a school district, a state charter school, or a facility school is entitled under the provisions of section 22-51-104.

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

**Source: L. 75:** Entire article R&RE, p. 714, § 1, effective July 14. **L. 81:** (1) amended, p. 1077, § 1, effective July 1. **L. 88:** (1) to (3) amended, p. 773, § 2, effective May 29. **L. 91:** (1) amended, p. 537, § 1, effective May 1. **L. 2004:** (1)(b), (3), and (4) amended and (5) added, p.

1587, § 17, effective June 3. **L. 2008:** (2.5) and (2.7) added and (3) and (4) amended, p. 1401, § 46, effective May 27. **L. 2017:** IP, (1)(a), and (3)(a) amended, (SB 17-294), ch. 264, p. 1397, § 52, effective May 25.

**22-51-103. Creation of the public school transportation fund.** (1) There is hereby created, in the office of the state treasurer, a fund to be known as the public school transportation fund, to which shall be credited such moneys as may be appropriated by the general assembly for the purposes of this article, excluding moneys appropriated as a lump sum for reimbursement for pupil transportation in a school district subject to a court-ordered desegregation order, and which shall be held by the state treasurer and paid out as provided in this article. Any unexpended or unencumbered moneys remaining in the fund at the end of any budget year shall remain in the fund and shall not be transferred to the state general fund or any other fund.

(2) For the 2006-07 budget year and each budget year thereafter, the net amount recovered by the department of education during the applicable budget year pursuant to section 22-51-105 as overpayments made to school districts, the state charter school institute, and facility schools shall be transferred to the state treasurer for deposit in the public school transportation fund. Such amount shall be available for appropriation to the department in the budget year in which the transfers are made or in subsequent budget years.

(3) Any appropriation made from the public school transportation fund from moneys deposited in the fund pursuant to subsection (2) of this section shall not be included in the calculation of total state funding for all categorical programs as defined in section 22-55-102 (19).

**Source: L. 75:** Entire article R&RE, p. 715, § 1, effective July 14. **L. 96:** Entire section amended, p. 1794, § 8, effective June 4. **L. 2006:** Entire section amended, p. 677, § 17, effective April 28. **L. 2007:** (2) amended and (3) added, p. 1827, § 1, effective June 1. **L. 2008:** (2) amended, p. 1402, § 47, effective May 27.

**Editor's note:** This section is similar to former § 22-51-102 as it existed prior to 1975.

**22-51-104. Methods of determining reimbursement entitlement.** (1) Except as otherwise provided in subsection (1.5) of this section, for financial aid in providing pupil transportation, for entitlement periods ending on June 30, 1988, and thereafter, each school district, the state charter school institute, and each facility school shall have a reimbursement entitlement in an amount determined as follows:

(a) Thirty-seven and eighty-seven one-hundredths cents for each mile traveled by vehicles operated by or for the school district, the institute, or the facility school in providing pupil transportation during the entitlement period. The number of miles traveled shall be determined by the state board of education based upon information submitted pursuant to section 22-51-105.

(b) Thirty-three and eighty-seven one-hundredths percent of any amount by which the school district's, the institute's, or the facility school's current operating expenditures for pupil transportation during the entitlement period exceeded the school district's, institute's, or facility school's reimbursement entitlement under the provisions of paragraph (a) of this subsection (1); and

(c) Not more than sixty percent of the costs of contracts entered into by a school district pursuant to section 22-32-110 (1)(w) or entered into by the state charter school institute or a facility school for the purpose of conserving fuel or reducing operating or capital expenditures, or both, for pupil transportation under public transportation programs which comply with the code of federal regulations, title 49, parts 390 to 397, or successor regulations thereto. Reimbursement entitlements under this paragraph (c) shall not be greater than those the school district, the institute, or the facility school would otherwise receive if it operated its own vehicles or contracted for the exclusive transportation of pupils.

(1.5) (a) Repealed.

(b) Notwithstanding the provisions of subsection (1) of this section, for entitlement periods ending on June 30, 1989, and thereafter, a school district, the state charter school institute, and a facility school shall not receive a reimbursement entitlement in an amount which is less than its reimbursement entitlement for the preceding entitlement period. For purposes of this paragraph (b), the reimbursement entitlement for the preceding entitlement period shall be the amount to which the school district, the institute, or the facility school would have been entitled under the formula in subsection (1) of this section, and not the amount it actually received for the preceding entitlement period, if different from the amount under said formula.

(2) In no event shall the reimbursement entitlement of a school district, the institute, or a facility school under the provisions of subsection (1) of this section for any entitlement period exceed ninety percent of the total amount expended by the school district, the institute, or the facility school during said entitlement period for current operating expenditures for pupil transportation.

(3) For financial aid in providing board allowances in lieu of transportation, each school district and the institute shall have a reimbursement entitlement for an entitlement period for each pupil who is temporarily residing during said entitlement period for the purpose of attending school at a place nearer the school of attendance than the student's permanent residence, and for whom the district or the institute has paid a board allowance in lieu of furnishing transportation, in the amount of one dollar for each day such board was paid by the district or the institute.

**Source: L. 75:** Entire article R&RE, p. 715, § 1, effective July 14. **L. 80:** (1) amended, p. 559, § 6, effective May 1; (1)(c) added, p. 562, § 1, effective July 1. **L. 88:** IP(1), (1)(a), and (1)(b) amended and (1.5) added, p. 774, § 3, effective May 29; (1.5)(a) repealed, p. 774, § 3, effective November 1. **L. 94:** (2) amended, p. 809, § 15, effective April 27; (2) amended, p. 1282, § 5, effective May 22. **L. 95:** (2) amended, p. 611, § 11, effective May 22. **L. 2004:** Entire section amended, p. 1588, § 18, effective June 3. **L. 2008:** (1), (1.5), and (2) amended, p. 1402, § 48, effective May 27.

**Editor's note:** This section is similar to former § 22-51-103 as it existed prior to 1975.

**22-51-105. Certifications by school boards, governing boards, and facility schools - rules.** (1) On or before August 15 of each year, the school board of each school district entitled to and desiring reimbursement under this article 51, the state charter school institute board, and each facility school entitled to and desiring reimbursement under this article 51 shall certify to the state board of education, on forms provided by the commissioner of education, any

information the board deems necessary to determine the reimbursement entitlement of the district, the institute, or the facility school. The information includes, but is not limited to, the total amount of the school district's, institute's, or facility school's current operating expenditures for pupil transportation during the preceding entitlement period, the total number of miles traveled and the total number of pupils transported on the pupil enrollment count day, as defined in section 22-54-103 (10.5), during the preceding entitlement period by vehicles operated by or for the school district, the institute, or the facility school in providing pupil transportation, and the transportation route descriptions in effect on the pupil enrollment count day.

(2) The department of education shall promulgate rules to allow for verification of the accuracy and appropriateness of the route mileages submitted by school districts, the institute, and facility schools pursuant to subsection (1) of this section. If the department determines that an overpayment has been made due to the submission of inaccurate or inappropriate route mileages, the department shall recover from the school district, the institute, or the facility school an amount equal to the overpayment plus a penalty of not more than twenty percent of the overpayment.

**Source: L. 75:** Entire article R&RE, p. 715, § 1, effective July 14. **L. 88:** Entire section R&RE, p. 775, § 4, effective May 29. **L. 2004:** Entire section amended, p. 1589, § 19, effective June 3. **L. 2008:** Entire section amended, p. 1403, § 49, effective May 27. **L. 2017:** (1) amended, (SB 17-052), ch. 5, p. 9, § 1, effective August 9.

**Editor's note:** This section is similar to former § 22-51-104 as it existed prior to 1975.

**22-51-106. Certification to and payment by state treasurer - deficiency in fund.** (1) (a) On or before October 15 of each year, the commissioner of education shall certify to the state treasurer the amount of the advance reimbursement entitlement of each school district, the state charter school institute, and each facility school for the current entitlement period and the amount of the final reimbursement entitlement of each school district, the institute, and each facility school for the preceding entitlement period. The state treasurer shall thereupon pay from the public school transportation fund directly to the treasurer of each school district which has elected under the law to withdraw its funds from the custody of the county treasurer, directly to the treasurer of the state charter school institute, and directly to the treasurer of each facility school the amount certified as the total reimbursement entitlement of the school district, the institute, or the facility school; and, for all other school districts, the state treasurer shall pay to the county treasurer of the county in which each school district has its headquarters the amount certified as the total reimbursement entitlement of each district, and the county treasurer shall forthwith credit to the general fund of each district in the county the amount certified therefor.

(b) For purposes of this section:

(I) "Advance reimbursement entitlement" means an amount that a school district, the state charter school institute, or a facility school is entitled to receive in the current entitlement period as an advance payment of its reimbursement entitlement for such period and which is equal to twenty percent of the reimbursement entitlement of the school district, the institute, or the facility school for the preceding entitlement period.

(II) "Final reimbursement entitlement" means the reimbursement entitlement of a school district, the state charter school institute, or a facility school for the preceding entitlement period

less any advance reimbursement entitlement received by said district, the institute, or the facility school for said period.

(III) "Total reimbursement entitlement" means the advance reimbursement entitlement and the final reimbursement entitlement of a school district, the state charter school institute, or a facility school.

(2) (a) In the event the amount of money appropriated by the general assembly to the public school transportation fund is less than the amount of the total reimbursement entitlements of all of the school districts, of the state charter school institute, and of all of the facility schools authorized by this section, the amount to be distributed to each school district, the institute, and each facility school shall be in the same proportion as the amount which the appropriation made bears to the total amount of the reimbursement entitlements of all school districts, of the state charter school institute, and of all facility schools.

(b) For the entitlement period beginning on or after July 1, 1993, the calculation in paragraph (a) of this subsection (2) shall be based on the amount of money appropriated by the general assembly to the public school transportation fund. For the entitlement period beginning on or after July 1, 1993, any district subject to a court-ordered desegregation order shall be entitled to reimbursement of one million five hundred thousand dollars, subject to separate appropriation by the general assembly, for pupil transportation in addition to any amount received pursuant to paragraph (a) of this subsection (2).

**Source: L. 75:** Entire article R&RE, p. 716, § 1, effective July 14. **L. 88:** Entire section amended, p. 775, § 5, effective May 29. **L. 95:** (2) amended, p. 611, § 12, effective May 22. **L. 96:** (2)(b) amended, p. 1795, § 9, effective June 4. **L. 2004:** Entire section amended, p. 1589, § 20, effective June 3. **L. 2008:** (1) and (2)(a) amended, p. 1404, § 50, effective May 27.

**Editor's note:** This section is similar to former § 22-51-106 as it existed prior to 1975.

**22-51-107. Requirements for participation.** Unless otherwise authorized by the commissioner of education, a school district, the state charter school institute, or a facility school shall not be entitled to any reimbursement under this article if the school district, the institute, or the facility school has not filed the certifications required by section 22-51-105 on or before the date provided in said section or has not complied with the rules promulgated by the state board of education pursuant to section 22-51-108.

**Source: L. 75:** Entire article R&RE, p. 716, § 1, effective July 14. **L. 2004:** Entire section amended, p. 1590, § 21, effective June 3. **L. 2008:** Entire section amended, p. 1405, § 51, effective May 27.

**Editor's note:** This section is similar to former § 22-51-108 as it existed prior to 1975.

**22-51-108. Rules.** The state board of education shall promulgate rules for the administration of this article. Such rules shall include reasonable and adequate standards of safety in the maintenance and operation of buses, the maintenance of records by school districts, the state charter school institute, and facility schools, the length of bus routes, the number of children to be transported in the various types of buses, and such other rules pertaining to pupil

transportation as will promote the welfare of the students and afford reasonable protection to the public.

**Source: L. 75:** Entire article R&RE, p. 716, § 1, effective July 14. **L. 2004:** Entire section amended, p. 1590, § 22, effective June 3. **L. 2008:** Entire section amended, p. 1405, § 52, effective May 27.

**Editor's note:** This section is similar to former § 22-51-109 as it existed prior to 1975.

**22-51-109. County treasurers' fees.** No fees shall be charged by the county treasurers of the state for receiving or crediting funds of the school districts received under the provisions of this article.

**Source: L. 75:** Entire article R&RE, p. 717, § 1, effective July 14.

**22-51-110. Effective date. (Repealed)**

**Source: L. 75:** Entire article R&RE, p. 717, § 1, effective July 14. **L. 88:** Entire section repealed, p. 777, § 7, effective May 29.

**22-51-111. Study of alternative transportation services. (Repealed)**

**Source: L. 88:** Entire section added, p. 776, § 6, effective May 29. **L. 96:** Entire section repealed, p. 1239, § 89, effective August 7.

## SECOND CHANCE PROGRAM

## ARTICLE 52

Second Chance Program
for Problem Students

**22-52-101. Legislative declaration.** The general assembly hereby declares that the problem of children who do not succeed in the educational system is of grave concern. It is the intent of the general assembly that this article give these children a second chance by providing a variety of educational opportunities for such children, opportunities for educators to use their skills, talent, and creativity, and increased parental involvement in the education process.

**Source: L. 85:** Entire article added, p. 722, § 3, effective July 1.

**22-52-102. Eligible students.** (1) In order to be eligible to participate in the second chance program, a child shall be a dropout between seventeen and twenty-one years of age who has been recommended for participation in the program by his or her school district of residence with the concurrence of the child, the child's parent, and the receiving district; but no such child

shall be eligible to participate in the second chance program if he or she has achieved a high school diploma or its equivalent.

(2) Once enrolled in the program, a student who makes satisfactory progress may continue in the program until he obtains a high school diploma or its equivalent or until he reaches twenty-one years of age. A student who does not progress satisfactorily may be dropped from the program but shall be eligible to reapply until he reaches twenty years of age.

**Source: L. 85:** Entire article added, p. 722, § 3, effective July 1. **L. 2006:** (1) amended, p. 1213, § 7, effective July 1, 2007.

**Cross references:** For the legislative declaration contained in the 2006 act amending subsection (1), see section 1 of chapter 265, Session Laws of Colorado 2006.

**22-52-103. Eligible schools.** (1) Any of the following schools are eligible to apply to the department of education to participate in the second chance program:

(a) Public schools located in school districts that have a dropout rate above the statewide average dropout rate;

(b) Public schools in districts contiguous to districts specified in paragraph (a) of this subsection (1);

(c) Public schools offering vocational, technical, or adult education programs;

(d) Schools operated by boards of cooperative services;

(e) A community college.

(2) As a condition of continued participation in the second chance program, an eligible school shall provide to the school district in which it is located an accurate monthly report on each eligible student's attendance and performance.

**Source: L. 85:** Entire article added, p. 722, § 3, effective July 1. **L. 2006:** (1)(e) added, p. 610, § 37, effective August 7.

**22-52-104. Application - payment.** (1) After July 1, 1986, and each school year thereafter, an eligible student may apply to the school board of his school district of residence to participate in the second chance program. Application and acceptance procedures shall be governed by rules and regulations promulgated by the state board of education. The school district of residence shall process an eligible student's application, assist the student in enrolling in the eligible school, counsel the students and parents of students in the second chance program concerning the availability of services the child or family may need, and monitor the performance and progress of each student in the second chance program.

(2) (a) The school district of residence of a student enrolled in the second chance program shall count the student in its pupil enrollment pursuant to rules and regulations promulgated by the state board of education. The school district shall also provide to the department of education such information as it may require.

(b) (I) (A) Repealed.

(B) Effective January 1, 1989, pursuant to rules and regulations promulgated by the state board of education, the school district of residence of the student shall transmit monthly eighty-five percent of the district of residence's per pupil revenues, as defined in section 22-54-103 (9.3)

to the school district or eligible school enrolling the student or the actual educational cost of the program provided, whichever is less.

(II) Repealed.

(3) The duties of the school district of residence of the eligible student specified in subsection (1) of this section may be developed under contract with boards of cooperative services in districts with eligible participating students and eligible participating schools. School districts which are not in boards of cooperative services may contract with such boards for cooperative programming.

**Source: L. 85:** Entire article added, p. 723, § 3, effective July 1. **L. 88:** (2)(b)(I)(A) repealed, p. 818, § 24, effective January 1, 1989. **L. 94:** (2)(b)(I)(B) amended, p. 820, § 40, effective April 27. **L. 2006:** (2)(b)(II) repealed, p. 610, § 38, effective August 7. **L. 2010:** (2)(b)(I)(B) amended, (HB 10-1013), ch. 399, p. 1914, § 41, effective June 10.

**22-52-105. Duties of the department of education.** (1) The department of education shall have the following duties regarding the second chance program:

(a) To notify all school districts of the procedures to be followed in processing applications from eligible students;

(b) To gather information on participating schools and advertise the program to potentially eligible students and their parents;

(c) To receive enrollment information and audit the students and schools participating in the program;

(d) To provide assistance as requested to participating school districts, schools, students, and parents;

(e) To hear appeals of disputes arising between participating school districts, schools, students, and parents.

(f) Repealed.

**Source: L. 85:** Entire article added, p. 723, § 3, effective July 1. **L. 96:** (1)(f) repealed, p. 1239, § 88, effective August 7.

**22-52-106. Rules and regulations.** (1) The state board of education shall promulgate such rules and regulations as are necessary to implement this article, pursuant to section 24-4-103, C.R.S. Such rules and regulations shall include, but shall not be limited to, the following:

(a) Student eligibility criteria considering the special characteristics of the student, the educational record of the student to the time of application, and, if the student is enrolled in a public school program, the opportunities available to the student within that setting;

(b) Criteria for eligible schools emphasizing experimental approaches such as a career development curriculum and experiential education;

(c) Procedures for application by eligible schools and for selecting schools to participate in the second chance program;

(d) Procedures for coordinating eligible participating students and eligible participating schools, including procedures to establish a lottery system when the number of applicants for an eligible school exceeds the available space;

(e) Procedures for notifying the department of education and the student's school district of residence should the student stop attending or fail to make satisfactory progress;

(f) Procedures for resolving disputes arising between school districts, schools, students, and parents consistent with article 4 of title 24, C.R.S.; and

(g) Financial transactions.

**Source: L. 85:** Entire article added, p. 724, § 3, effective July 1.

**22-52-107. Funding of second chance program.** It is the intent of the general assembly that, after the initial appropriation made to the department of education for the fiscal year beginning July 1, 1985, the responsibilities and duties specified in this article shall be performed by the department of education and the participating school districts through the funding available pursuant to the "Public School Finance Act of 1994", article 54 of this title.

**Source: L. 85:** Entire article added, p. 724, § 3, effective July 1. **L. 88:** Entire section amended, p. 818, § 25, effective January 1, 1989. **L. 94:** Entire section amended, p. 820, § 41, effective April 27.

**22-52-108. Repeal of article. (Repealed)**

**Source: L. 85:** Entire article added, p. 724, § 3, effective July 1. **L. 88:** Entire section repealed, p. 837, § 7, effective June 20.

## FINANCING OF SCHOOLS - Continued

## ARTICLE 53

Public School Finance Act of 1988

**22-53-101 to 22-53-605. (Repealed)**

**Source: L. 97:** Entire article repealed, p. 463, § 16, effective August 6.

**Editor's note:** (1) This article was added in 1988. For amendments to this article prior to its repeal in 1997, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Provisions of part 1 of this article were relocated to article 54 of this title in 1994. Provisions of parts 2 to 4 and 6 were relocated to article 7 of this title in 1997.

## ARTICLE 54

Public School Finance Act of 1994

**Editor's note:** This article was added with relocations in 1994 containing provisions of some sections formerly located in part 1 of article 53 of this title. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

**Law reviews:** For comment, "Colorado Public School Financing: Constitutional Issues", see 59 U. Colo. L. Rev. 149 (1988).

**22-54-101. Short title.** This article shall be known and may be cited as the "Public School Finance Act of 1994".

**Source: L. 94:** Entire article added with relocations, p. 779, § 2, effective April 27.

**22-54-102. Legislative declaration - statewide applicability - intergovernmental agreements.** (1) The general assembly hereby finds and declares that this article is enacted in furtherance of the general assembly's duty under section 2 of article IX of the state constitution to provide for a thorough and uniform system of public schools throughout the state; that a thorough and uniform system requires that all school districts and institute charter schools operate under the same finance formula; and that equity considerations dictate that all districts and institute charter schools be subject to the expenditure and maximum levy provisions of this article. Accordingly, the provisions of this article concerning the financing of public schools for budget years beginning on and after July 1, 1994, shall apply to all school districts and institute charter schools organized under the laws of this state.

(2) The general assembly hereby finds and declares that in enacting this article it has adopted a formula for the support of schools for the 1994-95 budget year and budget years thereafter; however, the adoption of such formula in no way represents a commitment on the part of the general assembly concerning the level of total funding for schools for the 1995-96 budget year or any budget year thereafter.

(3) (a) Nothing in this article shall be construed to prohibit local governments from cooperating with school districts through intergovernmental agreements to fund, construct, maintain, or manage capital construction projects or other facilities as set forth in section 22-45-103 (1)(c)(I)(A) or (1)(c)(I)(D), including, but not limited to, swimming pools, playgrounds, or ball fields, as long as funding for such projects is provided solely from a source of local government revenue that is otherwise authorized by law except impact fees or other similar development charges or fees.

(b) Notwithstanding any provision of paragraph (a) of this subsection (3) to the contrary, nothing in this subsection (3) shall be construed to:

(I) Limit or restrict a county's power to require the reservation or dedication of sites and land areas for schools or the payment of moneys in lieu thereof pursuant to section 30-28-133 (4)(a), C.R.S., or to limit a local government's ability to accept and expend impact fees or other similar development charges or fees contributed voluntarily on or before December 31, 1997, to fund the capital projects of school districts according to the terms of agreements voluntarily entered into on or before June 4, 1996, between all affected parties;

(II) Repealed.

(III) Grant authority to local governments to require the reservation or dedication of sites and land areas for schools or the payment of moneys in lieu thereof; however, the prohibition on

impact fees or other similar development charges or fees contained in this subsection (3) shall not be construed to restrict the authority of any local government to require the reservation or dedication of sites and land areas for schools or the payment of moneys in lieu thereof if such local government otherwise has such authority granted by law.

(4) If the December 2015 revenue forecast prepared by the legislative council staff estimates that the amount of local property tax revenues that will be available to districts for the 2015-16 budget year will be greater than the amount estimated in the December 2014 revenue forecast, it is the intent of the general assembly, through the supplemental appropriations process during the 2016 regular legislative session, to maintain and not reduce state appropriations for school finance funding after consideration of other forecast changes, including changes in the number of pupils and at-risk pupils enrolled, the inflation rate, and the expected state education fund revenues.

**Source: L. 94:** Entire article added with relocations, p. 779, § 2, effective April 27. **L. 96:** (3) added, p. 1802, § 29, effective June 4; (3) amended, p. 1859, § 1, effective June 5. **L. 2000:** (3)(a) amended, p. 520, § 6, effective August 2. **L. 2004:** (1) amended, p. 1636, § 41, effective July 1. **L. 2006:** (3)(b)(II) repealed, p. 611, § 39, effective August 7. **L. 2015:** (4) added, (SB 15-267), ch. 295, p. 1203, § 5, effective June 5.

**22-54-103. Definitions.** As used in this article 54, unless the context otherwise requires:

(1) (Deleted by amendment, L. 2003, p. 2117, § 1, effective May 22, 2003.)

(1.3) "Accounting district" means the school district within whose geographic boundaries an institute charter school is physically located.

(1.4) "ASCENT program" means the accelerating students through concurrent enrollment program created in section 22-35-108.

(1.5) (a) "At-risk pupils" means:

(I) to (IV) Repealed.

(V) For the 2005-06 budget year and budget years thereafter, the number of district pupils who are English language learners plus the greater of:

(A) The number of district pupils eligible for free lunch; or

(B) The number of pupils calculated in accordance with the following formula:

District percentage of pupils eligible for free lunch x District pupil enrollment.

(b) For purposes of this subsection (1.5):

(I) "District percentage of pupils eligible for free lunch" means the district pupils eligible for free lunch in grades one through eight divided by the district pupil enrollment in grades one through eight.

(II) "District pupil enrollment" means the pupil enrollment of the district, as determined in accordance with subsection (10) of this section, minus the number of pupils enrolled in the Colorado preschool program pursuant to article 28 of this title and the number of three-year-old or four-year-old pupils with disabilities receiving educational programs pursuant to article 20 of this title.

(III) "District pupils eligible for free lunch" means the number of pupils included in the district pupil enrollment who are eligible for free lunch pursuant to the provisions of the federal "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq.

(IV) "District pupils who are English language learners" means the number of pupils included in the district pupil enrollment for the preceding budget year who were not eligible for free lunch pursuant to the provisions of the federal "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq., and who are English language learners, as defined in section 22-24-103 (4), and:

(A) Whose scores were not included in calculating school academic performance grades as provided in section 22-7-1006.3; or

(B) Who took an assessment administered pursuant to section 22-7-1006.3 in a language other than English.

(c) For purposes of this subsection (1.5), at-risk pupils shall be counted in the same manner as pupils are counted pursuant to subsection (10) of this section.

(2) "Board of education" means the board of education of a district.

(3) "Budget year" means the period beginning on July 1 of each year and ending on the following June 30 for which a budget for a district is adopted.

(4) "Department of education" means the department of education created in section 24-1-115, C.R.S.

(5) "District" means any public school district organized under the laws of Colorado, except a local college district.

(5.2) "District extended high school pupil enrollment" means the number of pupils, on the pupil enrollment count day within the applicable budget year, who are concurrently enrolled in a postsecondary course, including an academic course or a career and technical education course, as a participant in the ASCENT program and the number of pupils, on the pupil enrollment count day within the applicable budget year, who are enrolled in grade thirteen or fourteen in a p-tech school. A pupil enrolled in a p-tech school pursuant to article 35.3 of this title shall be included in the district extended high school pupil enrollment as a full-time student. An ASCENT program participant who is enrolled in at least twelve credit hours of postsecondary courses, including academic courses and career and technical education courses, as of the pupil enrollment count day of the applicable budget year shall be included in the district extended high school pupil enrollment as a full-time pupil. An ASCENT program participant who is enrolled in less than twelve credit hours of postsecondary courses, including academic courses and career and technical education courses, as of the pupil enrollment count day of the applicable budget year shall be included in the district extended high school pupil enrollment as a part-time pupil.

(5.5) "District percentage of at-risk pupils" means the number of at-risk pupils in the district, as determined in accordance with subsection (1.5) of this section, divided by the pupil enrollment of the district, as determined in accordance with subsection (10) of this section; except that pupil enrollment shall not include the number of pupils enrolled in the Colorado preschool program pursuant to article 28 of this title and the number of three-year-old or four-year-old pupils with disabilities receiving educational programs pursuant to article 20 of this title.

(6) "District's total program" means the funding for a district, as determined pursuant to section 22-54-104 or section 22-54-104.3, whichever is applicable, which represents the financial base of support for public education in that district.

(7) "Funded pupil count" means:

(a) For budget years commencing prior to July 1, 2002, the greater of:

(I) The district's pupil enrollment for the applicable budget year; or

(II) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the immediately preceding budget year; or

(III) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the two immediately preceding budget years; or

(IV) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the three immediately preceding budget years;

(b) (I) For the budget year commencing on July 1, 2002, the district's online pupil enrollment for the applicable budget year plus the greater of:

(A) The district's pupil enrollment for the applicable budget year; or

(B) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the immediately preceding budget year; or

(C) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the two immediately preceding budget years; or

(D) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the three immediately preceding budget years.

(II) Repealed.

(c) (I) For budget years commencing on and after July 1, 2003, but prior to July 1, 2008, the district's online pupil enrollment for the applicable budget year plus the district's preschool and kindergarten program enrollment for the applicable budget year plus the greater of:

(A) The district's pupil enrollment for the applicable budget year; or

(B) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the immediately preceding budget year; or

(C) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the two immediately preceding budget years; or

(D) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the three immediately preceding budget years.

(II) and (III) Repealed.

(IV) Notwithstanding any provision of law to the contrary, for purposes of subparagraph (I) of this paragraph (c) for budget years beginning on or after July 1, 2004, a district's funded pupil count shall include the certified pupil enrollment and online pupil enrollment of each operating institute charter school for which the district is the accounting district. The department of education shall add the institute charter school's certified pupil enrollment and online pupil enrollment to the funded pupil count of the district prior to calculating the district's total program pursuant to section 22-54-104.

(d) (I) For budget years commencing on and after July 1, 2008, but prior to July 1, 2009, the district's online pupil enrollment for the applicable budget year plus the district's preschool program enrollment for the applicable budget year plus the district's supplemental kindergarten enrollment for the applicable budget year plus the greater of:

(A) The district's pupil enrollment for the applicable budget year; or

(B) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the immediately preceding budget year; or

(C) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the two immediately preceding budget years; or

(D) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the three immediately preceding budget years; or

(E) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the four immediately preceding budget years.

(II) Notwithstanding any provision of law to the contrary, for purposes of subparagraph (I) of this paragraph (d), a district's funded pupil count shall include the certified pupil enrollment and online pupil enrollment of each operating institute charter school for which the district is the accounting district. The department of education shall add the institute charter school's certified pupil enrollment and online pupil enrollment to the funded pupil count of the district prior to calculating the district's total program pursuant to section 22-54-104.

(III) Repealed.

(IV) The general assembly hereby finds and declares that for the purposes of section 17 of article IX of the state constitution, averaging a district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the four immediately preceding budget years pursuant to sub-subparagraph (E) of subparagraph (I) of this paragraph (d) is a program for accountable education reform and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

(e) (I) For budget years commencing on and after July 1, 2009, the district's online pupil enrollment for the applicable budget year plus the district's preschool program enrollment for the applicable budget year plus the district's supplemental kindergarten enrollment for the applicable budget year plus the district's extended high school pupil enrollment for the applicable budget year, plus the greater of:

(A) The district's pupil enrollment for the applicable budget year; or

(B) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the immediately preceding budget year; or

(C) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the two immediately preceding budget years; or

(D) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the three immediately preceding budget years; or

(E) The average of the district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the four immediately preceding budget years.

(II) Notwithstanding any provision of law to the contrary, for purposes of subparagraph (I) of this paragraph (e), a district's funded pupil count shall include the certified pupil enrollment and online pupil enrollment of each operating institute charter school for which the district is the accounting district. The department of education shall add the institute charter school's certified pupil enrollment and online pupil enrollment to the funded pupil count of the district prior to calculating the district's total program pursuant to section 22-54-104.

(III) Repealed.

(IV) The general assembly hereby finds and declares that for the purposes of section 17 of article IX of the state constitution, averaging a district's pupil enrollment for the applicable budget year and the district's pupil enrollment for the four immediately preceding budget years pursuant to sub-subparagraph (E) of subparagraph (I) of this paragraph (e) is a program for accountable education reform and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

(V) Notwithstanding any provision of law to the contrary, for the 2010-11 budget year and each budget year thereafter, for the purposes of this paragraph (e), a district's pupil enrollment for the applicable budget year and a district's pupil enrollment for any preceding budget year shall not include any pupil who is or was enrolled in a charter school that was originally authorized by the district but was subsequently converted, on or after July 1, 2010, to an institute charter school or to a charter school of a district contiguous to the originally authorizing district.

(VI) Notwithstanding any provision of this paragraph (e) to the contrary, for the 2013-14 budget year and each budget year thereafter, for the purposes of this subsection (7), if a district's funded pupil count calculated pursuant to this subsection (7) for a budget year is fewer than fifty pupils, the district's funded pupil count for the budget year is fifty pupils.

(VII) For the 2019-20 budget year and each budget year thereafter, solely for the purpose of averaging pupil enrollment pursuant to subsection (7)(e)(I) of this section for a district that operates a full-day kindergarten educational program, the department of education shall adjust the district's pupil enrollments for the 2018-19, 2017-18, 2016-17, and 2015-16 budget years by counting each pupil enrolled in a full-day kindergarten educational program in one of those budget years as a full-time student. The adjustment to pupil enrollment made pursuant to this subsection (7)(e)(VII) does not affect or change the funded pupil count used to calculate a district's fiscal year spending limitation pursuant to section 20 of article X of the state constitution for a budget year commencing before July 1, 2019.

(7.5) "Institute charter school" means a charter school that enters into a charter contract with the state charter school institute pursuant to the provisions of part 5 of article 30.5 of this title.

(8) "Joint district" means a district which is located in more than one county.

(8.5) (a) "Online pupil enrollment" means:

(I) (Deleted by amendment, L. 2009, (SB 09-292), ch. 369, p. 1964, § 64, effective August 5, 2009.)

(II) For the 2008-09 budget year, and for budget years thereafter, the number of pupils, on the pupil enrollment count day within the applicable budget year, enrolled in, attending, and actively participating in a multi-district online school, as defined in section 22-30.7-102 (6), created pursuant to article 30.7 of this title.

(b) For budget years beginning on or after July 1, 2004, a district's online pupil enrollment shall include the certified online pupil enrollment of each operating institute charter school for which the district is the accounting district. The department of education shall add the institute charter school's certified online pupil enrollment to the online pupil enrollment of the district prior to calculating the district's total program pursuant to section 22-54-104.

(9) (Deleted by amendment, L. 2010, (HB 10-1013), ch. 399, p. 1914, § 42, effective June 10, 2010.)

(9.3) "Per pupil revenues" means the district's total program for any budget year divided by the district's funded pupil count for said budget year.

(9.5) (a) (I) "Preschool program enrollment" means the number of pupils enrolled in a district preschool program pursuant to article 28 of this title on the pupil enrollment count day within the applicable budget year. A pupil enrolled in a district preschool program pursuant to article 28 of this title shall be counted as a half-day pupil.

(II) Notwithstanding the provisions of subparagraph (I) of this paragraph (a), for budget years commencing on or after July 1, 2005, a district may choose to determine the number of pupils enrolled in the district preschool program pursuant to article 28 of this title on November 1 within the applicable budget year or the school date nearest said date, rather than on the pupil enrollment count day. The "preschool program enrollment" for the district shall be the number of pupils enrolled in the district preschool program, who shall be counted as half-day pupils.

(b) For purposes of determining preschool program enrollment for the 2008-09 budget year and each budget year thereafter, a district shall count and receive funding only for:

(I) Pupils enrolled in a district preschool program pursuant to section 22-28-104 who are three years old as of October 1 of the applicable budget year; and

(II) Pupils enrolled in a district preschool program pursuant to section 22-28-104 who are at least four years old as of October 1 of the applicable budget year.

(III) (Deleted by amendment, L. 2008, p. 1227, § 43, effective May 22, 2008.)

(9.7) "P-tech school" means a pathways in technology early college high school that is approved pursuant to article 35.3 of this title.

(10) (a) (I) "Pupil enrollment" means the number of pupils enrolled on the pupil enrollment count day within the applicable budget year, as evidenced by the actual attendance of such pupils prior to said date, except as otherwise provided in subsections (10)(a)(II) and (10)(h) of this section, plus the number of pupils expelled prior to the pupil enrollment count day within the applicable budget year who are receiving educational services pursuant to section 22-33-203 as of the pupil enrollment count day of the applicable budget year.

(II) "Pupil enrollment" shall include:

(A) For the 2007-08 budget year, a pupil who was enrolled during the 2001-02 school year in an online program authorized pursuant to section 22-33-104.6, as it existed prior to July 1, 2007, and who is enrolled and participates in any such online program on October 1 within the applicable budget year or the school day nearest said date.

(B) For the 2008-09 budget year, and for budget years thereafter, a pupil who is enrolled in, attending, and actively participating in a single-district online program or online school operated pursuant to article 30.7 of this title.

(III) Repealed.

(III.5) For the 2009-10 budget year and budget years thereafter, "pupil enrollment" shall include any juvenile to whom the school district is providing educational services pursuant to section 22-32-141 as of the pupil enrollment count day of the applicable budget year.

(IV) Repealed.

(V) Notwithstanding the provisions of this paragraph (a), for the 2008-09 budget year and each budget year thereafter, "pupil enrollment" shall not include a pupil who is placed in a facility, as defined in section 22-2-402 (3), and is receiving services through an approved facility school, as defined in section 22-2-402 (1).

(a.5) Repealed.

(b) (I) For budget years commencing before the 2019-20 budget year, a pupil enrolled in a kindergarten educational program pursuant to section 22-32-119 (1) is counted as not more than a half-day pupil. For the 2019-20 budget year and each budget year thereafter, a pupil enrolled in a kindergarten educational program pursuant to section 22-32-119 is counted as a full-time pupil, except as otherwise provided in subsection (10)(e.5)(I) of this section. For the

2005-06 budget year and each budget year thereafter, a district shall count and receive funding only for pupils enrolled in a kindergarten educational program who are:

(A) Five years old as of October 1 of the applicable budget year; or

(B) Four years old as of October 1 of the applicable budget year and who have been identified by an administrative unit to be highly advanced gifted children for whom early access to kindergarten is appropriate, as provided in section 22-20-204.5.

(I.5) Repealed.

(II) A pupil with a disability receiving an educational program under the "Exceptional Children's Educational Act", article 20 of this title, who would be in kindergarten but for such disability, shall be counted as a half-day pupil. A pupil with a disability receiving a full-day educational program under said act, who would be in a grade beyond kindergarten but for such disability, shall be counted as a full-day pupil.

(c) (Deleted by amendment, L. 2003, p. 2119, § 4, effective May 22, 2003.)

(d) (I) A three- or four-year-old pupil with a disability receiving an educational program under the "Exceptional Children's Educational Act", article 20 of this title, shall be counted as a half-day pupil.

(II) Notwithstanding any provision of this subsection (10) to the contrary, for budget years commencing on or after July 1, 2005, a district may choose to determine the number of three- and four-year-old pupils with disabilities enrolled and receiving educational programs under the "Exceptional Children's Educational Act", article 20 of this title, as of November 1 within the applicable budget year or the school date nearest said date, rather than on the pupil enrollment count day, as evidenced by the actual attendance of such pupils on November 1 or the school date nearest said date. The "pupil enrollment" of the district shall include the number of pupils so enrolled who shall be counted as half-day pupils.

(e) A pupil determined to have a disability in accordance with section 22-20-108 and receiving an educational program outside of the district of residence shall be considered enrolled in the district of residence for purposes of this subsection (10).

(e.5) (I) A pupil who is enrolled as less than a full-time student, other than a student described in subsection (10)(b)(II) or (10)(d) of this section or a student enrolled in a p-tech school pursuant to article 35.3 of this title 22, is counted in accordance with rules promulgated by the state board for students who are enrolled as less than full-time students.

(II) Notwithstanding any provision of subsection (10)(e.5)(I) of this section to the contrary, a pupil who completes one school year of enrollment in a half-day kindergarten educational program and does not advance to first grade, pursuant to section 22-7-1207, is counted as a full-day pupil for the second year in which the pupil is enrolled in the half-day kindergarten educational program.

(e.7) (Deleted by amendment, L. 2009, (HB 09-1319), ch. 286, p. 1317, § 6, effective May 21, 2009.)

(f) In certifying the district's pupil enrollment to the state board pursuant to the provisions of section 22-54-112, the district shall specify the number of pupils enrolled in kindergarten through twelfth grade, specifying those who are enrolled as full-time pupils and those who are enrolled as less than full-time pupils; the number of expelled pupils receiving educational services pursuant to section 22-33-203; the number of pupils enrolled in the district's preschool program; the number of pupils receiving educational programs under the "Exceptional Children's Educational Act", article 20 of this title 22; and the number of at-risk pupils.

(g) For the 2018-19 and 2019-20 budget years, a district may include in its pupil enrollment pupils who are enrolled in a school that was designated pursuant to section 22-35-103 (10) as an early college before June 6, 2018, and who, after completing four years of high school, enroll for the 2018-19 or 2019-20 budget years in postsecondary courses.

(h) (I) For the 2019-20 budget year and each budget year thereafter, with regard to a pupil who is simultaneously enrolled in a district or institute charter school and in one or more postsecondary courses, a district or institute charter school must submit evidence of:

(A) Enrollment in the district or institute charter school and evidence, as provided in state board rule, of attendance for any secondary courses the pupil is enrolled in; and

(B) Enrollment in one or more postsecondary courses, by submitting evidence, as described in state board rule, only of the district's or institute charter school's nonrefundable obligation to pay the student share of tuition for the postsecondary course on behalf of the pupil.

(II) The state board by rule shall specify the number of secondary and postsecondary course credit hours that constitute full-time and part-time membership.

(10.5) (a) "Pupil enrollment count day" means October 1 of each year; except that:

(I) In any year in which October 1 is a Saturday, a Sunday, or any other day on which school is not in session, except as described in subparagraphs (II) and (III) of this paragraph (a), the pupil enrollment count day is the Monday following that Saturday, Sunday, or other day;

(II) In any year in which a day of a major religious holiday occurs upon October 1, or, in years in which October 1 falls on a Saturday, Sunday, or other day on which school is not in session as described in subparagraph (I) of this paragraph (a), or upon the Monday directly following October 1, the pupil enrollment count day is the first school day immediately following the conclusion of the holiday; and

(III) The department of education is authorized to establish alternative dates for determining pupil enrollment in appropriate circumstances, including, but not limited to, when schools are on a year-round schedule pursuant to section 22-32-109 (1)(n) and pupils will be on authorized breaks on October 1 within the applicable budget year; except that such alternative dates shall be set not more than forty-five calendar days after the first school day occurring after October 1.

(b) On or before July 1, 2012, the state board shall promulgate rules establishing the meaning of "major religious holiday" for the purposes of this subsection (10.5).

(11) "Specific ownership tax revenue paid to the district" means the amount of specific ownership tax revenue received by the district pursuant to section 42-3-107 (24), C.R.S., for the prior budget year that is attributable to all property tax levies made by the district except those property tax levies made for the purpose of satisfying bonded indebtedness obligations, both principal and interest, and those property tax levies authorized at elections held under the provisions of former section 22-53-117 or section 22-54-108 or 22-54-108.5.

(12) "State average per pupil revenues" means the total program of all districts for any budget year divided by the total funded pupil count of all districts for said budget year.

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

(14) "Statewide average percentage of at-risk pupils" means the total number of at-risk pupils in all districts, as determined in accordance with subsection (1.5) of this section, divided by the pupil enrollment of all districts, as determined in accordance with subsection (10) of this section; except that pupil enrollment shall not include the number of pupils enrolled in the Colorado preschool program pursuant to article 28 of this title and the number of three-year-old

or four-year-old pupils with disabilities receiving educational programs pursuant to article 20 of this title.

(15) "Supplemental kindergarten enrollment" means the number calculated by subtracting five-tenths from the full-day kindergarten factor for the applicable budget year and then multiplying that number by the number of pupils in the district who are enrolled part-time in a kindergarten educational program for the applicable budget year. For the purposes of this subsection (15), the full-day kindergarten factor for the 2008-09 budget year and each budget year thereafter is fifty-eight hundredths of a full-day pupil.

**Source: L. 94:** Entire article added with relocations, p. 779, § 2, effective April 27; (6) and (12) amended, p. 1281, § 2, effective May 22. **L. 95:** (1)(a)(II) amended, p. 611, § 13, effective May 22; (11) amended, p. 951, § 1, effective May 25. **L. 96:** (1)(c) and (10)(a) amended, p. 1795, § 10, effective June 4. **L. 97:** (1)(b)(III), (1)(c), (7), (9), and (10)(a) amended, p. 582, § 8, effective April 30. **L. 98:** (10)(a) and (10)(f) amended, p. 571, § 5, effective April 30; (7) amended, p. 966, § 8, effective May 27; (10)(a) amended, p. 658, § 4, effective August 5. **L. 99:** (1)(d) added, p. 176, § 2, effective March 30. **L. 2000:** (1)(d) repealed, p. 1546, § 4, effective August 2. **L. 2001:** (1), (5.5), and (14) amended and (1.5) and (10)(a.5) added, pp. 340, 361, §§ 4, 29, effective April 16; (10)(b) and (10)(f) amended, p. 562, § 5, effective May 29. **L. 2002:** (1.5)(b)(III) amended, p. 1020, § 32, effective June 1; (7) and (10)(a)(II) amended and (8.5) added, p. 1732, § 2, effective June 7. **L. 2003:** (10)(a)(III) added, p. 939, § 2, effective April 16; (1), IP(1.5)(a)(III), IP(7)(b)(I), (8.5), (10)(b)(I), (10)(c), and (10)(f) amended and (1.5)(a)(IV), (7)(c), (9.5), (10)(b)(I.5), and (10)(e.5) added, pp. 2117, 2118, 2131, 2119, §§ 1, 2, 23, 3, 4, 5, effective May 22. **L. 2004:** (9.5), (10)(b)(I), and (10)(f) amended and (10)(a)(IV) added, pp. 1386, 1387, §§ 1, 2, effective May 28; (1.3), (7.5), and (9.3) added and (7)(c) and (8.5) amended, p. 1636, § 42, effective July 1; (10)(e.5) amended, p. 1213, § 105, effective August 4. **L. 2005:** IP(1.5)(a)(IV), (10)(b)(I), and (10)(f) amended and (1.5)(a)(V) added, pp. 430, 434, §§ 2, 7, effective April 29; (9.5)(a) and (10)(d) amended, p. 1005, § 1, effective June 2; (11) amended, p. 1181, § 28, effective August 8. **L. 2006:** (1.5)(b)(II), (5.5), IP(7)(c)(I), (9.5), (10)(b)(I), (10)(f), and (14) amended, p. 697, § 42, effective April 28; (1.5)(a)(I), (1.5)(a)(II), (1.5)(a)(III), (1.5)(a)(IV), and (10)(a)(III) repealed, p. 611, § 40, effective August 7. **L. 2007:** (11) amended, p. 38, § 6, effective March 7; (10)(e.7) added and (10)(f) amended, p. 337, § 2, effective April 2; (10)(a)(IV) amended, p. 733, § 2, effective May 9; (8.5) and (10)(a)(II) amended, p. 1085, § 7, effective July 1. **L. 2008:** (10)(a)(IV)(B) and (10)(b)(I) amended, p. 777, § 3, effective May 14; IP(7)(c)(I) and (9.5) amended and (7)(d), (10)(a)(V), and (15) added, pp. 1194, 1227, 1195, §§ 3, 43, 4, 5, effective May 22; (10)(f) amended, p. 1901, § 84, effective August 5. **L. 2009:** (7)(d)(III)(A) and (10)(a)(V) amended, (HB 09-1189), ch. 99, p. 370, § 3, effective April 3; (1.4), (5.2), and (7)(e) added and IP(7)(d)(I), (10)(e.7), and (10)(f) amended, (HB 09-1319), ch. 286, p. 1317, §§ 5, 6, effective May 21; (15) amended, (SB 09-256), ch. 294, p. 1548, § 2, effective May 21; (5.2) amended, (SB 09-285), ch. 425, p. 2375, § 8, effective June 4; (1.5)(b)(II), (5.5), (8.5)(a)(I), and (14) amended, (SB 09-292), ch. 369, p. 1964, § 64, effective August 5. **L. 2010:** IP(1.5)(a)(V) and IP(1.5)(b)(IV) amended, (SB 10-062), ch. 168, p. 595, § 13, effective April 29; (7)(e)(V) added, (HB 10-1369), ch. 246, p. 1100, § 8, effective May 21; (10)(a)(III.5) added, (SB 10-054), ch. 265, p. 1212, § 2, effective May 25; (9) and (12) amended, (HB 10-1013), ch. 399, p. 1914, § 42, effective June 10. **L. 2011:** (15) amended, (SB 11-157), ch. 10, p. 21, § 1, effective March 9; (10)(a)(IV)(B) and (10)(b)(I)(B) amended, (HB 11-1077),

ch. 30, p. 85, § 16, effective August 10. **L. 2012:** (5.2), (8.5)(a)(II), (9.5)(a), (10)(a)(I), (10)(a)(III.5), and (10)(d)(II) amended and (10.5) added, (HB 12-1090), ch. 44, p. 155, § 20, effective March 22; (8.5)(a)(II) and (10)(a)(II)(B) amended, (HB 12-1240), ch. 258, p. 1331, § 46, effective June 4; IP(10)(b)(I) amended, (HB 12-1238), ch. 180, p. 672, § 14, effective July 1. **L. 2013:** (7)(e)(VI) added, (SB 13-260), ch. 236, p. 1138, § 2, effective May 17. **L. 2014:** (1.5)(a)(V) and (1.5)(b)(IV) amended, (HB 14-1298), ch. 244, p. 936, § 20, effective May 21; (10)(a)(IV)(B) and (10)(b)(I)(B) amended, (HB 14-1102), ch. 330, p. 1472, § 12, effective August 6. **L. 2015:** (1.5)(b)(IV) amended, (HB 15-1323), ch. 204, p. 725, § 37, effective May 20; IP(1.5)(b)(IV) amended, (SB 15-264), ch. 259, p. 956, § 54, effective August 5; (5.2), IP(7)(e)(I), and (10)(e.5) amended and (9.7) added, (HB 15-1270), ch. 195, p. 655, § 2, effective August 5. **L. 2018:** IP amended and (10)(g) added, (SB 18-225), ch. 397, p. 2360, § 2, effective June 6. **L. 2019:** (7)(e)(VII) added and IP(10)(b)(I), (10)(e.5), (10)(f), and (15) amended, (HB 19-1262), ch. 245, p. 2392, § 1, effective May 21; (10)(a)(I) amended and (10)(h) added, (SB 19-176), ch. 244, p. 2388, § 8, effective August 2. **L. 2020:** (10)(a)(IV) repealed and (15) amended, (HB 20-1418), ch. 197, p 956, §§ 42, 41, effective June 30.

**Editor's note:** (1) Amendments to subsection (10)(a) by House Bill 98-1227 and Senate Bill 98-1 were harmonized. Amendments to subsection (8.5)(a)(II) by House Bill 12-1090 and House Bill 12-1240 were harmonized. Amendments to the introductory portion of subsection (1.5)(b)(IV) by SB 15-264 and HB 15-1323 were harmonized.

(2) Subsection (10)(b)(I.5)(B) provided for the repeal of subsection (10)(b)(I.5), effective July 1, 2003. (See L. 2003, p. 2119.) Subsection (10)(a.5)(II) provided for the repeal of subsection (10)(a.5), effective July 1, 2004. (See L. 2001, p. 361.) Subsection (7)(b)(II)(B) provided for the repeal of subsection (7)(b)(II), effective July 1, 2005. (See L. 2002, p. 1732.) Subsection (7)(c)(II)(B) provided for the repeal of subsection (7)(c)(II), effective July 1, 2005. (See L. 2003, p. 2118.) Subsection (7)(c)(III)(B) provided for the repeal of subsection (7)(c)(III), effective July 1, 2006. (See L. 2003, p. 2118.) Subsection (7)(d)(III)(B) provided for the repeal of subsection (7)(d)(III), effective July 1, 2012. (See L. 2008, p. 1195.) Subsection (7)(e)(III)(B) provided for the repeal of subsection (7)(e)(III), effective July 1, 2012. (See L. 2009, p. 1317.)

**Cross references:** For the legislative declaration contained in the 2001 act amending subsections (10)(b) and (10)(f), see section 1 of chapter 174, Session Laws of Colorado 2001. For the legislative declaration contained in the 2008 act amending the introductory portion to subsection (7)(c)(I) and subsection (9.5) and enacting subsections (7)(d), (10)(a)(V), and (15), see section 1 of chapter 286, Session Laws of Colorado 2008. For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

**22-54-104. District total program - definitions.** (1) (a) For every budget year, the provisions of this section shall be used to calculate for each district an amount that represents the financial base of support for public education in that district. Such amount shall be known as the district's total program. The district's total program shall be available to the district to fund the costs of providing public education, and, except as otherwise provided in section 22-54-105, the amounts and purposes for which such moneys are budgeted and expended shall be in the discretion of the district.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (1), if a district is the accounting district of an institute charter school, then the calculation of total program pursuant to the provisions of this section shall also represent the financial base of support for the institute charter school, even though the institute charter school is not a school of the district. The amount of the district's state share of total program that is withheld from the district and paid to the state charter school institute pursuant to the provisions of section 22-54-115 (1.3), shall not be available to nor under the control of the district, but shall be under the control of the governing board of the institute charter school to fund the costs of providing public education to pupils enrolled in the institute charter school, and the amounts and purposes for which such moneys are budgeted and expended shall be in the discretion of the institute charter school.

(2) (a) (I) to (III) Repealed.

(III.5) to (III.7) Repealed.

(III.8) (Deleted by amendment, L. 2002, p. 1734, § 3, effective June 7, 2002.)

(IV) (Renumbered as paragraph (a.5) of this subsection (2).)

(V) and (VI) Repealed.

(VII) Except as otherwise provided in this subsection (2), subsection (6) of this section, or section 22-54-104.3, a district's total program for the 2003-04 budget year through the 2006-07 budget year shall be the greater of the following:

(A) (District per pupil funding x (District funded pupil count - District online pupil enrollment)) + District at-risk funding + District online funding; or

(B) Minimum per pupil funding x District funded pupil count.

(VIII) Except as otherwise provided in this subsection (2), subsection (6) of this section, or section 22-54-104.3, a district's total program for the 2007-08 budget year and the 2008-09 budget year shall be the greater of the following:

(A) (District per pupil funding x (District funded pupil count - District online pupil enrollment)) + District at-risk funding + District online funding; or

(B) (Minimum per pupil funding x (District funded pupil count - District online pupil enrollment)) + District online funding.

(IX) Except as otherwise provided in this subsection (2), paragraph (g) of subsection (5) or subsection (6) of this section, or section 22-54-104.3, a district's total program for the 2009-10 budget year and budget years thereafter shall be the greater of the following:

(A) (District per pupil funding x (District funded pupil count - District online pupil enrollment - District extended high school pupil enrollment)) + District at-risk funding + District online funding + District extended high school funding; or

(B) (Minimum per pupil funding x (District funded pupil count - District online pupil enrollment - District extended high school pupil enrollment)) + District online funding + District extended high school funding.

(a.5) Repealed.

(b) If the district percentage of at-risk pupils is greater than the statewide average percentage of at-risk pupils and the district's funded pupil count is greater than four hundred fifty-nine, the district's total program shall be the lesser of:

(I) The district's total program as calculated pursuant to paragraph (a) of this subsection (2); or

(II) (A) The district's total program as calculated by: Adding the amount determined by multiplying the district's per pupil funding by four hundred fifty-nine to the amount determined

by multiplying 12% of the district's per pupil funding by the district's at-risk pupils; then dividing the sum of those two amounts by four hundred fifty-nine; then multiplying the resulting amount by the district's funded pupil count minus the district's online pupil enrollment; and then adding the district's online funding.

(B) For purposes of sub-subparagraph (A) of this subparagraph (II) only, a district's per pupil funding shall be calculated by establishing the district's per pupil funding in accordance with subsection (3) of this section except using the size factor for a district with a funded pupil count of four hundred fifty-nine and not the district's actual size factor.

(3) A district's per pupil funding shall be determined in accordance with the following formula:

((Statewide base per pupil funding x District personnel costs factor x District cost of living factor) + (Statewide base per pupil funding x District nonpersonnel costs factor)) x District size factor.

(3.5) Minimum per pupil funding shall be:

(a) For the 2003-04 budget year, $5,511;

(b) For the 2004-05 budget year through the 2006-07 budget year, the dollar amount set forth in paragraph (a) of this subsection (3.5) increased by the percentage by which the statewide base per pupil funding for that budget year, as specified in paragraph (a) of subsection (5) of this section, is increased over the statewide base per pupil funding for the 2003-04 budget year. Such amount shall be rounded to the nearest dollar.

(c) For the 2007-08 budget year, an amount equal to ninety-four and three tenths percent of the minimum per pupil funding base;

(d) (I) For the 2008-09 budget year and budget years thereafter, an amount equal to ninety-five percent of the minimum per pupil funding base.

(II) (A) As used in this subsection (3.5), for the 2008-09 budget year, "minimum per pupil funding base" means the total of the calculation specified in sub-subparagraph (B) of this subparagraph (II) for all districts for the budget year divided by the statewide funded pupil count minus the statewide online pupil enrollment, for said budget year.

(B) The following calculation shall be used for the purpose of determining the minimum per pupil funding base pursuant to this subparagraph (II):

(District per pupil funding x (District funded pupil count - District online pupil enrollment)) + District at-risk funding.

(III) (A) As used in this subsection (3.5), for the 2009-10 budget year and budget years thereafter, "minimum per pupil funding base" means the total of the calculation specified in sub-subparagraph (B) of this subparagraph (III) for all districts for the budget year divided by the statewide funded pupil count minus the statewide online pupil enrollment and minus the statewide extended high school pupil enrollment, for said budget year.

(B) The following calculation shall be used for the purpose of determining the minimum per pupil funding base pursuant to this subparagraph (III):

(District per pupil funding x (District funded pupil count - District online pupil enrollment - District extended high school pupil enrollment)) + District at-risk funding.

(4) A district's at-risk funding shall be determined in accordance with one of the following formulas:

(a) (I) If the district percentage of at-risk pupils is equal to or less than the statewide average percentage of at-risk pupils or the district's funded pupil count is equal to or less than four hundred fifty-nine, the formula shall be:

(District per pupil funding x 12%) x District at-risk pupils.

(II) Repealed.

(b) (I) If the district percentage of at-risk pupils is greater than the statewide average percentage of at-risk pupils and the district's funded pupil count is greater than four hundred fifty-nine, the formula shall be:

((District per pupil funding x 12%) x (Statewide average percentage of at-risk pupils x District pupil enrollment)) + ((District per pupil funding x District at-risk factor) x (District at-risk pupils - (Statewide average percentage of at-risk pupils x District pupil enrollment))).

(II) Repealed.

(4.5) A district's online funding shall be determined in accordance with the following formulas:

(a) Repealed.

(b) For the 2003-04 budget year through the 2006-07 budget year, the formula shall be:

(Minimum per pupil funding x District online pupil enrollment).

(c) (I) For the 2007-08 budget year and budget years thereafter, a district's online funding shall be:

(District online pupil enrollment x $6,135).

(II) Subject to the provisions of subparagraph (III) of this paragraph (c), for the 2008-09 budget year and budget years thereafter, the dollar amount set forth in subparagraph (I) of this paragraph (c) shall be increased by the percentage by which the statewide base per pupil funding for that budget year, as specified in paragraph (a) of subsection (5) of this section, is increased over the statewide base per pupil funding for the 2007-08 budget year, as specified in subparagraph (XIV) of paragraph (a) of subsection (5) of this section. Such amount shall be rounded to the nearest dollar.

(III) In any budget year in which the provisions of subsection (5)(g) of this section apply, the department of education shall calculate a district's reduction amount for online funding by multiplying the budget stabilization factor calculated for the applicable budget year pursuant to subsection (5)(g)(II)(A) of this section by the district's online funding calculated pursuant to subsection (4.5)(c)(II) of this section for the applicable budget year. A district's online funding for the applicable budget year shall be the greater of:

(A) The district's online funding amount calculated for the applicable budget year pursuant to subparagraph (II) of this paragraph (c) minus the district's reduction amount calculated for the applicable budget year pursuant to this subparagraph (III) for online funding; or

(B) An amount equal to the base per pupil funding amount specified in paragraph (a) of subsection (5) of this section for the applicable budget year multiplied by the district's online pupil enrollment for the applicable budget year.

(4.7) (a) For the 2009-10 budget year and budget years thereafter, a district's extended high school funding shall be determined in accordance with the following formula:

(District extended high school pupil enrollment x $6,135, or an amount determined pursuant to paragraph (b) of this subsection (4.7)).

(b) Subject to the provisions of paragraph (c) of this subsection (4.7), for the 2010-11 budget year and budget years thereafter, the dollar amount set forth in paragraph (a) of this subsection (4.7) shall be increased by the percentage by which the statewide base per pupil funding for that budget year, as specified in paragraph (a) of subsection (5) of this section, is increased over the statewide base per pupil funding for the 2007-08 budget year, as specified in subparagraph (XIV) of paragraph (a) of subsection (5) of this section. The amount shall be rounded to the nearest dollar.

(c) In any budget year in which the provisions of subsection (5)(g) of this section apply, the department of education shall calculate a district's reduction amount for extended high school funding by multiplying the budget stabilization factor calculated for the applicable budget year pursuant to subsection (5)(g)(II)(A) of this section by the amount of the district's extended high school funding calculated pursuant to subsection (4.7)(b) of this section for the applicable budget year. A district's extended high school funding for the applicable budget year shall be the greater of:

(I) The district's extended high school funding calculated for the applicable budget year pursuant to paragraph (b) of this subsection (4.7) minus the district's reduction amount calculated for the applicable budget year pursuant to this paragraph (c) for extended high school funding; or

(II) An amount equal to the base per pupil funding amount specified in paragraph (a) of subsection (5) of this section for the applicable budget year multiplied by the district's extended high school pupil enrollment for the applicable budget year.

(5) For purposes of the formulas used in this section:

(a) (I) to (XII) Repealed.

(XIII) For the 2006-07 budget year, the statewide base per pupil funding shall be $4,863.87, which is an amount equal to $4,717.62 supplemented by $146.25 to account for inflation plus an additional one percentage point.

(XIV) For the 2007-08 budget year, the statewide base per pupil funding shall be $5,087.61, which is an amount equal to $4,863.87 supplemented by $223.74 to account for inflation plus an additional one percentage point.

(XV) For the 2008-09 budget year, the statewide base per pupil funding shall be $5,250.41, which is an amount equal to $5,087.61 supplemented by $162.80 to account for inflation plus an additional one percentage point.

(XVI) For the 2009-10 budget year, the statewide base per pupil funding shall be $5,507.68, which is an amount equal to $5,250.41 supplemented by $257.27 to account for inflation plus an additional one percentage point.

(XVII) For the 2010-11 budget year, the statewide base per pupil funding shall be $5,529.71, which is an amount equal to $5,507.68 supplemented by $22.03, to account for inflation plus an additional one percentage point.

(XVIII) For the 2011-12 budget year, the statewide base per pupil funding shall be $5,634.77, which is an amount equal to $5,529.71 supplemented by $105.06 to account for inflation.

(XIX) For the 2012-13 budget year, the statewide base per pupil funding is $5,843.26, which is an amount equal to $5,634.77 supplemented by $208.49 to account for inflation.

(XX) For the 2013-14 budget year, the statewide base per pupil funding is $5,954.28, which is an amount equal to $5,843.26, supplemented by $111.02 to account for inflation.

(XXI) For the 2014-15 budget year, the statewide base per pupil funding is $6,121, which is an amount equal to $5,954.28, supplemented by $166.72 to account for inflation.

(XXII) For the 2015-16 budget year, the statewide base per pupil funding is $6,292.39, which is an amount equal to $6,121, supplemented by $171.39 to account for inflation.

(XXIII) For the 2016-17 budget year, the statewide base per pupil funding is $6,367.90, which is an amount equal to $6,292.39, supplemented by $75.51 to account for inflation.

(XXIV) For the 2017-18 budget year, the statewide base per pupil funding is $6,546.20, which is an amount equal to $6,367.90, supplemented by $178.30 to account for inflation.

(XXV) For the 2018-19 budget year, the statewide base per pupil funding is $6,768.77, which is an amount equal to $6,546.20, supplemented by $222.57 to account for inflation.

(XXVI) For the 2019-20 budget year, the statewide base per pupil funding is $6,951.53, which is an amount equal to $6,768.77, supplemented by $182.76 to account for inflation.

(XXVII) For the 2020-21 budget year, the statewide base per pupil funding is $7,083.61, which is an amount equal to $6,951.53, supplemented by $132.08 to account for inflation.

(b) (I) Repealed.

(I.2) to (I.4) Repealed.

(I.5) A district's size factor for the 2003-04 budget year and budget years thereafter shall be determined in accordance with the following formula:

| **If the district's funded pupil count is:** | **The district's size factor shall be:** |
|---|---|
| Less than 276 | 2761.5457 + (0.00376159 x the difference between the funded pupil count and 276) |
| 276 or more but less than 459 | 4591.2385 + (0.00167869 x the difference between the funded pupil count and 459) |
| 459 or more but less than 1,027 | 1,0271.1215 + (0.00020599 x the difference between the funded pupil count and 1,027) |
| 1,027 or more but less than 2,293 | 2,2931.0533 + (0.00005387 x the difference between the funded pupil count and 2,293) |
| 2,293 or more but less than 3,500 | 3,5001.0368 + (0.00001367 x the difference between the funded pupil count and 3,500) |
| 3,500 or more but less than 5,000 | 5,0001.0297 + (0.00000473 x the difference between the funded pupil count and 5,000) |
| 5,000 or more | 1.0297 |

(II) (A) Except as otherwise allowed for qualified school districts pursuant to sub-subparagraph (B) of this subparagraph (II), as it existed prior to July 1, 2001, if the reorganization of any district or districts results in any district involved in the reorganization having a higher size factor than the original district or districts had for the budget year immediately preceding reorganization, the districts involved in the reorganization shall be allowed, for each budget year, the size factor the original district had prior to the reorganization or, if two or more districts reorganize into a single district, the size factor of the original district with the lowest size factor for the budget year immediately preceding reorganization. Except as otherwise allowed for qualified school districts pursuant to sub-subparagraph (B) of this subparagraph (II), as it existed prior to July 1, 2001, no district involved in the reorganization shall, for any budget year, be allowed the size factor that would otherwise be provided by this paragraph (b).

(B) Repealed.

(III) If the reorganization of any district or districts results in any district involved in the reorganization having a lower size factor than the original district or districts had for the budget year immediately preceding reorganization, the new district or districts shall be allowed a size factor determined as follows:

(A) For the first budget year following reorganization, the size factor of the original district for the budget year immediately preceding reorganization or, if two or more districts are involved in the reorganization, the weighted average size factor of the original districts for the budget year immediately preceding reorganization. For purposes of this sub-subparagraph (A), the weighted average size factor shall be the sum of the amounts calculated by multiplying the funded pupil counts of the original districts by the size factor of the original districts and dividing that sum by the total funded pupil count of the original districts.

(B) For the second budget year following reorganization, the size factor for the prior budget year minus an amount equal to one-fifth of the difference between the size factor for the prior budget year and the size factor determined pursuant to subparagraph (I) of this paragraph (b);

(C) For the third budget year following reorganization, the size factor for the prior budget year minus an amount equal to one-fourth of the difference between the size factor for the prior budget year and the size factor determined pursuant to subparagraph (I) of this paragraph (b);

(D) For the fourth budget year following reorganization, the size factor for the prior budget year minus an amount equal to one-third of the difference between the size factor for the prior budget year and the size factor determined pursuant to subparagraph (I) of this paragraph (b);

(E) For the fifth budget year following reorganization, the size factor for the prior budget year minus an amount equal to one-half of the difference between the size factor for the prior budget year and the size factor determined pursuant to subparagraph (I) of this paragraph (b);

(F) For the sixth budget year following reorganization and budget years thereafter, the size factor determined pursuant to subparagraph (I) of this paragraph (b).

(IV) For the 1998-99 budget year and budget years thereafter, the funded pupil count used to calculate a district's size factor pursuant to this paragraph (b) shall be the funded pupil count, as calculated pursuant to section 22-54-103 (7), reduced by sixty-five percent of the number of pupils included in the funded pupil count that are enrolled in charter schools in the

district; except that the provisions of this subparagraph (IV) shall only apply to those districts with a funded pupil count, as calculated pursuant to section 22-54-103 (7), of five hundred or less.

(c) (I) The cost of living factor allowed for each district pursuant to this paragraph (c) reflects the differences in the costs of housing, goods, and services among regions in which districts are located. Such factor does not reflect any annual increase in the costs of housing, goods, and services caused by inflation.

(II) (A) and (B) Repealed.

(B.1) Except as provided in subparagraph (IV) of this paragraph (c), for the 2000-01 budget year and budget years thereafter through the 2013-14 budget year, a district's cost of living factor is the district's cost of living factor for the prior budget year, but, if the percentage change in the district's cost of living amount from the previous cost of living study to the current cost of living study is greater than the percent increase in the income level used in the cost of living study, a district's cost of living factor is determined by dividing the percentage change in the district's cost of living amount from the previous cost of living study to the current cost of living study by the percent increase in the income level used in the cost of living study, dividing said amount by one thousand and rounding to the nearest one-thousandth of one percent, and adding the result obtained to the district's cost of living factor for the prior budget year.

(C) For purposes of this subparagraph (II) and subparagraph (II.5) of this paragraph (c), a district's cost of living amount refers to the values as adjusted for district labor pool areas.

(II.5) Except as provided in subparagraph (IV) of this paragraph (c), for the 2014-15 budget year and budget years thereafter, a district's cost of living factor is the district's cost of living factor for the prior budget year; except that:

(A) If the percent increase in the income level used in the cost of living study is one percent or less and if the percentage change in the district's cost of living amount from the previous cost of living study to the current cost of living study is greater than one percent, a district's cost of living factor is determined by dividing the percentage change in the district's cost of living amount from the previous cost of living study to the current cost of living study by one percent, dividing said amount by one thousand and rounding to the nearest thousandth of one percent and adding the result obtained to the district's cost of living factor for the prior budget year; or

(B) If the percent increase in the income level used in the cost of living study is more than one percent and if the percentage change in the district's cost of living amount from the previous cost of living study to the current cost of living study is greater than the percent increase in the income level used in the cost of living study, a district's cost of living factor is determined by dividing the percentage change in the district's cost of living amount from the previous cost of living study to the current cost of living study by the percent increase in the income level used in the cost of living study, dividing said amount by one thousand and rounding to the nearest thousandth of one percent and adding the result obtained to the district's cost of living factor for the prior budget year.

(III) (A) Based upon the cost of living analysis conducted pursuant to the SB 93-87 setting category study, the staff of the legislative council shall certify the cost of living factor for each district to the department of education no later than ten days following April 27, 1994. Such cost of living factors shall be effective for the 1994-95 budget year and the budget year thereafter. The cost of living factor for each district shall be certified to the department by the

staff of the legislative council for each two-year period thereafter based upon a new cost of living analysis. The certification shall be made no later than April 15 of the applicable year and shall be effective for the budget year beginning on July 1 of such year and the budget year thereafter. If the income level used in a cost of living analysis does not increase above the income level used in the previous cost of living analysis, the cost of living factor for each district remains the same as the cost of living factor derived from the previous cost of living analysis.

(B) For the 2003-04 budget year and each budget year thereafter in which a new cost of living analysis is required pursuant to sub-subparagraph (A) of this subparagraph (III), the department of education shall transfer a portion of the total amount appropriated by the general assembly in the annual general appropriation bill for that budget year for assistance to public schools, public school finance, state share of districts' total program funding to the legislative council to fund the cost of living analysis required by sub-subparagraph (A) of this subparagraph (III). The amount transferred by the department shall not exceed the maximum amount specified in a footnote related to this appropriation in the annual general appropriation bill for that budget year. The remainder of the amount appropriated for assistance to public schools, public school finance, state share of districts' total program funding shall be distributed to school districts in the manner provided in section 22-54-106 (4)(c).

(IV) (A) The department of education shall promulgate rules and regulations for the assignment of a cost of living factor to any new district organized pursuant to article 30 of this title, except for new districts that are created as the result of a deconsolidation as described in section 22-30-102 (2)(a), until the cost of living factor for such district is certified by the staff of the legislative council pursuant to subparagraph (III) of this paragraph (c).

(B) The rules and regulations promulgated pursuant to this subparagraph (IV) shall be designed to provide neither an incentive nor a disincentive to the organization of new districts pursuant to article 30 of this title and shall include provisions to ensure that the cost of living factor within a new district is not reduced solely because the new district is the result of a consolidation of existing districts. Such rules and regulations shall consider the cost of living factors assigned to the districts that are affected by the organization of the new district and the circumstances of the new district based on the most recent cost of living analysis performed by the legislative council.

(C) New districts that are created as the result of a deconsolidation as described in section 22-30-102 (2)(a) shall retain the cost of living factor of the district from which they were separated until the cost of living factor for the new district is certified by the staff of the legislative council pursuant to subparagraph (III) of this paragraph (c).

(d) A district's personnel costs factor for the 1994-95 budget year and budget years thereafter shall be determined in accordance with the following formula:

<TBL.22-54-104x4>

| **If the district's funded pupil count is:** | **The district's personnel costs factor shall be:** |
|---|---|
| Less than 453.5 | 0.8250 - (0.0000639 x the difference between the funded pupil count and 453.5) |
| 453.5 or more but less than 1,567.5 | 0.8595 - (0.0000310 x the difference between the funded pupil count and 1,567.5) |

1,567.5 or more but less than 6,6820.8850 - (0.0000050 x the difference between the funded pupil count and 6,682)

6,682 or more but less than 30,0000.9050 - (0.0000009 x the difference between the funded pupil count and 30,000)

30,000 or more0.9050 </TBL.22-54-104x4>

(e) A district's nonpersonnel costs factor for the 1994-95 budget year and budget years thereafter shall be the difference between 1.00 and the district's personnel costs factor.

(f) (I) If the district percentage of at-risk pupils is greater than the statewide average percentage of at-risk pupils and the district's funded pupil count is greater than four hundred fifty-nine but not in excess of fifty thousand, the district's at-risk factor shall be 12% plus a 0.30 percentage point for each percentage point that the district percentage of at-risk pupils exceeds the statewide average percentage of at-risk pupils; except that no district's at-risk factor shall exceed 30%.

(II) If the district percentage of at-risk pupils is greater than the statewide average percentage of at-risk pupils and the district's funded pupil count is greater than fifty thousand, the district's at-risk factor shall be 12% plus a 0.36 percentage point for each percentage point that the district percentage of at-risk pupils exceeds the statewide average percentage of at-risk pupils; except that no district's at-risk factor shall exceed 30%.

(g) (I) For the 2010-11 budget year and each budget year thereafter, the general assembly determines that stabilization of the state budget requires a reduction in the amount of the annual appropriation to fund the state's share of total program funding for all districts and the funding for institute charter schools. The department of education shall implement the reduction in total program funding through the application of a budget stabilization factor as provided in this subsection (5)(g)(I). For the 2010-11 budget year and each budget year thereafter, the department of education and the staff of the legislative council shall determine, based on budget projections, the amount of such reduction to ensure the following:

(A) That, for the 2010-11 budget year, the sum of the total program funding for all districts, including the funding for institute charter schools, equals five billion two hundred twenty-five million two hundred forty-four thousand eight hundred eighty-five dollars ($5,225,244,885); except that, for the 2010-11 budget year, for the purpose of distributing moneys for certain programs for which the amount of per pupil funding is a component in the calculation of the total distribution amount, the provisions of subparagraph (VI) of this paragraph (g) shall apply.

(B) That, for the 2011-12 budget year, the sum of the total program funding for all districts, including the funding for institute charter schools, after application of the budget stabilization factor, is not less than five billion two hundred twenty-nine million five hundred sixty thousand three hundred forty-six dollars ($5,229,560,346); except that the department of education and the staff of the legislative council shall make mid-year revisions to replace projections with actual figures including, but not limited to, actual pupil enrollment, assessed valuations, and specific ownership tax revenue from the prior year, to determine any necessary changes in the amount of the reduction to maintain a total program funding amount for the 2011-12 budget year that is consistent with this subsection (5)(g)(I)(B).

(C) That, for the 2012-13 budget year, the sum of the total program funding for all districts, including the funding for institute charter schools, after application of the budget stabilization factor, is not less than five billion two hundred ninety-four million thirty-three thousand four hundred forty-nine dollars ($5,294,033,449); except that the department of education and the staff of the legislative council shall make mid-year revisions to replace projections with actual figures including, but not limited to, actual pupil enrollment, assessed valuations, and specific ownership tax revenue from the prior year, to determine any necessary changes in the amount of the reduction to maintain a total program funding amount for the 2012-13 budget year that is consistent with this subsection (5)(g)(I)(C).

(D) That, for the 2013-14 budget year, the sum of the total program funding for all districts, including the funding for institute charter schools, after application of the budget stabilization factor, is not less than five billion five hundred twenty-four million forty-six thousand seven hundred sixty-seven dollars ($5,524,046,767); except that the department of education and the staff of the legislative council shall make mid-year revisions to replace projections with actual figures including, but not limited to, actual pupil enrollment, assessed valuations, and specific ownership tax revenue from the prior year, to determine any necessary changes in the amount of the reduction to maintain a total program funding amount for the applicable budget year that is consistent with this subsection (5)(g)(I)(D).

(E) That, for the 2014-15 budget year, the sum of the total program funding for all districts, including the funding for institute charter schools, after application of the budget stabilization factor, is not less than five billion nine hundred thirty million ninety-one thousand six hundred sixty dollars ($5,930,091,660); except that the department of education and the staff of the legislative council shall make mid-year revisions to replace projections with actual figures including, but not limited to, actual pupil enrollment, assessed valuations, and specific ownership tax revenue from the prior year, to determine any necessary changes in the amount of the reduction to maintain a total program funding amount for the applicable budget year that is consistent with this subsection (5)(g)(I)(E). For the 2015-16 budget year, the difference between calculated statewide total program funding and actual statewide total program funding must not exceed the difference between calculated statewide total program funding and actual statewide total program funding for the 2014-15 budget year.

(F) That, for the 2015-16 budget year, the sum of the total program funding for all districts, including the funding for institute charter schools, after application of the budget stabilization factor, is not less than six billion two hundred thirty-three million eight hundred thirty-five thousand forty-four dollars ($6,233,835,044); except that the department of education and the staff of the legislative council shall make mid-year revisions to replace projections with actual figures, including but not limited to actual pupil enrollment, assessed valuations, and specific ownership tax revenue from the prior year, to determine any necessary changes in the amount of the reduction to maintain a total program funding amount for the applicable budget year that is consistent with this subsection (5)(g)(I)(F). For the 2016-17 budget year, the difference between calculated statewide total program funding and actual statewide total program funding must not exceed the difference between calculated statewide total program funding and actual statewide total program funding for the 2015-16 budget year.

(G) That, for the 2016-17 budget year, the sum of the total program funding for all districts, including the funding for institute charter schools, after application of the budget stabilization factor, is not less than six billion three hundred seventy-two million two hundred

eighty-four thousand one hundred ninety-four dollars ($6,372,284,194); except that the department of education and the staff of the legislative council shall make mid-year revisions to replace projections with actual figures, including but not limited to actual pupil enrollment, assessed valuations, and specific ownership tax revenue from the prior year, to determine any necessary changes in the amount of the reduction to maintain a total program funding amount for the applicable budget year that is consistent with this subsection (5)(g)(I)(G). For the 2017-18 budget year, the difference between calculated statewide total program funding and actual statewide total program funding must not exceed the difference between calculated statewide total program funding and actual statewide total program funding for the 2016-17 budget year.

(H) That, for the 2017-18 budget year, the sum of the total program funding for all districts, including the funding for institute charter schools, after application of the budget stabilization factor, is not less than six billion six hundred twenty-seven million seven hundred twenty-four thousand nine hundred sixty-five dollars ($6,627,724,965); except that the department of education and the staff of the legislative council shall make mid-year revisions to replace projections with actual figures, including but not limited to actual pupil enrollment, assessed valuations, and specific ownership tax revenue from the prior year, to determine any necessary changes in the amount of the reduction to maintain a total program funding amount for the applicable budget year that is consistent with this subsection (5)(g)(I)(H). For the 2018-19 budget year, the difference between calculated statewide total program funding and actual statewide total program funding must not exceed the difference between calculated statewide total program funding and actual statewide total program funding for the 2017-18 budget year.

(I) That, for the 2018-19 budget year, the sum of the total program funding for all districts, including the funding for institute charter schools, after application of the budget stabilization factor, is not less than seven billion sixty-six million fifty thousand nine hundred seventy dollars ($7,066,050,970); except that the department of education and the staff of the legislative council shall make mid-year revisions to replace projections with actual figures, including but not limited to actual pupil enrollment, assessed valuations, and specific ownership tax revenue from the prior year, to determine any necessary changes in the amount of the reduction to maintain a total program funding amount for the applicable budget year that is consistent with this subsection (5)(g)(I)(I). For the 2019-20 budget year, the difference between calculated statewide total program funding and actual statewide total program funding must not exceed the difference between calculated statewide total program funding and actual statewide total program funding for the 2018-19 budget year.

(J) That, for the 2019-20 budget year, the sum of the total program funding for all districts, including the funding for institute charter schools, after application of the budget stabilization factor, is not less than seven billion six hundred three million nine hundred seven thousand nine hundred seventy-seven dollars ($7,603,907,977); except that the department of education and the staff of the legislative council shall make mid-year revisions to replace projections with actual figures, including but not limited to actual pupil enrollment, assessed valuations, and specific ownership tax revenue from the prior year, to determine any necessary changes in the amount of the reduction to maintain a total program funding amount for the applicable budget year that is consistent with this subsection (5)(g)(I)(J).

(K) That, for the 2020-21 budget year, the sum of the total program funding for all districts, including the funding for institute charter schools, after application of the budget stabilization factor, is not less than seven billion two hundred thirty million four hundred forty-

eight thousand eight hundred ninety-one dollars ($7,230,448,891); except that the department of education and the staff of the legislative council shall make mid-year revisions to replace projections with actual figures, including but not limited to actual pupil enrollment, assessed valuations, and specific ownership tax revenue from the prior year, to determine any necessary changes in the amount of the reduction to maintain a total program funding amount for the applicable budget year that is consistent with this subsection (5)(g)(I)(K). For the 2021-22 budget year, the difference between calculated statewide total program funding and actual statewide total program funding must not exceed the difference between calculated statewide total program funding and actual statewide total program funding for the 2020-21 budget year.

(II) For the 2010-11 budget year and each budget year thereafter, the department of education shall:

(A) Calculate the budget stabilization factor for the applicable budget year by dividing the reduction in total program funding for the applicable budget year, as specified in subsection (5)(g)(I) of this section, by the sum of the total program funding amounts of all districts as calculated pursuant to subsection (2) of this section, including the funding for institute charter schools, for the applicable budget year; and

(B) Calculate each district's and each institute charter school's reduction amount by multiplying the budget stabilization factor by the district's total program funding calculated pursuant to subsection (2) of this section for the applicable budget year for the district and for any institute charter school located within the district.

(III) For the 2010-11 budget year and each budget year thereafter, except as otherwise provided in subparagraphs (IV) and (V) of this paragraph (g), a district's total program shall be the greater of:

(A) The amount calculated pursuant to subsection (2) of this section for the applicable budget year, including funding for any institute charter school located within the district, minus the district's reduction amount for the applicable budget year; or

(B) An amount equal to the base per pupil funding amount specified in paragraph (a) of subsection (5) of this section for the applicable budget year, multiplied by the district's funded pupil count for the applicable budget year.

(IV) For the 2010-11 budget year, and each budget year thereafter, the total program funding for a district that levies the number of mills calculated pursuant to section 22-54-106 (2)(a)(II), (2.1)(b)(I)(C), or (2.1)(c)(I), whichever is applicable, is the amount calculated pursuant to subsection (2) of this section for the applicable budget year. Any such district shall use the revenues generated by the number of mills that the district levies pursuant to section 22-54-106 (2)(a)(II), (2.1)(b)(I)(C), or (2.1)(c)(I), whichever is applicable, to replace any categorical program support funds that the district would otherwise be eligible to receive from the state; except that the amount of categorical program support funds that the district is required to replace must not exceed an amount equal to the district's reduction amount. The department shall use the amount of categorical program support funds replaced by property tax revenue pursuant to this subsection (5)(g)(IV) to make payments of categorical program support funds to eligible districts as specified in section 22-54-107 (4).

(V) For the 2010-11 budget year and each budget year thereafter, if a district levies the number of mills calculated pursuant to section 22-54-106 (2)(a)(I), (2.1)(b)(I)(A), (2.1)(b)(I)(B), or (2.1)(b)(II), or (2.1)(c)(II), (2.1)(c)(III),or (2.1)(c)(IV), whichever is applicable, and the district's reduction amount exceeds the district's state share of total program funding, such

district's total program funding is the amount calculated pursuant to subsection (2) of this section for the applicable budget year, minus the district's state aid. Any such district shall use the revenues generated by the number of mills that the district levies pursuant to section 22-54-106 (2)(a)(I), (2.1)(b)(I)(A), (2.1)(b)(I)(B), or (2.1)(b)(II), or (2.1)(c)(II), (2.1)(c)(III), or (2.1)(c)(IV), whichever is applicable, to replace any categorical program support funds that the district would otherwise be eligible to receive from the state; except that the amount of categorical program support funds that the district is required to replace must not exceed an amount equal to the remainder of the district's reduction amount after the reduction to the district's total program has been applied pursuant to this subsection (5)(g)(V). The department of education shall use the amount of categorical program support funds replaced by property tax revenue pursuant to this subsection (5)(g)(V) to make payments of categorical program support funds to eligible districts as specified in section 22-54-107 (4).

(VI) For the 2010-11 budget year, two sources of federal moneys, totaling two hundred sixteen million three hundred fifty-eight thousand one hundred sixty-four dollars ($216,358,164), have been made available to districts and are being allocated to districts by the department of education based on the formulas specified in subsection (2) of this section. Accordingly, the state's share of total program funding for all districts, including the funding for institute charter schools for the 2010-11 budget year, has been reduced by said amount as is reflected in the sum of total program funding for the 2010-11 budget year specified in sub-subparagraph (A) of subparagraph (I) of this paragraph (g). For the 2010-11 budget year, it is the general assembly's intent that the department of education calculate total program funding for the following purposes as if the state's share of total program funding for the 2010-11 budget year was not reduced as specified in this subparagraph (VI):

(A) Any distribution or allocation of moneys for which the amount of per pupil revenues or per pupil funding is a component in the calculation of the amount distributed or allocated;

(B) A district's online funding pursuant to paragraph (c) of subsection (4.5) of this section;

(C) A district's extended high school funding pursuant to subsection (4.7) of this section; and

(D) The amount of property tax revenue that a district is required to use to replace categorical program support funds pursuant to subparagraph (IV) or (V) of this paragraph (g).

(VII) As used in this subsection (5)(g), unless the context otherwise requires:

(A) "Actual statewide total program funding" means the sum of the total program funding for all districts, including the funding for institute charter schools, as calculated pursuant to subsection (2) of this section, after application of the budget stabilization factor pursuant to this subsection (5)(g).

(B) "Calculated statewide total program funding" means the sum of the total program funding for all districts, including the funding for institute charter schools, as calculated pursuant to subsection (2) of this section, before application of the budget stabilization factor pursuant to this subsection (5)(g).

(6) (a) and (b) Repealed.

(c) The definitions contained in section 22-54-104.3 shall be applicable to this subsection (6).

**Source: L. 94:** Entire article added with relocations, p. 782, § 2, effective April 27; (2)(b)(II)(B) amended, p. 1282, § 3, effective May 22. **L. 95:** (2)(a), (4)(b), and (5)(a) amended, p. 612, § 14, effective May 22. **L. 96:** (5)(c)(III) amended, p. 1, § 1, effective January 16; (2)(a)(III), (2)(a)(IV), and (5)(a)(III) added and (5)(c)(II) amended, pp. 1790, 1791, §§ 1, 2, 3, effective June 4; (5)(c)(II) amended and (5)(c)(IV) added, p. 63, § 19, effective July 1. **L. 97:** (2)(a)(IV), IP(2)(b), (2)(b)(II)(A), (4), (5)(b)(II), (5)(b)(III), and (5)(f) amended and (5)(a)(IV) added, pp. 578-580, §§ 1-3, 5, effective April 30. **L. 98:** (2)(a)(IV)(D), (5)(b)(I), and (5)(c)(II) amended and (5)(a)(V), (5)(b)(I.2), (5)(b)(I.3), and (5)(b)(IV) added, pp. 966, 964, 963, 969, §§ 9, 10, 4, 1, 11, effective May 27. **L. 99:** (2)(a)(III) and (2)(a)(IV)(C) amended and (2)(a)(III.5), (2)(a)(III.6), and (5)(a)(VI) added, pp. 178, 176, §§ 11, 1, effective March 30; (5)(b)(II) amended, p. 906, § 1, effective July 1. **L. 2000:** (2)(a)(IV)(D), (5)(b)(I.3)(A), (5)(c)(II)(B), and (5)(f) amended and (5)(a)(VII), (5)(b)(I.3)(C), (5)(b)(I.4), (5)(c)(II)(B.1) added, pp. 482, 483, 484, 485, 483, 484 §§ 1, 3, 5, 6, 2, 4, effective April 28; (5)(b)(I.3)(B) repealed, p. 1546, § 5, effective August 2. **L. 2001:** IP(2)(a)(III.5), (2)(a)(III.6), (4), and (5)(f)(II) amended and (2)(a)(III.7), (2)(a)(III.8), and (5)(a)(VIII) added, pp. 343, 339, §§ 5, 1, effective April 16. **L. 2002:** (2)(a)(III.7) and (2)(a)(III.8) amended, (2)(a)(IV) amended resulting in its renumbering as (2)(a.5), and (2)(a)(V), (2)(a)(VI), (4.5), and (5)(a)(IX) added, pp. 1734, 1735, §§ 3, 4, 5, effective June 7. **L. 2003:** (2)(a)(VI) and (2)(a.5) repealed, IP(2)(b), (2)(b)(II)(A), (4), (4.5)(b), (5)(b)(I.4), and (5)(c)(III) amended, and (3.5), (5)(a)(X), and (5)(b)(I.5) added, pp. 2120, 2139, 2121, 2122, §§ 6, 41, 7, 8, 10, 11, 9, effective May 22. **L. 2004:** IP(2)(a)(V), IP(2)(b), (2)(b)(II)(A), (4), (5)(c)(II)(B.1), and (5)(f) amended and (2)(a)(VII) and (5)(a)(XI) added, pp. 1387, 1388, 1390, 1389, §§ 3, 4, 6, 5, effective May 28; (1) amended, p. 1638, § 43, effective July 1. **L. 2005:** (2)(b)(II)(A), (4), and (5)(f) amended and (5)(a)(XII) added, pp. 431, 430, §§ 3, 1, effective April 29. **L. 2006:** (5)(a)(XIII) added, p. 660, § 1, effective April 28; (2)(a)(I) to (2)(a)(III), (2)(a)(III.5) to (2)(a)(III.7), (2)(a)(V), (4)(a)(II), (4)(b)(II), (4.5)(a), (5)(a)(I) to (5)(a)(XI), (5)(b)(I), (5)(b)(I.2) to (5)(b)(I.4), (5)(c)(II)(A), (5)(c)(II)(B), and (6)(a) repealed and (2)(b)(II)(A) and (5)(f) amended, pp. 612, 618, §§ 44, 42, effective August 7. **L. 2007:** IP(2)(a)(VII), (3.5), and (4.5) amended, (2)(a)(VIII) and (5)(a)(XIV) added, and (5)(a)(XII) repealed, pp. 734, 733, 745, §§ 3, 1, 28, effective May 9. **L. 2008:** (3.5)(d)(II)(A) amended and (5)(a)(XV) added, pp. 1218, 1194, §§ 33, 2, effective May 22. **L. 2009:** (5)(a)(XV) amended, (SB 09-215), ch. 134, p. 578, § 1, effective April 17; IP(2)(a)(VIII) and (3.5)(d)(II)(A) amended and (2)(a)(IX), (3.5)(d)(III), and (4.7) added, (HB 09-1319), ch. 286, pp. 1319, 1320, §§ 7, 8, 9, effective May 21; (5)(a)(XVI) added, (SB 09-256), ch. 294, p. 1548, § 1, effective May 21. **L. 2010:** IP(2)(a)(IX), (4.5)(c), and (4.7) amended and (5)(a)(XVII) and (5)(g) added, (HB 10-1369), ch. 246, pp. 1095, 1097, §§ 2, 4, 1, 3, effective May 21. **L. 2011:** (5)(g)(I) amended and (5)(g)(VI) added, (SB 11-157), ch. 10, p. 21, § 2, effective March 9; (4.5)(c)(III), (4.7)(c), IP(5)(g)(I), (5)(g)(I)(B), (5)(g)(II), (5)(g)(III), (5)(g)(IV), and (5)(g)(V) amended and (5)(a)(XVIII) added, (SB 11-230), ch. 305, pp. 1468, 1469, 1464, 1465, §§ 12, 13, 3, 4, 2, effective June 9. **L. 2012:** (5)(g)(I)(B) amended and (5)(g)(I)(C) added, (HB 12-1201), ch. 3, p. 4, § 2, effective March 1; (5)(a)(XIX) added and (5)(g)(I)(C) amended, (HB 12-1345), ch. 188, p. 715, § 1, effective May 19. **L. 2013:** (5)(g)(I)(C) amended and (5)(g)(1)(D) added, (SB 13-108), ch. 116, p. 399, § 2, effective April 8; (5)(a)(XX) and (5)(g)(I)(E) added and (5)(g)(I)(D) amended, (SB 13-260), ch. 236, pp. 1138, 1139, §§ 1, 3, effective May 17; (6)(b) repealed, (HB 13-1219), ch. 104, p. 364, § 13, effective August 7. **L. 2014:** (5)(g)(I)(D) amended, (HB 14-1251), ch. 17, p. 133, § 2, effective February 27; (5)(g)(I)(E) amended, (HB 14-1292), ch. 243,

p. 901, § 2, effective May 21; (5)(a)(XXI), (5)(c)(II.5), and (5)(g)(VII) added and (5)(c)(II)(B.1), (5)(c)(II)(C), (5)(c)(III)(A), and (5)(g)(I)(E) amended, (HB 14-1298), ch. 244, pp. 919, 921, 922, §§ 1, 2, 4, and 5, effective May 21. **L. 2015:** (5)(g)(I)(E) amended, (SB 15-166), ch. 14, p. 35, § 2, effective March 13; (5)(a)(XXII) and (5)(g)(I)(F) added, (SB 15-267), ch. 295, p. 1200, § 1, effective June 5; (2)(a)(IX), (3.5)(d)(III), (4.7)(a), (4.7)(c), and (5)(g)(VI)(C) amended, (HB 15-1270), ch. 195, p. 656, § 3, effective August 5. **L. 2016:** (5)(g)(I)(F) amended, (HB 16-1253), ch. 9, p. 18, § 2, effective March 9; (5)(a)(XXIII), (5)(b)(I.5), and (5)(g)(I)(G) amended, (HB 16-1422), ch. 351, pp. 1429, 1430, §§ 1, 2, effective June 10. **L. 2017:** IP(5)(g)(I) and (5)(g)(I)(G) amended, (SB 17-173), ch. 9, p. 27, § 2, effective March 1; IP(4.5)(c)(III), IP(4.7)(c), IP(5)(g)(I), (5)(g)(I)(B) to (5)(g)(I)(G), (5)(g)(II)(A), (5)(g)(II)(B), IP(5)(g)(VII), (5)(g)(VII)(A), and (5)(g)(VII)(B) amended and (5)(a)(XXIV) and (5)(g)(I)(H) added, (SB 17-296), ch. 313, pp. 1681, 1680, §§ 3, 1, effective June 2. **L. 2018:** (5)(g)(I)(H) amended, (HB 18-1171), ch. 81, p. 672, § 2, effective March 29; (5)(a)(XXV) and (5)(g)(I)(I) added, (HB 18-1379), ch. 250, p. 1537, §§ 1, 2, effective May 24. **L. 2019:** (5)(g)(I)(I) amended, (SB 19-128), ch. 65, p. 235, § 2, effective March 28; (5)(a)(XXVI) and (5)(g)(I)(J) added, (SB 19-246), ch. 151, p. 1785, §§ 1, 2, effective May 10. **L. 2020:** (5)(g)(I)(J) amended, (HB 20-1260), ch. 13, p. 59, § 2, effective March 11; (5)(a)(XXVII) and (5)(g)(I)(K) added and (5)(g)(I)(J), (5)(g)(IV), and (5)(g)(V) amended, (HB 20-1418), ch. 197, pp. 939, 954, §§ 2, 37, effective June 30.

**Editor's note:** (1) Amendments to subsection (5)(c)(II) in House Bill 96-1354 and House Bill 96-1012 were harmonized.

(2) Subsection (5)(b)(II)(B) provided for the repeal of subsection (5)(b)(II)(B), effective July 1, 2001. (See L. 99, p. 906.)

(3) Subsection (2)(a)(IV) was amended by section 3 of chapter 335, Session Laws of Colorado 2002, resulting in the relocation of said subsection to subsection (2)(a.5) to reorganize the section to accommodate future amendments to the provisions relating to a school district's minimum total program funding.

(4) Amendments to subsection IP(5)(g)(I) by sections 1 and 3 of SB 17-296 were harmonized.

(5) Amendments to subsection (5)(g)(I)(G) by SB 17-173 and SB 17-296 were harmonized.

**Cross references:** (1) For the legislative declaration contained in the 2008 act amending subsection (3.5)(d)(II)(A) and enacting subsection (5)(a)(XV), see section 1 of chapter 286, Session Laws of Colorado 2008. For the legislative declaration in the 2011 act amending subsections (4.5)(c)(III), (4.7)(c), IP(5)(g)(I), (5)(g)(I)(B), (5)(g)(II), (5)(g)(III), (5)(g)(IV), and (5)(g)(V) and adding subsection (5)(a)(XVIII), see section 1 of chapter 305, Session Laws of Colorado 2011. For the legislative declaration in the 2012 act amending subsection (5)(g)(I)(B) and adding subsection (5)(g)(I)(C), see section 1 of chapter 3, Session Laws of Colorado 2012. For the legislative declaration in the 2013 act amending subsection (5)(g)(I)(C) and adding subsection (5)(g)(I)(D), see section 1 of chapter 116, Session Laws of Colorado 2013. For the legislative declaration in HB 14-1251, see section 1 of chapter 17, Session Laws of Colorado 2014. For the legislative declaration in SB 15-166, see section 1 of chapter 14, Session Laws of Colorado 2015. For the legislative declaration in HB 16-1253, see section 1 of chapter 9, Session Laws of Colorado 2016. For the legislative declaration in SB 17-173, see section 1 of chapter 9,

Session Laws of Colorado 2017. For the legislative declaration in HB 18-1171, see section 1 of chapter 81, Session Laws of Colorado 2018. For the legislative declaration in SB 19-128, see section 1 of chapter 65, Session Laws of Colorado 2019. For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020. For the legislative declaration in HB 20-1260, see section 1 of chapter 13, Session Laws of Colorado 2020.

(2) For the short title ("Student Success Act") in HB 14-1292, see section 1 of chapter 243, Session Laws of Colorado 2014.

**22-54-104.1. General fund appropriations requirements - maintenance of effort base.** (1) (a) In accordance with section 17 (5) of article IX of the state constitution, for state fiscal years 2001-02 through 2010-11, the general assembly shall annually appropriate from the general fund for total program under the provisions of this article an amount equal to the maintenance of effort base plus an amount as determined annually by the general assembly that is equal to at least five percent of the maintenance of effort base, unless Colorado personal income grows less than four and one-half percent between the two calendar years preceding the state fiscal year in which an appropriation is made.

(b) The determination of whether the requirements of this subsection (1) apply in any given state fiscal year shall be made in accordance with section 22-55-105 (1)(b).

(2) For purposes of this section, "maintenance of effort base" means the aggregate amount of general fund appropriations for total program pursuant to the provisions of this article for the immediately preceding state fiscal year, including any increases or decreases made to said appropriations through the enactment of a supplemental appropriation bill or bills for that state fiscal year.

(3) Repealed.

(4) and (5) (Deleted by amendment, L. 2003, pp. 10, 520, §§ 1, 10, effective March 5, 2003.)

**Source: L. 2001:** Entire section added, p. 345, § 8, effective April 16. **L. 2002:** (3) amended and (4) added, p. 163, § 1, effective March 27; (5) added, p. 1732, § 1, effective June 7. **L. 2003:** (1), (4), and (5) amended, p. 10, § 1, effective March 5; (1), (4), and (5) amended, p. 520, § 10, effective March 5. **L. 2005:** (1) amended, p. 1350, § 2, effective June 3. **L. 2006:** (3) repealed, p. 619, § 43, effective August 7. **L. 2010:** (2) amended, (HB 10-1013), ch. 399, p. 1902, § 11, effective June 10.

**22-54-104.2. Legislative declaration.** (1) The general assembly hereby finds and declares that, for purposes of section 17 of article IX of the state constitution, the expansion of the definition of "at-risk pupils", as defined in section 22-54-103 (1.5)(a)(V), to include district pupils who are English language learners, as defined in section 22-54-103 (1.5)(b)(IV), the increase in the at-risk factor pursuant to section 22-54-104 (5)(f)(II) for districts whose percentage of at-risk pupils is greater than the statewide average percentage of at-risk pupils and whose funded pupil count is greater than fifty thousand, the requirement that districts that receive at-risk funding spend a portion of their at-risk funding on implementation of the district's English language proficiency program pursuant to section 22-54-105 (3)(b)(I) and the increase in the at-risk factor from 11.2% to 12% for the 2005-06 budget year and each budget year thereafter pursuant to section 22-54-104 (2)(b)(II)(A) and (5)(f) are important elements of

accountable programs to meet state academic standards and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

(2) The general assembly further finds and declares that, for purposes of section 17 of article IX of the state constitution, the enactment of the definition of "at-risk funded pupil count", as defined in section 22-54-103 (1), to allow up to three-year averaging of the number of at-risk pupils, is an important element of accountable education reform and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

(3) The general assembly further finds and declares that, for purposes of section 17 of article IX of the state constitution, the requirement that school districts provide educational services to juveniles pursuant to section 22-32-141 and that the school districts receive reimbursement for providing the services pursuant to section 22-54-114 (4)(b), is part of providing accountable programs to meet state academic standards and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 2001:** Entire section added, p. 344, § 6, effective April 16. **L. 2005:** (1) amended, p. 432, § 4, effective April 29. **L. 2006:** (1) amended, p. 619, § 44, effective August 7. **L. 2010:** (1) amended, (SB 10-062), ch. 168, p. 596, § 14, effective April 29. **L. 2012:** (3) added, (HB 12-1238), ch. 180, p. 674, § 23, effective July 1. **L. 2014:** (1) amended, (HB 14-1298), ch. 244, p. 936, § 21, effective May 21.

**22-54-104.3. Total program for budget years - special provisions.** (1) and (2) Repealed.

(2.5) and (2.6) Repealed.

(2.7) (a) For the 1997-98 budget year and budget years thereafter, notwithstanding the provisions of section 22-54-104 (2) and (6), a district's total program for the applicable budget year shall not exceed the district's total program for the prior budget year multiplied by 100% plus the district's maximum annual percentage change in the applicable fiscal year spending.

(b) For purposes of this subsection (2.7), "maximum annual percentage change in the applicable fiscal year spending" means the percentage change in fiscal year spending allowed by section 20 of article X of the state constitution based upon the definition of inflation found in said section 20 and based upon the definition of local growth as the percentage change between the district's funded pupil count during the immediately preceding October and the district's current year October funded pupil count.

(c) Repealed.

(d) (I) For the 1998-99 budget year and budget years thereafter, if a district's total program is calculated pursuant to paragraph (a) of this subsection (2.7) and the district is capable of receiving an increase in its total program within the limitations on its fiscal year spending for the applicable budget year under section 20 of article X of the state constitution, the district may certify to the department that it may receive an additional increase in its total program for the applicable budget year in an amount equal to the lesser of:

(A) The difference between the district's total program for the applicable budget year calculated pursuant to paragraph (a) of this subsection (2.7) and the district's total program for the applicable budget year calculated pursuant to section 22-54-104 (2) or (6); or

(B) The difference between the district's total program for the applicable budget year calculated pursuant to paragraph (a) of this subsection (2.7) and the district's allowable fiscal year spending for the applicable budget year under section 20 of article X of the state constitution.

(II) Each district eligible for an increase pursuant to this paragraph (d) shall certify to the department the exact dollar amount of increase that the district can accept. Such certification shall be submitted no later than December 1 of the applicable budget year and must be reviewed and approved by an auditor for the district.

(3) Notwithstanding the provisions of section 22-54-104 (2), for the 1994-95 budget year, if a district's 1994-95 total formula per pupil funding is less than the district's 1993-94 total per pupil funding, the total program for such district shall be calculated in accordance with the following formula:

(a) If the district's 1994-95 funded pupil count is equal to or less than the district's 1993-94 funded pupil count, the formula shall be:

District 1993-94 funded pupil count x District 1993-94 total per pupil funding.

(b) If the district's 1994-95 funded pupil count is greater than the district's 1993-94 funded pupil count, the formula shall be:

District 1993-94 total funding + ((District 1994-95 funded pupil count - District 1993-94 funded pupil count) x District 1994-95 total formula per pupil funding).

(4) (Deleted by amendment, L. 95, p. 613, § 15, effective May 22, 1995.)

(5) For purposes of subsection (3) of this section and section 22-54-104 (6):

(a) to (d) Repealed.

(e) A district's "prior year total per pupil funding" means the amount which results from dividing the district's prior year total program by the district's prior year funded pupil count.

(f) A district's "total formula per pupil funding" means the total program for a district for the applicable budget year, as calculated pursuant to section 22-54-104 (2), divided by the district's funded pupil count for the applicable budget year.

(g) (Deleted by amendment, L. 95, p. 613, § 15, effective May 22, 1995.)

(6) Repealed.

**Source: L. 94:** Entire article added with relocations, p. 786, § 2, effective April 27; IP(1) amended, p. 1282, § 4, effective May 22. **L. 95:** (4), IP(5), and (5)(g) amended and (2.5), (2.7), and (6) added, p. 613, § 15, effective May 22. **L. 96:** (2.6) added and (2.7)(a) amended, p. 1791, § 4, effective June 4. **L. 97:** (2.7) amended, p. 592, § 29, effective April 30. **L. 98:** (2.7)(d) added, p. 964, § 5, effective May 27. **L. 2006:** (1), (2), (2.5), (2.6), (2.7)(c), (5)(a) to (5)(d), and (6) repealed, p. 620, § 45, effective August 7.

**22-54-104.5. School finance study. (Repealed)**

**Source: L. 94:** Entire article added with relocations, p. 789, § 2, effective April 27. **L. 96:** Entire section repealed, p. 1235, § 72, effective August 7.

**22-54-105. Instructional supplies and materials - capital reserve and insurance reserve - at-risk funding - preschool funding.** (1) (a) Prior to the 2009-10 budget year, every district shall budget the amount determined pursuant to paragraph (b) of this subsection (1) to be allocated, in the discretion of the board of education, to the instructional supplies and materials account, the instructional capital outlay account, or the other instructional purposes account in the general fund created by section 22-45-103 (1)(a)(II), or among such accounts. Moneys may be transferred among the three accounts. The moneys in such accounts shall be used for the purposes set forth in section 22-45-103 (1)(a)(II) and may not be expended by the district for any other purpose. Any moneys in such accounts which are not projected to be expended during a budget year shall be budgeted for the purposes set forth in section 22-45-103 (1)(a)(II) in the next budget year. Nothing in this subsection (1) shall be construed to require that interest on moneys in such accounts be specifically allocated to such accounts. Any moneys remaining in any such account that have not been expended prior to the 2009-10 budget year shall be budgeted for the purposes set forth in section 22-45-103 (1)(a)(II) in the 2009-10 budget year or any budget year thereafter.

(b) (I) The amount to be budgeted in any budget year prior to the 2009-10 budget year shall be the amount determined by multiplying one hundred thirty-four dollars by the district's funded pupil count minus the district's online pupil enrollment.

(II) (A) For the 1998-99 budget year through the 2007-08 budget year, the dollar amount required to be budgeted per pupil pursuant to this paragraph (b) shall be increased each year by the same percentage that the statewide base per pupil funding is increased pursuant to section 22-54-104 (5). For the 2008-09 budget year, the minimum dollar amount required to be budgeted per pupil pursuant to this paragraph (b) shall be increased by the rate of inflation. The amount of any increase pursuant to this paragraph (b) shall be rounded to the nearest dollar.

(B) Repealed.

(III) Repealed.

(IV) (Deleted by amendment, L. 2009, (SB 09-256), ch. 294, p. 1548, § 3, effective May 21, 2009.)

(c) For purposes of this subsection (1), instructional supplies and materials include, but are not limited to, supplies, textbooks, library books, periodicals, and other supplies and materials. Instructional capital outlay includes those expenditures which result in the acquisition of fixed assets for instructional purposes, or additions thereto, which the board of education anticipates will have benefits for more than one year. Other instructional purposes include expenses incurred in providing transportation for pupils to and from school-sponsored instructional activities which occur outside the classroom and costs incurred for repair or maintenance services for equipment which is directly used for instructional purposes. Instructional supplies and materials, instructional capital outlay, and other instructional purposes are limited to those functions accounts and objects accounts as prescribed by the state board of education.

(d) (Deleted by amendment, L. 2009, (SB 09-256), ch. 294, p. 1548, § 3, effective May 21, 2009.)

(2) (a) Except as otherwise provided in paragraph (c) of this subsection (2), prior to the 2009-10 budget year, every district shall budget the amount determined pursuant to paragraph (b) of this subsection (2) to be allocated, in the discretion of the board of education, to the capital reserve fund created by section 22-45-103 (1)(c), to a fund or an account within the general fund

established in accordance with generally accepted accounting principles solely for the management of risk-related activities as identified in section 24-10-115, C.R.S., and article 13 of title 29, C.R.S., or among such allowable funds and accounts. Such moneys shall be used for the purposes set forth in section 22-45-103 (1)(c) and (1)(e) and may not be expended by the district for any other purpose. The board of education may transfer moneys among these allowable funds and accounts when such transfer is deemed necessary by the board. Any moneys remaining in any such fund or account that have not been expended prior to the 2009-10 budget year shall be budgeted for the purposes set forth in section 22-45-103 (1)(c) and (1)(e) in the 2009-10 budget year or any budget year thereafter.

(b) (I) The amount to be budgeted in any budget year prior to the 2009-10 budget year shall be the amount determined by multiplying two hundred sixteen dollars by the district's funded pupil count minus the district's online pupil enrollment. Such amount shall be the minimum required to be budgeted, and the district may elect to budget up to eight hundred dollars multiplied by the district's funded pupil count minus the district's online pupil enrollment.

(II) (A) For the 1998-99 budget year through the 2007-08 budget year, the minimum dollar amount required to be budgeted per pupil pursuant to this paragraph (b) shall be increased each year by the same percentage that the statewide base per pupil funding is increased pursuant to section 22-54-104 (5). For the 2008-09 budget year, the minimum dollar amount required to be budgeted per pupil pursuant to this paragraph (b) shall be increased by the rate of inflation. The amount of any increase pursuant to this paragraph (b) shall be rounded to the nearest dollar.

(B) Repealed.

(III) For the 2000-01 budget year through the 2008-09 budget year, the amount required to be budgeted pursuant to this paragraph (b) shall be reduced by an amount determined by multiplying the minimum dollar amount required to be budgeted for that budget year pursuant to subparagraph (II) of this paragraph (b) by the number of pupils enrolled in charter schools within the district.

(c) For the 1999-2000 budget year and any budget year thereafter, if a district has moneys in its capital reserve fund equal to or in excess of five times the minimum dollar amount required to be budgeted per pupil pursuant to paragraph (b) of this subsection (2) multiplied by the district's funded pupil count minus the district's online pupil enrollment for the applicable budget year, the board of education of the district may determine whether to budget the minimum dollar amount per pupil required by this subsection (2) in that budget year, budget a lesser amount, or budget no amount at all. Such determination shall be made by the board of education on an annual basis based upon the capital outlay expenditure requirements of the district.

(d) Repealed.

(e) (Deleted by amendment, L. 2009, (SB 09-256), ch. 294, p. 1548, § 3, effective May 21, 2009.)

(3) (a) For the 1997-98 budget year and budget years thereafter, every district that receives at-risk funding pursuant to the provisions of section 22-54-104 shall expend in total at least seventy-five percent of the district's at-risk funding on direct instruction or staff development, or both, for the educational program of at-risk pupils in the district.

(b) (I) Notwithstanding the provisions of paragraph (a) of this subsection (3), for the 2001-02 budget year and budget years thereafter, any district that receives at-risk funding pursuant to section 22-54-104 and qualifies for a higher at-risk factor as provided in section 22-

54-104 (5)(f)(II) shall expend an amount calculated pursuant to subparagraph (II) of this paragraph (b) on implementation of the district's English language proficiency program as provided in article 24 of this title. It is the intent of the general assembly that each school district expend said amount on English language proficiency programs that are either taught in English or that are designed to move students as quickly as possible into programs taught in English. The district shall expend at least seventy-five percent of the remaining amount of at-risk funding received on direct instruction or staff development, or both, for the educational program of at-risk pupils in the district.

(II) The amount of at-risk funding expended pursuant to subparagraph (I) of this paragraph (b) shall be equal to the difference between the amount of at-risk funding generated by an increase in the at-risk factor of 0.36 of a percentage point versus an increase of 0.34 of a percentage point for each percentage point that the district percentage of at-risk pupils exceeds the statewide average percentage of at-risk pupils.

(c) and (d) Repealed.

(4) (Deleted by amendment, L. 2008, p. 1195, § 6, effective May 22, 2008.)

**Source: L. 94:** Entire article added with relocations, p. 789, § 2, effective April 27. **L. 95:** (1)(b) amended, p. 619, § 20, effective May 22. **L. 96:** (1)(b), (1)(c), and (2)(b) amended, p. 1792, § 5, effective June 4. **L. 97:** (1)(b), (1)(c), (2)(a), and (2)(b) amended and (3) added, pp. 580, 583, §§ 4, 9, 10, effective April 30. **L. 98:** (1)(c) amended, p. 969, § 12, effective May 27. **L. 99:** (2)(a) amended and (2)(c) added, p. 179, § 12, effective March 30; (2)(b)(III) added, p. 174, § 2, effective March 30. **L. 2001:** (3) amended, p. 351, § 15, effective April 16; (4) added, p. 558, § 1, effective May 23; (1)(b)(III) added, p. 564, § 1, effective May 29. **L. 2002:** (1)(b)(I), (1)(b)(III), (2)(b)(I), and (2)(c) amended and (2)(d) added, p. 1736, § 6, effective June 7. **L. 2003:** (1)(b)(III)(A) and (1)(b)(III)(C) amended and (2)(d) repealed, pp. 516, 522, §§ 5, 15, effective March 5; (1)(b)(II), (2)(b)(II), (3)(c), and (4) amended and (3)(d) repealed, pp. 2123, 2141, §§ 12, 47, effective May 22. **L. 2006:** (1)(b)(IV) added and (4) amended, pp. 660, 699, §§ 2, 43, effective April 28; (1)(b)(II)(B), (2)(b)(II)(B), and (3)(c) repealed, p. 624, § 46, effective August 7. **L. 2007:** (2)(e) added, p. 735, § 4, effective May 9. **L. 2008:** (1)(b)(II)(A), (2)(b)(II)(A), and (4) amended, p. 1195, § 6, effective May 22. **L. 2009:** (1) and (2) amended, (SB 09-256), ch. 294, p. 1548, § 3, effective May 21.

**Editor's note:** Subsection (1)(b)(III)(E) provided for the repeal of subsection (1)(b)(III), effective July 1, 2003. (See L. 2001, p. 564.)

**Cross references:** For the legislative declaration contained in the 2008 act amending subsections (1)(b)(II)(A), (2)(b)(II)(A), and (4), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-54-106. Local and state shares of district total program - definition - repeal.** (1) (a) (I) For property tax years before the 2020 property tax year, every district shall levy the number of mills determined pursuant to subsection (2)(a) of this section, and the amount of property tax revenue that a district is entitled to receive from the levy, assuming one hundred percent collection, along with the amount of specific ownership tax revenue paid to the district, as defined in section 22-54-103 (11), is the district's share of its total program.

(II) Repealed.

(III) For the 2020 property tax year and property tax years thereafter, each district shall levy the number of mills determined pursuant to subsection (2.1) of this section. The amount of property tax revenue that a district is entitled to receive from the levy, less the amount of revenue attributable to the property tax credit described in subsection (2.1)(d) of this section, assuming one hundred percent collection, along with the amount of specific ownership tax revenue paid to the district is the district's share of its total program.

(b) (I) Except as provided in subsections (11) and (12) of this section, the state's share of a district's total program is the difference between the district's total program and the district's share of its total program.

(II) Repealed.

(2) (a) Except as provided in subsection (2)(c) of this section for reorganized districts, for the 2007 property tax year and property tax years thereafter through the 2019 property tax year, each district shall levy the lesser of:

(I) The number of mills levied by the district for the immediately preceding property tax year;

(II) (A) Subject to the provisions of sub-subparagraph (B) of this subparagraph (II), the number of mills that will generate property tax revenue in an amount equal to the district's total program for the applicable budget year minus the amount of specific ownership tax revenue paid to the district.

(B) Regardless of the applicability of section 22-54-104 (5)(g), for the purposes of this subparagraph (II), a district's total program shall be the amount calculated pursuant to section 22-54-104 (2).

(III) For a district that has not obtained voter approval to retain and spend revenues in excess of the property tax revenue limitation imposed on the district by section 20 of article X of the state constitution, the number of mills that may be levied by the district under the property tax revenue limitation imposed on the district by section 20 of article X of the state constitution. In the calculation of local growth for purposes of determining the property tax revenue limitation imposed on a district under this subparagraph (III), a district's student enrollment shall be the district's funded pupil count.

(IV) Repealed.

(V) Twenty-seven mills.

(b) (I) (A) If a district's total program for the 1994-95 budget year was calculated pursuant to section 22-54-104.3, for the 1995 property tax year, the levy calculated pursuant to paragraph (a) of this subsection (2) shall be reduced by the number of mills required to generate the difference between the district's total program for the 1994-95 budget year, as calculated pursuant to section 22-54-104.3 (3), and the district's total program for the 1994-95 budget year, as calculated pursuant to section 22-54-104 (2). The amount by which property tax revenue is reduced pursuant to this paragraph (b) shall be counted toward the limitation on additional local revenues as provided in section 22-54-108 (3).

(B) Notwithstanding the provisions of sub-subparagraph (A) of this subparagraph (I), if the mill levy was calculated pursuant to subparagraph (II) of paragraph (a) of this subsection (2), the difference between the district's total program for the 1994-95 budget year, as calculated pursuant to section 22-54-104.3 (3), and the district's total program for the 1994-95 budget year,

as calculated pursuant to section 22-54-104 (2), shall be added to the total program as calculated pursuant to section 22-54-104 (2) to calculate the levy pursuant to this subparagraph (I).

(II) If after calculating the mill levy pursuant to subparagraph (I) of this paragraph (b) the district's levy exceeds 41.75 mills, the district shall levy 41.75 mills.

(III) For the 1995-96 budget year, if the amount of property tax generated for the 1994-95 budget year by the number of mills by which the mills levied by the district for the 1994-95 budget year exceeded 40.080 mills was equal to or exceeded the difference between the district's total program for the 1994-95 budget year, as calculated pursuant to section 22-54-104.3 (3), and the district's total program for the 1994-95 budget year, as calculated pursuant to section 22-54-104 (2), the district may levy the difference between the levy pursuant to subparagraph (I) and subparagraph (II) of this paragraph (b). For the 1996-97 budget year and budget years thereafter, the district may continue to impose a mill levy that will generate the amount of revenue produced by the calculation described in this subparagraph (III) for the 1995-96 budget year. The amount of property tax generated pursuant to this subparagraph (III) shall be counted toward the limitation on additional local revenues as provided in section 22-54-108 (3)(f).

(c) (I) Notwithstanding any other provision of this subsection (2), if there is a reorganization pursuant to article 30 of this title, except for a detachment and annexation, and if such reorganization involves districts with differing mill levies, then in its first year of operation, the new district shall levy a number of mills that is based on the total property taxes collected in the preceding year from property included within the new district divided by the total valuation for assessment in the preceding year of property located within the new district but in no event more than 41.75 mills. This paragraph (c) shall not apply to any new district whose levy would otherwise be calculated pursuant to subparagraph (II) of paragraph (a) of this subsection (2).

(II) If there is a detachment and annexation pursuant to article 30 of this title and if such detachment and annexation involves districts with differing mill levies, then in the first year after the detachment and annexation, the annexing district shall calculate its levy pursuant to paragraph (a) of this subsection (2).

(2.1) (a) The general assembly finds that, for property tax years 1994 through 2006, subsection (2)(a)(III) of this section, as it existed before May 9, 2007, was wrongly interpreted and applied to reduce several districts' property tax mill levies to the number of mills that a district could levy under the property tax revenue limitation imposed by section 20 of article X of the state constitution, even though the district had obtained voter approval to retain and spend revenue in excess of that property tax revenue limitation. The general assembly finds, therefore, that the reductions in district mill levies for property tax years 1994 through 2006 were not authorized by statute and are void for purposes of determining a district's correct mill levy pursuant to this subsection (2.1) for the 2020 property tax year and property tax years thereafter, and the determination and levy of the correct number of mills that a district is required to levy pursuant to this subsection (2.1) does not require action by the district other than to certify the mill levy.

(b) For the 2020 property tax year, except as otherwise provided in subsection (2.1)(e) of this section for reorganized districts:

(I) A district that has obtained voter approval to retain and spend revenue in excess of the property tax revenue limitation imposed on the district by section 20 of article X of the state constitution shall levy the lesser of:

(A) Twenty-seven mills;

(B) The number of mills that the district would have been required to levy under subsection (2)(a) of this section for the 2020 property tax year if not for the unauthorized reductions in the district's mill levy in property tax years following the property tax year in which the district obtained voter approval to retain and spend revenue in excess of the property tax revenue limitation imposed on the district by section 20 of article X of the state constitution, which reductions resulted from the unauthorized application of subsection (2)(a)(III) of this section as it existed before May 9, 2007; or

(C) The number of mills that will generate property tax revenue in an amount equal to the district's total program for the applicable budget year minus the amount of specific ownership tax revenue paid to the district. Regardless of the applicability of section 22-54-104 (5)(g), for the purposes of this subsection (2.1)(b)(I)(C), a district's total program is the amount calculated pursuant to section 22-54-104 (2).

(II) A district that has not obtained voter approval to retain and spend revenue in excess of the property tax revenue limitation imposed on the district by section 20 of article X of the state constitution shall levy the lesser of:

(A) Twenty-seven mills;

(B) The number of mills the district levied in the preceding property tax year; or

(C) The number of mills that the district may levy under the property tax revenue limitation imposed on the district by section 20 of article X of the state constitution. In calculating local growth for purposes of determining the property tax revenue limitation imposed on a district by section 20 of article X of the state constitution, a district's student enrollment is the district's funded pupil count.

(c) For the 2021 property tax year and each property tax year thereafter, except as otherwise provided in subsection (2.1)(e) of this section for reorganized districts, each district shall levy the lesser of:

(I) The number of mills that will generate property tax revenue in an amount equal to the district's total program for the applicable budget year minus the amount of specific ownership tax revenue paid to the district. Regardless of the applicability of section 22-54-104 (5)(g), for the purposes of this subsection (2.1)(c)(I), a district's total program is the amount calculated pursuant to section 22-54-104 (2).

(II) For a district that has not obtained voter approval to retain and spend revenue in excess of the property tax revenue limitation imposed on the district by section 20 of article X of the state constitution, the number of mills that the district may levy under the property tax revenue limitation imposed on the district by section 20 of article X of the state constitution. In calculating local growth for purposes of determining the property tax revenue limitation imposed on a district by section 20 of article X of the state constitution, a district's student enrollment is the district's funded pupil count.

(III) The number of mills levied in the preceding property tax year; or

(IV) Twenty-seven mills.

(d) In a property tax year in which a district, pursuant to this subsection (2.1), is required to levy a greater number of mills than it levied in the 2019 property tax year, the district board of education by resolution shall grant a temporary property tax credit equal to the number of mills levied in the applicable property tax year that exceeds the number of mills levied in the 2019 property tax year.

(e) Notwithstanding any other provision of this subsection (2.1) to the contrary, for the 2020 property tax year and each property tax year thereafter, if there is a reorganization pursuant to article 30 of this title 22 that results in the creation of a new district, then in the first year of operation the new district shall levy the lesser of:

(I) Twenty-seven mills; or

(II) The number of mills that will generate property tax revenue in an amount equal to the district's total program for the first year of operation minus the amount of specific ownership tax revenue paid to the district. Regardless of the applicability of section 22-54-104 (5)(g), for the purposes of this subsection (2.1)(e)(II), the district's total program is the amount calculated pursuant to section 22-54-104 (2).

(3) The property tax revenue a district is entitled to receive from the levy made pursuant to subsection (2) or (2.1) of this section for the 1994 property tax year and property tax years thereafter must be used to fund the district's share of its total program for the budget year beginning on July 1 of such property tax year, and the total amount of such revenue, less the amount of revenue that would be attributable to any mill levy tax credit granted pursuant to subsection (2.1)(d) of this section, is considered to be collected during such budget year for purposes of determining the state's share of the district's total program.

(4) (a) The general assembly shall make annual appropriations to fund the state's share of the total program of all districts and to fund all institute charter schools.

(b) In the event that the appropriation for the state's share of the total program of all districts, including funding for institute charter schools, under this article for any budget year, as established in the general appropriation act, is not sufficient to fully fund the state's share including funding for institute charter schools, the department of education shall submit a request for a supplemental appropriation in an amount which will fully fund the state's share including funding for institute charter schools. Such request shall be made to the general assembly during the fiscal year in which such underfunding occurs.

(c) If a supplemental appropriation is not made by the general assembly to fully fund the state's share of the total program of all districts including funding for institute charter schools or a supplemental appropriation is made to reduce the state's share of the total program of all districts including funding for institute charter schools, the state aid of each district and the funding for each institute charter school shall be reduced in accordance with the provisions of this paragraph (c). The total program of each district that receives state aid shall be reduced by a percentage determined by dividing the deficit in the appropriation or the reduction in the appropriation, whichever is applicable, by the total program of all districts that receive state aid. The state aid of each district shall be reduced by the amount of the reduction in the district's total program or the amount of state aid, whichever is less. The funding for each institute charter school shall be reduced in proportion to the reduction in the total program of the district from which the institute charter school's funding is withheld. The department of education shall see that the reduction in state aid required by this paragraph (c) is accomplished prior to the end of the budget year.

(d) (Deleted by amendment, L. 2010, (HB 10-1013), ch. 399, p. 1902, § 12, effective June 10, 2010.)

(5) (a) Except as otherwise provided in sections 22-54-107, 22-54-108, and 22-54-108.5, no district may certify a levy for its general fund in excess of that authorized by this section.

(b) No district is authorized to seek voter approval to impose additional mill levies for its general fund in excess of that authorized by this section and sections 22-54-107, 22-54-108, and 22-54-108.5. Therefore, voter approval obtained by any district in order to be capable of receiving additional revenues within the limitations on the district's fiscal year spending for any budget year under section 20 of article X of the state constitution does not constitute voter approval for such district to certify a levy for its general fund in excess of that authorized by this section and sections 22-54-107, 22-54-108, and 22-54-108.5.

(6) If a district does not certify at least the mill levy required by subsection (2) or (2.1) of this section, the department shall determine what the state's percentage share of the district's total program would have been had the district certified the required mill levy. The department of education shall reduce the district's state aid in an amount that will result in the state's percentage share of the district's total program remaining the same as if the district had certified the required mill levy.

(7) For the 1994 property tax year and property tax years thereafter, all mill levies authorized or required by this section or sections 22-54-107, 22-54-108, and 22-54-108.5 shall be rounded to the nearest one-thousandth of one mill.

(8) (Deleted by amendment, L. 2010, (HB 10-1013), ch. 399, p. 1902, § 12, effective June 10, 2010.)

(9) If a district reduces or ends business personal property taxes through action taken pursuant to section 20 (8)(b) of article X of the state constitution, the state's share of the district's total program for the budget year in which such action is taken and any budget year thereafter shall be the amount by which the district's total program exceeds the amount of specific ownership tax revenue paid to the district and the amount of property tax revenue which the district would have been entitled to receive if such action had not been taken by the district.

(10) (a) If a new district is created through a deconsolidation as described in section 22-30-102 (2)(a), the specific ownership tax revenue payable to the new district in the first year of operation shall be an amount equal to the ratio of the total valuation for assessment of taxable property located in the new district to the total valuation for assessment of taxable property located in the old district multiplied by the specific ownership tax revenue payable to the old district.

(b) Commencing with the first July specific ownership tax payment due after the new district is established and continuing until the new district receives its first payment of specific ownership tax revenues from the county treasurer, the department of education shall:

(I) Increase the state's share of the new district's total program by an amount equal to the ratio of the total valuation for assessment of taxable property located in the new district to the total valuation for assessment of taxable property located in the old district multiplied by the specific ownership tax revenue payable to the old district; and

(II) Reduce the state's share of the old district's total program by the same amount.

(11) Pursuant to the provisions of section 22-54-115, for each institute charter school, the department of education shall withhold from the state share of the institute charter school's accounting district the lesser of:

(a) An amount equal to one hundred percent of the adjusted district per pupil revenues, as defined in section 22-30.5-513 (1)(b), multiplied by the number of pupils enrolled in the institute charter school who are not online pupils plus one hundred percent of the district per

pupil online funding multiplied by the number of online pupils enrolled in the institute charter school; or

(b) The total amount of the state share payable to the district.

(12) Any district that has obtained voter approval to retain and spend revenues in excess of the property tax revenue limitation imposed on the district by section 20 of article X of the state constitution and that, after March 16, 2009, obtains voter approval to again become subject to such property tax revenue limitation shall receive an amount of state aid that shall be calculated as if the district levied the number of mills that it would have levied in the applicable budget year had the district maintained its authority to retain and spend revenues in excess of such property tax revenue limitation.

**Source: L. 94:** Entire article added with relocations, p. 791, § 2, effective April 27; (8)(a) amended and (8)(d) added, p. 2832, § 2, effective January 1, 1995. **L. 95:** (1)(a)(I) and (2) amended, p. 617, § 18, effective May 22. **L. 96:** (1)(a)(I), (2)(a)(IV), (2)(b)(III), and (5) amended, pp. 1793, 1798, §§ 6, 17, effective June 4; (2)(a) amended and (2)(c) and (10) added, pp. 64, 65, §§ 20, 21, effective July 1. **L. 97:** (5) amended, p. 581, § 6, effective April 30. **L. 2000:** (5) amended, p. 485, § 7, effective April 28. **L. 2003:** (8)(a) amended, p. 2138, § 37, effective May 22. **L. 2004:** (1)(b) and (4) amended and (11) added, p. 1638, § 44, effective July 1. **L. 2005:** (4)(d) and (8)(e) added, p. 439, §§ 16, 17, effective April 29. **L. 2006:** (1)(a)(II) and (2)(a)(IV) repealed, p. 625, § 47, effective August 7. **L. 2007:** (5) and (7) amended, p. 39, § 7, effective March 7; (2)(a) amended, p. 736, § 5, effective May 9. **L. 2009:** (1)(b) amended and (12) added, (SB 09-291), ch. 368, p. 1936, § 1, effective June 1. **L. 2010:** (1)(b) and (4)(c) amended, (HB 10-1318), ch. 34, p. 126, § 1, effective March 22; (2)(a)(II) amended, (HB 10-1369), ch. 246, p. 1099, § 5, effective May 21; (1)(b), (4)(d), and (8) amended, (HB 10-1013), ch. 399, p. 1902, § 12, effective June 10. **L. 2011:** (1)(b)(I) amended, (SB 11-238), ch. 300, p. 1446, § 2, effective June 8. **L. 2015:** (1)(b)(I), (2)(a)(II)(A), and (4)(c) amended and (1)(b)(II) repealed, (SB 15-267), ch. 295, p. 1201, § 2, effective June 5. **L. 2020:** (1)(a)(I), IP(2)(a), (3), and (6) amended and (1)(a)(III) and (2.1) added, (HB 20-1418), ch. 197, p. 950, § 33, effective June 30.

**Editor's note:** Amendments to subsection (1)(b) by House Bill 10-1318 and House Bill 10-1013 were harmonized.

**Cross references:** For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

**22-54-106.5. Fiscal emergency restricted reserve - calculation of reserve amount.** (1) For the 2009-10 budget year, the general assembly determines that a state financial crisis requires each district and the state charter school institute to budget an amount to a fiscal emergency restricted reserve pursuant to section 22-44-119. Using the total amount to be budgeted for the reserve as specified in subsection (3) of this section, the department of education shall calculate the amount to be budgeted to the fiscal emergency restricted reserve by each district and the state charter school institute. The amount budgeted by each district and the state charter school institute shall be released for expenditure by the district or for distribution to institute charter schools by the state charter school institute, as applicable, on January 29, 2010,

if a negative supplemental appropriation to effect a recision of the total amount of restricted reserve as specified in subsection (3) of this section, or any portion thereof, has not been enacted and become law by said date.

(2) The department of education shall calculate the amount to be budgeted to the fiscal emergency restricted reserve for the 2009-10 budget year by dividing the total amount to be budgeted for the 2009-10 budget year, as specified in subsection (3) of this section, by the sum of the total program of all districts and institute charter school funding. The department shall calculate the amount to be budgeted by each district as an amount equal to the total restricted reserve multiplied by the district's total program as calculated pursuant to section 22-54-104 (2)(a)(VIII) or (2)(b), whichever is applicable. The department shall calculate the amount to be budgeted by the state charter school institute for each institute charter school based on the total restricted reserve multiplied by the total program of the accounting district for each institute charter school.

(3) For the 2009-10 budget year, the total amount of the restricted reserve shall be one hundred ten million dollars.

**Source: L. 2009:** Entire section added, (SB 09-256), ch. 294, p. 1551, § 4, effective May 21.

**22-54-107. Buy-out of categorical programs - total program reserve fund levy.** (1) (a) If a district levies the number of mills calculated pursuant to section 22-54-106 (2)(a)(II) for property tax years before the 2020 property tax year, or the number of mills calculated pursuant to section 22-54-106 (2.1)(c)(I) for the 2021 property tax year and property tax years thereafter, the district shall make an additional levy to generate property tax revenue in an amount equal to the amount of categorical support funds; except that the total of the two levies cannot exceed the lesser of the district's levy for the immediately preceding year, the district's allowable levy under the property tax revenue limitation imposed on the district by section 20 of article X of the state constitution if the district has not obtained voter approval to retain and spend revenues in excess of such property tax revenue limitation, or twenty-seven mills.

(b) If a district levies the number of mills calculated pursuant to section 22-54-106 (2.1)(b)(I)(C) for the 2020 property tax year, the district shall make an additional levy to generate property tax revenue in an amount equal to the amount of categorical support funds; except that the total of the two levies cannot exceed the lesser of twenty-seven mills or the number of mills described in section 22-54-106 (2.1)(b)(I)(B).

(2) When a district receives property tax revenue from the additional levy made pursuant to subsection (1) of this section or when a district has elected to keep excess property tax revenue collected during the 1992 calendar year pursuant to the provisions of section 22-44-103.5 (2)(b)(III)(C) or (2)(c)(III), the district shall use the property tax revenue to replace, on a pro rata basis, any categorical program support funds that the district would otherwise be eligible to receive from the state. The district shall replace the categorical program support funds by June 30 of the budget year in which the district collects the property tax revenue. The commissioner of education shall recover any unpaid categorical program support funds as provided in section 22-2-112 (6). The department of education shall use the amount of categorical program support funds replaced by property tax revenue pursuant to the provisions of this subsection (2) to make payments of categorical program support funds to eligible districts. If the appropriations for

categorical programs are less than the total categorical program support funds to which districts are entitled under applicable provisions of law, the department of education shall apply the funds to categorical programs in the following order:

(a) First, transportation aid pursuant to article 51 of this title;

(b) Second, funds pursuant to the "English Language Proficiency Act", article 24 of this title;

(c) Third, small attendance center aid pursuant to section 22-54-122; and

(d) Fourth, funds pursuant to the "Exceptional Children's Educational Act", article 20 of this title.

(3) For purposes of this section, "categorical program support funds that the district would otherwise be eligible to receive from the state" means amounts that the district would have received from the state but that will be received instead from property tax revenues by reason of this section and includes funds pursuant to the "Exceptional Children's Educational Act", article 20 of this title 22; funds pursuant to the "English Language Proficiency Act", article 24 of this title 22; transportation aid pursuant to article 51 of this title 22; small attendance center aid pursuant to section 22-54-122; and career and technical education aid pursuant to article 8 of title 23. Funds received by an administrative unit under the "Exceptional Children's Educational Act", article 20 of this title 22, as reimbursement for services provided to children counted in the pupil enrollment of a district are considered as funds that a district would otherwise be eligible to receive for purposes of this subsection (3).

(4) In a budget year in which the provisions of section 22-54-104 (5)(g) apply, the department of education shall use the amount of categorical program support funds replaced by property tax revenue pursuant to the provisions of section 22-54-104 (5)(g)(IV) and (5)(g)(V) to make payments of categorical program support funds to eligible districts as specified in subsection (2) of this section.

(5) For the 2016-17 budget year and each budget year thereafter, if a district levies the number of mills calculated pursuant to section 22-54-106 (2)(a)(II), (2.1)(b)(I)(C), or (2.1)(c)(I), whichever is applicable, and the additional mill levy described in subsection (1) of this section for categorical support funds, and the combined total of the two levies is less than the number of mills that the district levied in the preceding budget year, the district, in addition to the two levies, shall assess a number of mills equal to the difference between the combined total of the two levies and the number of mills levied in the preceding budget year. The district shall deposit the property tax revenue collected from the mills levied pursuant to this subsection (5) in the total program reserve fund created in section 22-45-103 (1)(k).

**Source: L. 94:** Entire article added with relocations, p. 793, § 2, effective April 27. **L. 95:** (1) amended, p. 619, § 19, effective May 22. **L. 98:** (2) and (3) amended, p. 971, § 14, effective May 27. **L. 2007:** (1) amended, p. 736, § 6, effective May 9. **L. 2010:** (4) added, (HB 10-1369), ch. 246, p. 1099, § 6, effective May 21. **L. 2016:** IP(2) amended and (5) added, (HB 16-1422), ch. 351, pp. 1430, 1432, §§ 3, 6, effective June 10. **L. 2017:** (3) amended, (SB 17-294), ch. 264, p. 1397, § 53, effective May 25. **L. 2020:** (1) and (5) amended, (HB 20-1418), ch. 197, p. 955, § 38, effective June 30.

**Cross references:** For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

**22-54-107.5. Authorization of additional local revenues for supplemental cost of living adjustment.** (1) Except as otherwise provided in subsection (6) of this section, notwithstanding any law to the contrary, effective July 1, 2001, any district that desires to raise and expend local property tax revenues in excess of the district's total program, as determined in accordance with section 22-54-104, and in addition to any property tax revenues levied pursuant to sections 22-54-107 and 22-54-108, may submit the question of whether the district should be authorized to raise and expend additional local property tax revenues, subject to the limitations of paragraph (a) of subsection (3) of this section, thereby authorizing an additional levy in excess of the levy authorized under sections 22-54-106, 22-54-107, and 22-54-108, to provide a supplemental cost of living adjustment for the district for the then current budget year and each budget year thereafter. The question authorized by this subsection (1) shall be submitted at an election held in accordance with section 20 of article X of the state constitution and title 1, C.R.S.

(2) Except as otherwise provided in subsection (6) of this section, notwithstanding any law to the contrary, effective July 1, 2001, upon proper submittal to a district of a valid initiative petition, the district shall submit to the eligible electors of the district the question of whether the district should be authorized to raise and expend additional local property tax revenues in excess of the district's total program, as determined in accordance with section 22-54-104, and in addition to any property tax revenues levied pursuant to sections 22-54-107 and 22-54-108, subject to the limitations of paragraph (a) of subsection (3) of this section, thereby authorizing an additional levy in excess of the levy authorized under sections 22-54-106, 22-54-107, and 22-54-108, to provide a supplemental cost of living adjustment for the district for the then current budget year and each budget year thereafter. The question authorized by this subsection (2) shall be submitted at an election held in accordance with section 20 of article X of the state constitution and title 1, C.R.S. An initiative petition under this subsection (2) shall be signed by at least five percent of the eligible electors in the district at the time the petition is filed.

(3) (a) The maximum dollar amount of property tax revenue that a district can generate pursuant to this section for any given budget year shall not exceed the difference between what would be the district's total program for the 2001-02 budget year if calculated using the district's adjusted cost of living factor for the 2001-02 budget year and the district's total program for the 2001-02 budget year calculated pursuant to section 22-54-104.

(b) For purposes of determining a district's total program for the 2001-02 budget year if calculated using the district's adjusted cost of living factor, "per pupil funding" under section 22-54-104 (2)(a.5)(IV), as said section existed prior to its repeal in 2003, shall be calculated using the size factor used in the calculation for the prior budget year or the size factor used in the calculation for the 2001-02 budget year, whichever is less, the cost of living factor for the prior budget year, and the at-risk factor calculated for the district using a base at-risk factor of eleven and one-half percent.

(c) For purposes of this subsection (3), "adjusted cost of living factor" means the district's cost of living factor determined by dividing the district's cost of living amount by the lowest cost of living amount of all districts in the state from the current cost of living study, rounded to the nearest one-thousandth of one percent.

(4) If the maximum dollar amount of property tax revenue allowed for any given budget year pursuant to paragraph (a) of subsection (3) of this section will not be generated by the levy of the total number of mills levied by the district pursuant to this section for the immediately

preceding budget year, the total number of mills levied by the district pursuant to this section shall not be increased unless the district submits the question of the increase to the eligible electors in the manner provided in subsection (1) of this section or unless the question of the increase is submitted to the eligible electors by initiative in the manner provided in subsection (2) of this section.

(5) Notwithstanding the provisions of section 20 of article X of the state constitution which allow districts to seek voter approval for spending and revenue increases, the provisions of subsection (3) of this section shall limit a district's authority to raise and expend local property tax revenues in excess of the district's total program as determined in accordance with section 22-54-104.

(6) On and after June 7, 2002, no question shall be submitted to the eligible electors of a district pursuant to subsection (1) or (2) of this section.

**Source: L. 2001:** Entire section added, p. 364, § 34, effective April 16. **L. 2002:** (1), (2), (3)(a), and (3)(b) amended and (6) added, p. 1740, § 13, effective June 7. **L. 2004:** (3)(b) amended, p. 1199, § 56, effective August 4.

**22-54-108. Authorization of additional local revenues.** (1) Effective July 1, 1994, a district which desires to raise and expend local property tax revenues in excess of the district's total program, as determined in accordance with section 22-54-104, may submit the question of whether the district should be authorized to raise and expend additional local property tax revenues, subject to the limitations of subsection (3) of this section, thereby authorizing an additional levy in excess of the levy authorized under section 22-54-106 for the district's general fund for the then current budget year and each budget year thereafter. The question authorized by this subsection (1) shall be submitted at an election held in accordance with section 20 of article X of the state constitution and title 1, C.R.S.

(2) Effective July 1, 1994, upon proper submittal to a district of a valid initiative petition, the district shall submit to the eligible electors of the district the question of whether the district should be authorized to raise and expend additional local property tax revenues in excess of the district's total program as determined in accordance with section 22-54-104, subject to the limitations of subsection (3) of this section, thereby authorizing an additional levy in excess of the levy authorized under section 22-54-106 for the district's general fund for the then current budget year and each budget year thereafter. The question authorized by this subsection (2) shall be submitted at an election held in accordance with section 20 of article X of the state constitution and title 1, C.R.S. An initiative petition under this subsection (2) shall be signed by at least five percent of the eligible electors in the district at the time the petition is filed.

(3) (a) Notwithstanding the provisions of section 20 of article X of the state constitution which allow districts to seek voter approval for spending and revenue increases, the provisions of this subsection (3) shall limit a district's authority to raise and expend local property tax revenues in excess of the district's total program as determined in accordance with section 22-54-104.

(b) (I) Except as otherwise provided in subparagraphs (II), (III), and (IV) of this paragraph (b), the total additional local property tax revenues that may be received pursuant to elections held pursuant to this section shall not exceed under any circumstances twenty percent

of the district's total program, as determined pursuant to section 22-54-104 (2), or two hundred thousand dollars, whichever is greater.

(II) (A) Effective July 1, 2002, and subject to the provisions of sub-subparagraph (B) of this subparagraph (II), the total additional local property tax revenues that may be received pursuant to elections held pursuant to this section shall not exceed under any circumstances twenty percent of the district's total program, as determined pursuant to section 22-54-104 (2), or two hundred thousand dollars, whichever is greater, plus an amount equal to the maximum dollar amount of property tax revenue that the district could have generated for the 2001-02 budget year if, in accordance with the provisions of section 22-54-107.5, the district submitted a question to and received approval of the eligible electors of the district at an election held in November 2001.

(B) Regardless of the applicability of section 22-54-104 (5)(g), for the purposes of this subparagraph (II), a district's total program shall be the amount calculated pursuant to section 22-54-104 (2).

(III) (A) On and after May 21, 2009, and subject to the provisions of sub-subparagraph (B) of this subparagraph (III), the total additional local property tax revenues that may be received pursuant to an election held pursuant to this section shall not exceed under any circumstances twenty-five percent of the district's total program, as determined pursuant to section 22-54-104 (2), or two hundred thousand dollars, whichever is greater, plus an amount equal to the maximum dollar amount of property tax revenue that the district could have generated for the 2001-02 budget year if, in accordance with the provisions of section 22-54-107.5, the district submitted a question to and received approval of the eligible electors of the district at an election held in November 2001.

(B) Regardless of the applicability of section 22-54-104 (5)(g), for purposes of this subparagraph (III), a district's total program shall be the amount calculated pursuant to section 22-54-104 (2).

(IV) (A) On and after May 22, 2015, and subject to the provisions of sub-subparagraph (B) of this subparagraph (IV), the total additional local property tax revenues that a small rural district may receive pursuant to an election held pursuant to this section shall not exceed under any circumstances thirty percent of the small rural district's total program, as determined pursuant to section 22-54-104 (2), or two hundred thousand dollars, whichever is greater, plus an amount equal to the maximum dollar amount of property tax revenue that the small rural district could have generated for the 2001-02 budget year if, in accordance with the provisions of section 22-54-107.5, the small rural district submitted a question to and received approval of the eligible electors of the district at an election held in November 2001.

(B) Regardless of the applicability of section 22-54-104 (5)(g), for purposes of this subparagraph (IV), a small rural district's total program is the amount calculated pursuant to section 22-54-104 (2).

(C) For purposes of this subparagraph (IV), a "small rural district" is a district in Colorado that the department of education determines is rural, based on the geographic size of the district and the distance of the district from the nearest large, urbanized area, and that enrolls fewer than one thousand students in kindergarten through twelfth grade.

(c) (Deleted by amendment, L. 2008, p. 1196, § 7, effective May 22, 2008.)

(d) (I) In applying the limitation in this subsection (3) to elections held after July 1, 1994, any additional local property tax revenues authorized at elections held under the

provisions of former section 22-53-117 prior to July 1, 1994, shall be counted towards such limitation.

(II) (Deleted by amendment, L. 2009, (SB 09-256), ch. 294, p. 1553, § 6, effective May 21, 2009.)

(II.5) Any portion of the specific ownership tax paid to the district shall not apply to the limitation in this subsection (3).

(III) If the additional local property tax revenues already authorized and the specific ownership tax revenue, if any, exceeds the limitation, the district shall not be authorized to hold an election pursuant to the provisions of this section until the limitation is greater than the additional local property tax revenues already authorized and the specific ownership tax revenue, if any.

(e) (I) If a district's levy is reduced pursuant to section 22-54-106 (2)(b)(I), the provisions of this paragraph (e), as well as the provisions of paragraph (d) of this subsection (3), shall apply in calculating the limitation of this subsection (3).

(II) In applying the limitation of this subsection (3), the difference between the district's total program for the 1994-95 budget year, as calculated pursuant to section 22-54-104.3 (3), and the district's total program for the 1994-95 budget year, as calculated pursuant to section 22-54-104 (2), shall be counted toward such limitation.

(f) In applying the limitation of this subsection (3), the amount of property tax generated pursuant to section 22-54-106 (2)(b)(III) shall be counted toward such limitation.

(g) (Deleted by amendment, L. 2008, p. 1196, § 7, effective May 22, 2008.)

(h) In applying the limitation in subparagraph (II) of paragraph (b) of this subsection (3) to elections held after July 1, 2002, any additional local property tax revenues authorized at an election held in November 2001 under the provisions of section 22-54-107.5 shall be counted towards such limitation.

(i) Nothing in this section shall affect the ability of a district to collect taxes pursuant to an election held pursuant to this section prior to May 22, 2008.

(4) (Deleted by amendment, L. 2010, (HB 10-1013), ch. 399, p. 1904, § 13, effective June 10, 2010.)

**Source: L. 94:** Entire article added with relocations, p. 794, § 2, effective April 27. **L. 95:** (3)(b) amended and (3)(d)(II.5) and (3)(e) to (3)(g) added, pp. 616, 617, §§16, 17, effective May 22. **L. 96:** (1), (2), and (3)(f) amended, p. 1794, § 7, effective June 4. **L. 2002:** (3)(b) amended and (3)(h) added, p. 1741, § 14, effective June 7. **L. 2008:** (3)(b), (3)(c), and (3)(g) amended and (3)(i) added, p. 1196, § 7, effective May 22. **L. 2009:** (3)(b), (3)(d)(II), and (3)(d)(II.5) amended and (4) added, (SB 09-256), ch. 294, pp. 1552, 1553, §§ 5, 6, effective May 21. **L. 2010:** (3)(b)(II) and (3)(b)(III) amended, (HB 10-1369), ch. 246, p. 1099, § 7, effective May 21; (3)(b)(III) and (4) amended, (HB 10-1013), ch. 399, p. 1904, § 13, effective June 10. **L. 2015:** (3)(b)(I) amended and (3)(b)(IV) added, (HB 15-1321), ch. 217, p. 801, § 11, effective May 22.

**Editor's note:** Amendments to subsection (3)(b)(III) by House Bill 10-1369 and House Bill 10-1013 were harmonized.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsections (3)(b), (3)(c), and (3)(g) and enacting subsection (3)(i), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-54-108.5. Authorization of additional local revenues for full-day kindergarten - definitions.** (1) (a) Notwithstanding any law to the contrary, effective July 1, 2007, any district that chooses to raise and expend local property tax revenues in excess of the district's total program, as determined in accordance with section 22-54-104, and in addition to any property tax revenues levied pursuant to sections 22-54-107 and 22-54-108, may submit the question of whether the district should be authorized to raise and expend additional local property tax revenues, thereby authorizing an additional levy in excess of the levy authorized under sections 22-54-106, 22-54-107, and 22-54-108, to provide funding for excess full-day kindergarten program costs in the district for the then-current budget year and each budget year thereafter. The question authorized by this paragraph (a) may also include a question of whether to impose an additional mill levy of a stated amount and limited duration to meet the initial capital construction needs of the district associated with the establishment of a full-day kindergarten program. If a mill levy for capital construction needs associated with the district's full-day kindergarten program is approved for more than one year, the board of education of the district may, without calling an election, decrease the amount or duration of the mill levy in subsequent years. The questions authorized by this paragraph (a) shall be submitted at an election held in accordance with section 20 of article X of the state constitution and title 1, C.R.S.

(b) Notwithstanding any law to the contrary, effective July 1, 2007, upon proper submittal to a district of a valid initiative petition, the district shall submit to the eligible electors of the district the question of whether the district should be authorized to raise and expend additional local property tax revenues in excess of the district's total program, as determined in accordance with section 22-54-104, and in addition to any property tax revenues levied pursuant to sections 22-54-107 and 22-54-108, thereby authorizing an additional levy in excess of the levy authorized under sections 22-54-106, 22-54-107, and 22-54-108, to provide funding for excess full-day kindergarten program costs in the district for the then-current budget year and each budget year thereafter. The question authorized by this paragraph (b) may also include a question of whether to impose an additional mill levy of a stated amount and limited duration to meet the initial capital construction needs of the district associated with the establishment of a full-day kindergarten program. If a mill levy for capital construction needs associated with the district's full-day kindergarten program is approved for more than one year, the board of education of the district may, without calling an election, decrease the amount or duration of the mill levy in subsequent years. The questions authorized by this paragraph (b) shall be submitted at an election held in accordance with section 20 of article X of the state constitution and title 1, C.R.S. An initiative petition under this paragraph (b) shall be signed by at least five percent of the eligible electors in the district at the time the petition is filed.

(c) If a majority of the votes cast in an election held pursuant to paragraph (a) or (b) of this subsection (1) are in favor of the question, an additional mill levy shall be levied each year, and the revenues received from the additional mill levy shall be deposited in the full-day kindergarten fund of the district created in section 22-45-103 (1)(h). If the district obtained voter approval for an additional mill levy to meet the capital construction needs associated with the

district's full-day kindergarten program, the revenues generated from that mill levy shall be deposited in the capital construction account of the district's full-day kindergarten fund.

(d) For purposes of this section, "excess full-day kindergarten program costs" means the costs that exceed fifty percent of the district's per-pupil revenues for the budget year in which the election is held, multiplied by the number of pupils enrolled or expected to enroll in the district's full-day kindergarten program.

(e) Notwithstanding the provisions of section 20 of article X of the state constitution that allow districts to seek voter approval for spending and revenue increases, the provisions of this subsection (1) shall limit a district's authority to raise and expend local property tax revenues in excess of the district's total program as determined in accordance with section 22-54-104.

(2) A district that obtains voter approval pursuant to this section to impose an additional mill levy to fund excess full-day kindergarten program costs in the district shall:

(a) Establish its full-day kindergarten program using evidence-based research demonstrating the types of programs and methods appropriate for a full-day kindergarten program;

(b) Not limit the ability of parents enrolling a child in the district to enroll the child in a half-day kindergarten program; and

(c) Not be authorized to serve children through a full-day kindergarten component of the district's preschool program established pursuant to article 28 of this title.

(3) Notwithstanding any provision of law to the contrary, a district that provides and funds a full-day kindergarten program with moneys generated by the imposition of an additional mill levy as authorized by this section may charge tuition to a pupil who does not reside in the district for the excess full-day kindergarten program costs; except that such tuition charge shall not exceed the actual cost for providing the program as determined by the district providing the full-day kindergarten program.

**Source: L. 2007:** Entire section added, p. 35, § 1, effective March 7.

**22-54-108.7. Authorization of additional local revenues for cash funding of capital construction, new technology, existing technology upgrade, and maintenance needs - definition.** (1) (a) Notwithstanding any law to the contrary, any district that chooses to raise and expend local property tax revenue in excess of the district's total program, as determined in accordance with section 22-54-104, and in addition to any revenue generated by property tax levied pursuant to sections 22-54-106, 22-54-107, 22-54-107.5, 22-54-108, and 22-54-108.5, may submit the question of whether the district should be authorized to raise and expend additional local property tax revenue, thereby authorizing an additional levy in excess of the levy authorized under sections 22-54-106, 22-54-107, and 22-54-108, to provide ongoing cash funding for the capital construction, new technology, existing technology upgrade, and maintenance needs of the district. A question authorized by this paragraph (a) must be submitted at an election held in accordance with section 20 of article X of the state constitution and title 1, C.R.S.

(b) If a majority of the votes cast in an election held pursuant to paragraph (a) of this subsection (1) are in favor of the question, the district shall levy an additional mill levy each year and shall deposit the revenue received from the additional mill levy into the supplemental capital

construction, technology, and maintenance fund of the district created in section 22-45-103 (1)(j).

(2) For purposes of this section, "capital construction" has the same meaning as set forth in section 24-30-1301 (2), C.R.S.

**Source: L. 2016:** Entire section added, (HB 16-1354), ch. 166, p. 529, § 3, effective May 17.

**22-54-109. Attendance in district other than district of residence.** (1) Districts paying tuition for pupils of residence in the district to attend public schools in other Colorado school districts and in school districts of adjoining states shall report and be entitled to support for such pupils; except that no district shall report any pupil who is from another district and whose tuition is paid by the pupil's district of residence.

(2) Any court of record, the department of social services, or any other agency authorized to place a child in a residential child care facility shall notify the school district of residence of such child, the district in which the child will receive educational services, and the department of education of such placement within fifteen days after the placement.

(3) (Deleted by amendment, L. 2008, p. 1197, § 8, effective May 22, 2008.)

(4) For a child with disabilities residing in a particular school district but receiving educational services from another school district, the state average per pupil revenues shall be the district of residence's total responsibility under this article for the education of that child. The provisions of this subsection (4) shall not apply to children with disabilities enrolled in an interdistrict participating school district pursuant to the provisions of article 36 of this title.

**Source: L. 94:** Entire article added with relocations, p. 796, § 2, effective April 27. **L. 2008:** (3) and (4) amended, p. 1197, § 8, effective May 22. **L. 2010:** (4) amended, (HB 10-1013), ch. 399, p. 1915, § 43, effective June 10.

**Editor's note:** This section is similar to former § 22-53-104 as it existed prior to 1994.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsections (3) and (4), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-54-110. Loans to alleviate cash flow deficits - lease-purchase agreements.** (1) (a) (I) Upon approval by the state treasurer of an application to participate in an interest-free or low-interest loan program submitted by a district pursuant to paragraph (a.5) of this subsection (1), the state treasurer shall make available to such district in any month of the budget year an interest-free or low-interest loan from the state general fund or the proceeds of the tax and revenue anticipation notes issued pursuant to section 29-15-112, C.R.S., in an amount for the month as certified by the chief financial officer and the superintendent of the district.

(II) The state treasurer shall determine the methodology for the calculation of cash deficits and establish reporting mechanisms necessary to ensure consistent and accurate reporting of cash deficits. No loan shall be made in any month unless the district has demonstrated, through the submission of any actual or projected financial or budgetary statements required by the state treasurer that a general fund cash deficit will exist for that

month, and that the district has the capacity to repay the loan by June 25th of the state fiscal year in which the loan shall be made. This subparagraph (II) shall apply to a loan made from the state general fund or the proceeds of the tax and revenue anticipation notes issued pursuant to section 29-15-112, C.R.S.

(a.5) A district that chooses to participate in the interest-free or low-interest loan program shall submit an application to the state treasurer. On and after March 25, 2003, a district's initial application to participate in the interest-free or low-interest loan program shall be subject to approval by a resolution adopted by the district board of education as follows:

(I) For a month in which the district seeks an emergency loan pursuant to paragraph (d) of this subsection (1), the chief financial officer of the district and the district superintendent shall present the emergency loan request to the district board of education, explaining the need for the emergency loan and the requested amount. The district board of education, by majority vote, shall approve or disapprove the emergency loan request and the amount. If the district board of education approves the emergency loan request, the chief financial officer and the district superintendent shall request the emergency loan from and certify the amount of the emergency loan to, as approved by the district board of education, the state treasurer as provided in paragraph (a) of this subsection (1).

(II) If, in order to receive an interest-free loan, a district seeks to have tax and revenue anticipation notes issued on its behalf pursuant to section 29-15-112, C.R.S., the chief financial officer of the district and the district superintendent shall present a request to the district board of education to participate in the interest-free loan program and to have tax and revenue anticipation notes issued on its behalf. Such request shall explain the district's anticipated cash flow deficit for the upcoming calendar year and the total amount of tax and revenue anticipation notes that need to be issued on its behalf to cover such deficit. The district board of education, by majority vote, shall approve or disapprove the participation in the interest-free loan program and the amount of tax anticipation and revenue notes that shall be issued on behalf of the district. If the district board of education approves the participation in the interest-free loan program and the issuance of tax and revenue anticipation notes, the chief financial officer and the district superintendent shall certify to the state treasurer the amount of the tax and revenue notes, as approved by the district board of education, that shall be issued on behalf of the district. Thereafter, a district shall not be required to receive approval for an interest-free loan made from the proceeds of the tax and revenue anticipation notes that received prior approval by the district board of education.

(b) A loan may not be made under this section to cover a foreseeable level of uncollectible property taxes, nor may a loan be used by a district for the simultaneous purchase and sale of the same security or an equivalent security in order to profit from price disparity.

(c) Except as otherwise provided in paragraph (d) of this subsection (1), all loans to a district shall be made from the proceeds of the tax and revenue anticipation notes issued pursuant to section 29-15-112, C.R.S.

(d) If the amount of the tax and revenue anticipation notes, if any, issued on behalf of a district as determined by the state treasurer pursuant to section 29-15-112 (2)(f), C.R.S., is not sufficient to cover a district's cash deficit, then the state treasurer may, in his or her discretion, make available to such district an emergency loan from the state general fund. The emergency loan shall accrue interest at the same rate as the rate of interest paid by the state treasurer on notes issued by the state pursuant to part 9 of article 75 of title 24, C.R.S.

(2) (a) For the months of March, April, and May of each budget year, any district receiving a loan under the provisions of paragraph (d) of subsection (1) of this section shall begin to repay such loan if the district's available resources, as of the last day of the month, increased by the next month's revenues exceed the next month's expenditures plus a cash reserve. The excess resources must be remitted to the state treasurer by the close of business on the fifteenth day, or the first business day following the fifteenth day, of the following month. All loans shall be repaid by June 25 of the state fiscal year in which the loan was made or on a later alternative date as determined by the state treasurer.

(a.5) For the months of March, April, and May of each budget year, any district receiving a loan under the provisions of paragraph (c) of subsection (1) of this section shall begin to repay such loan as established by the district's agreement with the state treasurer. All loans shall be repaid by June 25 of the state fiscal year in which the loan was made or on a later alternative date as determined by the state treasurer.

(a.7) If a district defaults on a loan that is made from the proceeds of the tax and revenue anticipation notes issued pursuant to section 29-15-112, C.R.S., by failing to repay the loan on or before the date required, interest shall accrue on the unpaid balance from the date of default until the loan is repaid in an amount that is equal to the interest paid by the state treasurer on notes issued by the state pursuant to part 9 of article 75 of title 24, C.R.S.

(b) For purposes of paragraph (a) of this subsection (2):

(I) "Available resources" means any available cash and investments in district funds which can be used to alleviate general fund cash shortfalls including, but not limited to, the district's capital reserve fund and any fund or account within the general fund established solely for the management of risk-related activities. "Available resources" shall not include cash that is legally segregated or pledged by contract or rule and regulation of the state board.

(II) "Cash reserve" means eight percent of the district's average monthly expenditures or twenty thousand dollars, whichever is greater.

(c) A lien in the amount of any such loan, plus any interest specified in paragraph (a.7) of this subsection (2), shall attach to any district property tax revenues, except for bond redemption fund revenues, collected during the state fiscal year in which the loan was made, and such lien shall have priority over all other expenditures from such revenues until the loan shall have been repaid in full. The county treasurer of the county in which the headquarters of the district are located shall be jointly responsible with the district for repayment of any loan made pursuant to this section, plus any interest specified in paragraph (a.7) of this subsection (2). If a district fails to repay a loan to the state treasurer in accordance with the provisions of this section, the state treasurer shall notify the county treasurer of the county in which the district is located that the district is in default on the loan and the amount of the default, plus any interest specified in paragraph (a.7) of this subsection (2). The county treasurer shall withhold any moneys of the district in the county treasurer's possession in an amount equal to the amount of the default, plus any interest specified in paragraph (a.7) of this subsection (2), and transmit said moneys to the state treasurer. If the amount of moneys of the district in the county treasurer's possession at the time notice of the default is given is less than the amount of the default, the county treasurer shall withhold additional moneys of the district until such time as the default, plus any interest specified in paragraph (a.7) of this subsection (2), has been completely paid to the state treasurer.

(d) (I) A district may sell real property to the state treasurer pursuant to the provisions of this paragraph (d) if:

(A) The district has been denied a loan pursuant to the provisions of this section in which case the fair market value of the property shall be equal to or greater than the amount of the purchase price; or

(B) The district is unable to pay a loan back in the same state fiscal year in which the loan was made in which case the fair market value of the real property shall be equal to or greater than the outstanding balance of the loan to the state treasurer.

(II) Such sale may only be made if:

(A) At the same time of the sale, the state treasurer leases back all of the property to the district pursuant to a lease-purchase agreement that is subject to annual appropriation by the school district;

(B) The district pays any legal or other transaction costs incurred by the state treasurer related to the sale of the property and the lease-purchase agreement; and

(C) The state treasurer agrees to the sale of the property and the lease-purchase agreement.

(III) The provisions of paragraph (c) of this subsection (2) shall not apply to the lease-purchase agreement, and no lien shall attach to any district tax revenues in order to secure the district's lease payments. The lease-purchase agreement shall not authorize the district to receive fee title to the property that is the subject of the lease-purchase agreement prior to the expiration of the terms of the lease-purchase agreement.

(IV) Sections 24-82-102 (1)(b) and 24-82-801, C.R.S., shall not apply to the lease-purchase agreement.

(V) If a district defaults in the payment of rent required by the lease-purchase agreement, it shall have thirty days to cure such default. If after thirty days the district has not cured the default and if the district remains in possession of the property, the state treasurer shall recover possession of the property pursuant to the provisions of article 40 of title 13, C.R.S. If a court enters a judgment in favor of the state treasurer and issues a writ of restitution pursuant to section 13-40-115, C.R.S., the state treasurer shall liquidate the property to the best advantage of the state.

(3) The state treasurer shall consult with the department of education concerning the administration of the loan program under this section in order to assure that it is implemented in a manner that will minimize the amount of emergency loans needed by each district.

(4) A district receiving a loan pursuant to this section shall be subject to an audit conducted by, or contracted for by, the state auditor and shall be penalized through the withholding of state aid in the event an audit finds the district used the loan in a manner contrary to the provisions of this section.

**Source: L. 94:** Entire article added with relocations, p. 797, § 2, effective April 27. **L. 97:** (2)(b)(I) amended, p. 585, § 13, effective April 30. **L. 2002:** (2)(a) amended, p. 550, § 1, effective July 1. **L. 2003:** (1)(a) amended and (1)(a.5) added, p. 757, § 1, effective March 25; (2)(d) added, p. 1287, § 2, effective April 22; (1)(a), (1)(a.5), (2)(a), (2)(c), and (3) amended and (1)(c), (1)(d), (2)(a.5), and (2)(a.7) added, pp. 2172, 2174, 2175, §§ 2, 3, 4, effective July 1. **L. 2007:** (1)(b) amended, p. 631, § 7, effective April 26. **L. 2016:** (1)(b) amended, (SB 16-189), ch. 210, p. 763, § 39, effective June 6.

**Editor's note:** This section is similar to former § 22-53-122.5 as it existed prior to 1994.

**22-54-111. Adjustments in valuation for assessment.** (1) For each budget year, in calculating the total amount of revenue which a district is entitled to receive from the property tax levy for the general fund of a district during the budget year, the valuation for assessment of a district shall be adjusted as provided in subsection (2) of this section.

(2) If the valuation for assessment of a district includes the value of a certain property that was formerly tax-exempt but becomes taxable as a result of a change in the applicable state law and said inclusion is challenged by administrative appeal or litigation or both and the property taxes attributable to said property are not paid pending the outcome of said challenge, the valuation for assessment attributable to said property shall be subtracted from the valuation for assessment of the school district. If said property is finally determined to have been properly included in the district's valuation for assessment, the valuation for assessment attributable to said property shall be restored to the district's valuation for assessment, and the state general fund shall be reimbursed in full by the school district after collection of taxes, plus interest at the same rate as provided by statute for penalty interest on unpaid property taxes.

**Source: L. 94:** Entire article added with relocations, p. 798, § 2, effective April 27.

**Editor's note:** This section is similar to former § 22-53-118 as it existed prior to 1994.

**22-54-112. Reports to the state board.** (1) On or before November 15 of each year, the property tax administrator shall certify to the state board the valuations for assessment of all taxable property within each county and for each district or portion of a joint district in each county, with the exception of the city and county of Denver, for which the time of certification shall be on or before December 20. The furnishing of certified copies of the board of county commissioners' certification of levies and revenue to the county assessor and the property tax administrator, as provided by section 39-1-111 (2), C.R.S., shall be considered as having fulfilled the requirement of this section.

(2) (a) On or before November 10 of each year, the secretary of the board of education of each district shall certify to the state board the pupil enrollment, the online pupil enrollment, the extended high school pupil enrollment, and the preschool program enrollment of the district taken in the preceding October or previously in November.

(b) Repealed.

(c) On or before November 10 of each year, the secretary of the state charter school institute board shall certify to the state board the pupil enrollment and the online pupil enrollment of each institute charter school taken in the preceding October.

(3) If the valuation for assessment for all or a part of any district has been divided for an urban renewal area, pursuant to section 31-25-107 (9)(a), C.R.S., any report under this section shall be based upon that portion of the valuation for assessment under said section 31-25-107 (9)(a)(I), C.R.S., so long as such division remains in effect.

(4) (a) Except as otherwise provided in paragraph (b) of this subsection (4), every school of a district, charter school of a district, and institute charter school shall include in the materials for pupil registration the pupil application form to participate under the federal "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq., referred to in this subsection

(4) as the "pupil application form". The registration materials shall include an explanation to parents that the pupil application form will be used by the school of the district, district charter school, or institute charter school to determine whether the school of the district, district charter school, or institute charter school is eligible for at-risk funding on behalf of the pupil and that, by filling out the form, the parent is ensuring that the school district or school will receive the at-risk funding to which it is entitled based on the population of at-risk pupils served by the school district or school.

(b) If one or more schools of a school district or if a district charter school or an institute charter school does not participate in the federal child nutrition programs under the federal "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq., or the federal "Child Nutrition Act of 1966", 42 U.S.C. sec. 1771 et seq., the school district, the district charter school, or the institute charter school shall use the family economic data survey form created by the department of education to identify those pupils who qualify as at-risk pupils in lieu of the pupil application form.

(c) In certifying the pupil enrollment pursuant to subsection (2) of this section, the secretary of the board of education of each district and the secretary of the state charter school institute board shall specify as at-risk pupils those pupils identified through use of the pupil application form and the family economic data survey form.

**Source: L. 94:** Entire article added with relocations, p. 799, § 2, effective April 27. **L. 2002:** (2) amended, p. 1737, § 7, effective June 7. **L. 2003:** (2)(a) amended, p. 2124, § 13, effective May 22. **L. 2004:** (2)(c) added, p. 1639, § 45, effective July 1; (2)(b) repealed, p. 1199, § 57, effective August 4. **L. 2005:** (2)(a) amended, p. 1006, § 2, effective June 2. **L. 2006:** (2)(a) amended, p. 699, § 44, effective April 28. **L. 2008:** (4) added, p. 1198, § 9, effective May 22. **L. 2009:** (2)(a) amended, (HB 09-1319), ch. 286, p. 1320, § 10, effective May 21; (2)(a) amended, (SB 09-292), ch. 369, p. 1964, § 65, effective August 5. **L. 2015:** (2)(a) amended, (HB 15-1270), ch. 195, p. 658, § 4, effective August 5.

**Editor's note:** (1) This section is similar to former § 22-53-119 as it existed prior to 1994.

(2) Amendments to subsection (2)(a) by Senate Bill 09-292 and House Bill 09-1319 were harmonized.

**Cross references:** For the legislative declaration contained in the 2008 act enacting subsection (4), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-54-113. County public school fund.** (1) There is hereby created in the office of the county treasurer of each county a continuing fund, to be known as the county public school fund, into which shall be paid the proceeds of all county school moneys.

(2) Each district in the county shall be entitled to receive distribution during a budget year of moneys in the county public school fund in the proportion that its funded pupil count in the county is to the aggregate of the funded pupil counts of all districts in the county.

(3) The department of education shall determine the proportionate part of the county public school fund to be paid during the budget year to each district in the county and, on or before the first day of each budget year, shall certify such determination to the county treasurer.

The certified proportions shall be the basis upon which the moneys in the fund shall be distributed during the ensuing budget year. At the end of each month during such year, the county treasurer shall credit or pay over the proper proportions of the moneys in the fund to the general funds of the districts in the county.

(4) For the purpose of determination and certification by the state board and distribution of moneys in the fund, the funded pupil count of a joint district shall be apportioned and assigned to the portion of the district in each county having territory in the district in the same proportion as the portion of the district's funded pupil count attributable to pupils resident in each county bears to the total funded pupil count of the joint district. The secretary of the board of education of each joint district shall certify to the state board the required information applicable to each county.

**Source: L. 94:** Entire article added with relocations, p. 799, § 2, effective April 27.

**Editor's note:** This section is similar to former § 22-53-120 as it existed prior to 1994.

**22-54-114. State public school fund.** (1) There is hereby created in the office of the state treasurer a fund, separate from the general fund, to be known as the state public school fund. There shall be credited to said fund the net balance of the public school income fund existing as of December 31, 1973, and all distributions from the state public school income fund thereafter made, the state's share of all moneys received from the federal government pursuant to the provisions of section 34-63-102, C.R.S., and such additional moneys as shall be appropriated by the general assembly which are necessary to meet the state's share of the total program of all districts, funding for institute charter schools, and, for fiscal years prior to the 2007-08 fiscal year, the contingency reserve during the budget year. Moneys annually appropriated by the general assembly shall be transferred from the state general fund and credited to the state public school fund in four quarterly installments on July 1, September 30, December 31, and March 31 to assure the availability of funds for the required distribution of state moneys to school districts and institute charter schools. Such quarterly installments shall be determined in accordance with estimates prepared by the department of education with respect to the required distribution of state moneys to school districts and institute charter schools.

(1.5) Repealed.

(2) No later than thirty days prior to the beginning of the budget year, the department of education shall determine the estimated requirements in order to provide each district and each institute charter school the amount it is eligible to receive from the state during the next ensuing fiscal year of the state. The appropriation by the general assembly shall be based on the requirements necessary to provide all districts and institute charter schools with the amounts they are each eligible to receive from the state, pursuant to the provisions of this part 1, during the next ensuing fiscal year of the state.

(2.3) Notwithstanding any provision of this article to the contrary, of the total amount appropriated by the general assembly in the annual appropriation bill for each budget year to meet the state's share of the total program of all districts and the total funding for all institute charter schools, the department of education may transfer an amount specified by the general assembly in the annual general appropriation bill for that budget year to offset the direct and indirect administrative costs incurred by the department in implementing the provisions of this

article. The total program of each district that receives state aid and the total funding for each institute charter school shall be reduced by a percentage determined by dividing the amount of the transfer by the total program of all districts that receive state aid plus the total funding for all institute charter schools. The state aid of each district shall be reduced by the amount of the reduction in the district's total program or the amount of state aid, whichever is less. The department of education shall ensure that the reduction in state aid and institute charter school funding required by this subsection (2.3) is accomplished prior to the end of the budget year. The reductions described in this subsection (2.3) shall be in addition to any reduction that may be required pursuant to section 22-54-106 (4)(c).

(2.5) Repealed.

(2.7) The general assembly intends that the moneys transferred to the state public school fund pursuant to section 24-75-201.1 (1)(d)(XI.5), C.R.S., pursuant to Senate Bill 11-230, enacted in 2011, be available for appropriation during the 2011-12 budget year to account for mid-year changes in pupil enrollment and the at-risk pupil population and changes in assessed valuations and the specific ownership tax from the prior year.

(3) (a) Any unexpended balance of moneys appropriated by the general assembly in the state public school fund at the end of each fiscal year shall remain in the state public school fund and become available for distribution during the following fiscal year.

(b) (Deleted by amendment, L. 2007, p. 625, § 2, effective April 26, 2007.)

(4) (a) For the 1997-98 fiscal year and fiscal years thereafter, the net amount recovered by the department of education during the applicable fiscal year, pursuant to school district and institute charter school audits, as overpayments made to school districts and institute charter schools, and any amount remitted by a school district or institute charter school pursuant to section 22-35-108 (3)(c), that would otherwise be transmitted to the state treasurer for deposit in the general fund shall instead be transmitted to the state treasurer for deposit in the state public school fund. The amount shall be available for appropriation to the department of education in subsequent fiscal years.

(b) For the 2010-11 fiscal year and fiscal years thereafter, the department of education shall reimburse school districts for educational services provided to juveniles pursuant to section 22-32-141 from moneys appropriated for said purpose.

(c) For the 2012-13 budget year the general assembly shall appropriate the amount calculated for at-risk supplemental aid pursuant to sections 22-30.5-112.2 and 22-30.5-513, up to three million eight hundred thirty-nine thousand six hundred twenty-seven dollars, from any amounts recovered and received by the department of education during the applicable budget year.

(d) For the 2017-18, 2018-19, and 2019-20 budget years, the general assembly may appropriate money from the state public school fund to the legislative department for the costs incurred by the legislative interim committee on school finance as provided in part 19 of article 2 of title 2.

(5) All publishing costs associated with the annual printing of the laws enacted by the general assembly concerning education shall be paid out of the state public school fund.

(6) Repealed.

(7) For the 2017-18 budget year, the state treasurer, before June 30, 2018, shall transfer from the general fund to the state public school fund thirty million seven hundred twenty-three thousand seven hundred ninety-one dollars.

(8) The general assembly shall appropriate from the state public school fund for purposes of school safety seven million thirty-three thousand eight hundred eighty-three dollars, which amount results from the reduction in district total program funding for the 2017-18 budget year as described in House Bill 18-1171.

**Source: L. 94:** Entire article added with relocations, p. 800, § 2, effective April 27. **L. 98:** (3) amended and (4) added, p. 973, § 17, effective May 27. **L. 2001:** (3) amended, p. 362, § 30, effective April 16. **L. 2003:** (2.5) added, p. 2140, § 45, effective May 22. **L. 2004:** (2.3) added, p. 1397, § 16, effective May 28; (2.5) amended, p. 1662, § 13, effective June 3; (1), (2), (2.5), and (4) amended, p. 1639, § 46, effective July 1. **L. 2006:** (2.3) repealed, p. 661, § 3, effective April 28. **L. 2007:** (2.5) repealed, p. 14, § 4, effective February 6; (1) and (3)(b) amended and (5) added, p. 625, § 2, effective April 26; (6) added, p. 1058, § 3, effective July 1. **L. 2009:** (2.3) RC&RE, (SB 09-215), ch. 134, p. 578, § 2, effective April 17. **L. 2010:** (2.3) amended, (HB 10-1318), ch. 34, p. 127, § 2, effective March 22; (4) amended, (SB 10-054), ch. 265, p. 1212, § 3, effective May 25; (3)(a) amended, (SB 10-151), ch. 109, p. 365, § 3, effective July 1. **L. 2011:** (2.7) added, (SB 11-230), ch. 305, p. 1467, § 6, effective June 9. **L. 2012:** (4)(c) added, (HB 12-1345), ch.188, p. 723, § 10, effective May 19. **L. 2013:** (4)(c) amended, (SB 13-260), ch. 236, p. 1140, § 4, effective May 17. **L. 2015:** (1.5) added, (SB 15-244), ch. 132, p. 409, § 3, effective May 1; (4)(a) amended, (SB 15-138), ch. 188, p. 625, § 2, effective May 13; (2.3) amended, (SB 15-267), ch. 295, p. 1202, § 3, effective June 5. **L. 2017:** (4)(d) added, (HB 17-1340), ch. 294, p. 1623, § 2, effective June 2. **L. 2018:** (7) and (8) added, (HB 18-1171), ch. 81, p. 672, § 3, effective March 29. **L. 2019:** (4)(d) amended, (SB 19-094), ch. 164, p. 1903, § 4, effective May 13.

**Editor's note:** (1) This section is similar to former § 22-53-121 as it existed prior to 1994.

(2) Amendments to subsection (2.5) by House Bill 04-1362 and House Bill 04-1433 were harmonized.

(3) Subsection (6)(b) provided for the repeal of subsection (6), effective July 1, 2008. (See L. 2007, p. 1058.)

(4) Subsection (1.5)(b) provided for the repeal of subsection (1.5), effective July 1, 2019. (See L. 2015, p. 409.)

**Cross references:** For the legislative declaration contained in the 2007 act repealing subsection (2.5), see section 1 of chapter 2, Session Laws of Colorado 2007. For the legislative declaration contained in the 2007 act enacting subsection (6), see section 1 of chapter 268, Session Laws of Colorado 2007. For the legislative declaration in SB 15-244, see section 1 of chapter 132, Session Laws of Colorado 2015. For the legislative declaration in HB 18-1171, see section 1 of chapter 81, Session Laws of Colorado 2018.

**22-54-115. Distribution from state public school fund.** (1) No later than June 30 of each year, the state board shall determine the amount of the state's share of the district's total program for the budget year beginning on July 1, and the total thereof for all districts, which amount shall be payable in twelve approximately equal monthly payments during such budget year; except that:

(a) Such payments shall be adjusted following the certification of pupil enrollments and the certification of valuations for assessment to the state board pursuant to section 22-54-112 (1) and (2);

(b) Such payments shall be adjusted in accordance with any district's instructions given pursuant to subsection (1.5) of this section; and

(c) Such payments shall be adjusted in accordance with the provisions of subsection (1.3) of this section.

(1.3) (a) In determining the state's share of each district's total program, the state board shall determine whether the district is an accounting district of an institute charter school. If a district is an accounting district of an institute charter school, the state board shall instruct the department of education to withhold from the amount of the state share otherwise payable to the district an amount equal to the lesser of:

(I) One hundred percent of the adjusted district per pupil revenues, as defined in section 22-30.5-513 (1)(b), multiplied by the number of pupils enrolled in the institute charter school who are not online pupils plus one hundred percent of the district per pupil online funding multiplied by the number of online pupils enrolled in the institute charter school; or

(II) The total amount of the state share payable to the district.

(a.5) In any budget year in which the state share of an accounting district of an institute charter school is less than the amount specified in subparagraph (I) of paragraph (a) of this subsection (1.3), the department of education shall submit a request for a supplemental appropriation in an amount that will fully fund the amount specified in said subparagraph (I). The department shall make the request to the general assembly during the budget year in which the underfunding occurs. If the general assembly does not make the requested supplemental appropriation, the department shall pay to the institute charter school the amount specified in subparagraph (II) of paragraph (a) of this subsection (1.3).

(b) The amount withheld shall be payable to the state charter school institute, in twelve approximately equal monthly payments during the budget year for payment to the institute charter school pursuant to section 22-30.5-513 (4).

(1.5) Any school district may give written instructions to the state board directing that a specified portion of a monthly payment or monthly payments that the district is otherwise entitled to receive pursuant to this section shall be transferred to the department of labor and employment for the district's cost of participating in school-to-work alliance programs. These written instructions shall specify the amount to be transferred to the department of labor and employment from the district's payment for a specified month or months. The written instructions shall be given to the state board no later than the fifth day of the first month in which such amount is to be transferred to the department of labor and employment.

(2) No later than the fifteenth day of each month, the state board shall certify to the state treasurer the amount payable to each district and to the state charter school institute in accordance with subsection (1.3) of this section during said month and the amount, if any, to be transferred to the department of labor and employment during said month in accordance with subsection (1.5) of this section.

(3) No later than the twenty-fifth day of each month, the state treasurer shall:

(a) Pay the amount certified as payable to each district, less the total amount of any direct payments made by the state treasurer on behalf of charter schools chartered by each school district of any principal and interest due on bonds pursuant to section 22-30.5-406 directly to the

treasurer of each district or, in accordance with written instructions from the district, directly to an account designated by the district that allows the district to retain title to the funds;

(b) Transfer the amount certified, if any, to the department of labor and employment; and

(c) Pay the amount certified as payable to the state charter school institute directly or, in accordance with written instructions from the state charter school institute, directly to an account designated by the state charter school institute that allows the state charter school institute to retain title to the funds.

(4) The state board shall take care to avoid overpayment of state moneys. If it is determined that any district or the state charter school institute has been overpaid in any month, the state board shall adjust the following monthly payment or payments to such district or the state charter school institute so as to recover the amount overpaid. In the event that an overpayment cannot be recovered, the amount thereof shall be refunded to the state public school fund by the district or the state charter school institute receiving the same.

(5) (Deleted by amendment, L. 94, p. 800, § 2, effective April 27, 1994.)

(6) (a) Notwithstanding any provision of this section to the contrary, for the 2010-11 budget year, the department of education shall pay in installments to each district the amount of the state's share of the district's total program for the budget year as adjusted pursuant to paragraph (a) of subsection (1) of this section and shall pay in installments to the state charter school institute the total amount withheld from any accounting district pursuant to paragraph (a) of subsection (1.3) of this section for the budget year; except that the timing and amount of each installment payment to each district and the state charter school institute shall be determined by the department.

(b) Repealed.

**Source: L. 94:** Entire article added with relocations, p. 800, § 2, effective April 27; (1) amended, p. 2577, § 3, effective June 3. **L. 97:** (3) amended, p. 582, § 7, effective April 30. **L. 2001:** (1), (2), and (3) amended and (1.5) added, p. 362, § 32, effective April 16. **L. 2002:** (3)(a) amended, p. 1767, § 36, effective June 7. **L. 2004:** Entire section amended, p. 1640, § 47, effective July 1. **L. 2009:** (1.3)(a.5) added, (SB 09-256), ch. 294, p. 1553, § 8, effective May 21; (1)(a) amended, (SB 09-042), ch. 176, p. 782, § 6, effective August 5. **L. 2010:** (6) added, (HB 10-1013), ch. 399, p. 1904, § 14, effective June 10. **L. 2012:** (1)(a) amended, (HB 12-1240), ch. 258, p. 1313, § 19, effective June 4. **L. 2014:** (1)(a) amended, (HB 14-1349), ch. 230, p. 854, § 2, effective May 17. **L. 2015:** (1.5), (2), and (3)(b) amended, (SB 15-239), ch. 160, p. 488, § 10, effective July 1, 2016.

**Editor's note:** (1) This section is similar to former § 22-53-122 as it existed prior to 1994.

(2) Subsection (6)(b)(II) provided for the repeal of subsection (6)(b), effective February 1, 2011. (See L. 2010, p. 1904.)

**Cross references:** For the legislative declaration in SB 15-239, see section 1 of chapter 160, Session Laws of Colorado 2015.

**22-54-116. Notice to taxpayers - assistance by department of education.** The department of education shall assist each district in complying with the requirements of section 22-40-102 (6), concerning notice to taxpayers of the reduced mill levy attributable to funds received pursuant to this article.

**Source: L. 94:** Entire article added with relocations, p. 801, § 2, effective April 27.

**Editor's note:** This section is similar to former § 22-53-123 as it existed prior to 1994.

**22-54-117. Contingency reserve - fund.** (1) (a) For the 2007-08 fiscal year and fiscal years thereafter, the general assembly shall annually determine the amount to appropriate to the contingency reserve fund, which is hereby created in the state treasury. In deciding the amount to appropriate to the contingency reserve fund, the general assembly may take into consideration any recommendations made by the department of education, but nothing in this section obligates the general assembly to provide supplemental assistance to all districts that are found to be in need or to fully fund the total amount of such need. The state board may approve and order payments from the contingency reserve fund for supplemental assistance to districts determined to be in need as the result of any or all of the following circumstances:

(I) Financial emergencies caused by an act of God or arising from extraordinary problems in collecting taxes;

(II) Financial emergencies arising from the nonpayment of property taxes pending the outcome of an administrative appeal or litigation or both challenging the inclusion of the value of certain property in a county's abstract of assessment, which resulted from a change in the applicable state law;

(III) The amount of property tax levied and collected pursuant to section 39-10-114, C.R.S., is insufficient for the purpose of making abatements and refunds of property taxes that the district is required to make pursuant to that section;

(IV) A contingency that could not have been reasonably foreseen when the district adopted the annual budget, including but not limited to reductions in valuation of the district in excess of twenty percent as described in section 39-10-114 (1)(a)(I)(B.5), C.R.S.;

(V) Unusual financial burden caused by the instruction of children who formerly resided outside the district but are assigned to live within the district by courts or public welfare agencies. Supplemental assistance under this circumstance must not exceed the additional cost for current operations that the district incurs as a result of this circumstance.

(VI) Unusual financial burden caused by the instruction of children who move into the district after the pupil enrollment count date. Supplemental assistance under this circumstance must not exceed the additional cost that the district incurs due to the increase in pupil enrollment. The provisions of this subparagraph (VI) are available only to districts with a funded pupil count of two thousand pupils or fewer.

(VII) Unusual financial burden caused by a significant decline in pupil enrollment as a result of detachment and annexation pursuant to a reorganization plan approved pursuant to article 30 of this title.

(VIII) Commencing with the 2016-17 budget year, unusual financial burden caused by a significant reduction in the assessed value of real property in a district whose state share of total program funding pursuant to section 22-54-106 before the application of the budget stabilization

factor pursuant to section 22-54-104 (5)(g) was less than one-half of one percent of the district's total program funding in the previous budget year, causing the district to receive a state share that is one-half of one percent of total program funding or greater before application of the budget stabilization factor in the budget year in which the assessed value is reduced. The amount of supplemental assistance paid pursuant to this subsection (1)(a)(VIII) shall not exceed twenty-five percent of the amount of the reduction in the district's state share as a result of the budget stabilization factor. A school district may receive supplemental assistance pursuant to this subsection (1)(a)(VIII) only one time.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (1) concerning circumstances under which the state board may approve and order payments from the contingency reserve fund, the board may, in cases of extreme emergency, take into consideration such other factors as it may deem necessary and proper in granting supplemental assistance from the contingency reserve fund to those districts that cannot maintain their schools without additional financial assistance.

(c) (I) If the state board makes a payment of supplemental assistance based on the circumstances described in subparagraph (II) of paragraph (a) of this subsection (1) and the disputed property is finally determined to have been properly included in the abstract of assessment, the district, after collecting the taxes, shall reimburse the full amount of the payment to the contingency reserve fund, plus interest at the same rate as provided by statute for penalty interest on unpaid property taxes.

(II) Notwithstanding the provisions of subparagraph (I) of this paragraph (c), any reimbursement by a district of a payment for supplemental assistance made pursuant to this subsection (1) shall be credited to the contingency reserve fund.

(d) Any unexpended money in the contingency reserve fund at the end of a budget year remains in the fund and does not revert to the state general fund or any other fund.

(2) A district that applies for supplemental assistance pursuant to subsection (1) of this section shall fully set forth in the application the grounds upon which the district relies for assistance. The president and the secretary of the district board of education shall swear under oath to the application contents.

(3) The state board shall investigate each application for supplemental assistance to the extent it deems necessary. If the state board finds that the application should be approved, it shall determine the amount of supplemental assistance to be paid. In determining which districts receive supplemental assistance pursuant to this section and the amount of the assistance, the state board shall consider the amount of the supplemental assistance requested by the district as a percentage of the district's total program. By order upon the state treasurer, the state board shall direct payment from the contingency reserve fund of the approved amount to the treasurer of the receiving district for credit to the general fund of the district.

**Source: L. 94:** Entire article added with relocations, p. 801, § 2, effective April 27. **L. 98:** (1)(e) added, p. 975, § 23, effective May 27. **L. 99:** (1)(f) added, p. 176, § 3, effective March 30. **L. 2000:** (2), (3), and (6) amended and (1.5) added, p. 495, § 3, effective July 1. **Referred 2000:** (1.6) added, p. 2044, § 5, effective December 28. **L. 2001:** (1.7) added and (5) and (6)(a) amended, pp. 351, 362, §§ 14, 31, effective April 16. **L. 2002:** (1.6) and (1.7)(a) amended, pp. 1777, 1780, 1779, §§ 41, 45, 43, effective June 7. **L. 2003:** (1.6)(b) amended and (1.6)(c) added, p. 517, § 6, effective March 5; IP(1.5)(a), (1.5)(b), (1.5)(c), and (1.7)(a) amended and (1.5)(d)

added, pp. 2134, 2132, §§ 31, 26, effective May 22. **L. 2004:** (1.7)(a) amended, p. 1393, § 12, effective May 28. **L. 2005:** (1.7)(a) amended, p. 435, § 9, effective April 29. **L. 2006:** (6)(b) repealed, p. 675, § 14, effective April 28. **L. 2007:** (1), (1.5)(a), (1.6)(a), and (3) to (6) amended and (1.5)(a.5), (1.5)(e), and (1.6)(d) added, pp. 626, 629, §§ 3, 4, effective April 26; (1.5)(a.5) and (1.6)(a) amended, p. 688, § 2, effective May 3; (1.6)(a) amended, p. 1310, § 9, effective July 1. **L. 2008:** (1.5), (1.6), and (1.7) repealed and (2) and (3) amended, pp. 1068, 1065, §§ 14, 10, effective July 1. **L. 2009:** (1)(f) added, (SB 09-208), ch. 149, p. 622, § 14, effective April 20. **L. 2010:** (1)(g) added, (SB 10-191), ch. 241, p. 1075, § 16, effective May 20. **L. 2011:** (1)(h) added, (SB 11-164), ch. 33, p. 92, § 3, effective March 18. **L. 2014:** (7) added, (HB 14-1250), ch. 16, p. 129, § 1, effective February 27. **L. 2016:** Entire section RC&RE, (SB 16-066), ch. 24, p. 56, § 1, effective March 18; (1)(a)(VIII) added, (HB 16-1422), ch. 351, p. 1431, § 5, June 10. **L. 2017:** (1)(a)(VIII) amended, (SB 17-296), ch. 313, p. 1684, § 4, effective June 2.

**Editor's note:** Subsection (7)(c) provided for the repeal of this section, effective July 1, 2015. (See L. 2014, p. 129.) However, this section was recreated in 2016.

**Cross references:** For the legislative declaration contained in the 2000 act amending subsections (2), (3), and (6), and enacting subsection (1.5), see section 13 of chapter 141, Session Laws of Colorado 2000. For the legislative declaration contained in the 2007 act amending subsections (1.5)(a.5) and (1.6)(a), see section 1 of chapter 186, Session Laws of Colorado 2007. For the legislative declaration contained in the 2007 act amending subsection (1.6)(a), see section 9 of chapter 306, Session Laws of Colorado 2007.

**22-54-118. Joint districts.** (1) The board of education of a joint district shall determine the location of its administrative headquarters and shall notify both the state board and the treasurer of each county in which any territory of such joint district is situated of such location.

(2) Allocation of moneys in the county public school fund to a joint district partially situated in a county shall be made on the basis set forth in section 22-54-113.

(3) All moneys collected under this article by the county treasurer of a county in which part of a joint district is situated shall be credited to such joint district and at the end of each month shall be paid over to the treasurer of the county in which the administrative headquarters of such joint district is located and forthwith credited or paid over to the general fund of such joint district. The treasurer of the county in which the administrative headquarters of the joint district is located shall make no charge for collection of moneys transferred from other counties. Warrants of a joint district shall be drawn only upon the treasurer of the county in which its administrative headquarters is located in those cases where a district has not elected under law to withdraw its funds from the custody of the county treasurer.

**Source: L. 94:** Entire article added with relocations, p. 803, § 2, effective April 27.

**Editor's note:** This section is similar to former § 22-53-125 as it existed prior to 1994.

**22-54-119. General provisions.** (1) The county treasurer shall charge a collection fee of one-quarter of one percent upon moneys collected for or distributed to any district located in whole or in part in the county from taxes levied for the general fund of the district.

(2) Nothing in this article shall affect or limit the authority of any district to make such other tax levies as are provided by law.

(3) Nothing in this article shall in any manner affect the rights of districts to moneys allowable or payable to such districts under the provisions of other laws.

**Source: L. 94:** Entire article added with relocations, p. 803, § 2, effective April 27. **L. 99:** (1) amended, p. 177, § 4, effective January 1, 2000.

**Editor's note:** This section is similar to former § 22-53-126 as it existed prior to 1994.

**22-54-120. Rules and regulations.** (1) The state board shall make reasonable rules and regulations necessary for the administration and enforcement of this article.

(2) All reports and certifications required from secretaries of boards of education and from institute charter schools pursuant to the provisions of this article shall be made in such manner and form as may be prescribed by the state board.

**Source: L. 94:** Entire article added with relocations, p. 803, § 2, effective April 27. **L. 2004:** (2) amended, p. 1642, § 48, effective July 1.

**Editor's note:** This section is similar to former § 22-53-127 as it existed prior to 1994.

**22-54-121. Funding for statewide assessment program. (Repealed)**

**Source: L. 97:** Entire section added, p. 596, § 35, effective August 6. **L. 98:** Entire section repealed, p. 965, § 6, effective May 27.

**22-54-122. Small attendance center aid.** (1) (a) For the 1998-99 budget year through the 2007-08 budget year, a district shall be eligible for aid pursuant to this section if:

(I) The district has more than one elementary or secondary school attendance center; and

(II) The district operates one or more elementary or secondary attendance centers with a pupil enrollment of less than two hundred and that are located twenty or more miles from any similar school attendance center in the same district.

(b) For the 2008-09 budget year and budget years thereafter, a district shall be eligible for aid pursuant to this section if:

(I) The district has more than one elementary or secondary school attendance center;

(II) The district operates one or more elementary or secondary attendance centers that have pupil enrollments of less than two hundred and that are located twenty or more miles from any similar school attendance center in the same district; and

(III) The district received aid pursuant to this section prior to the 2008-09 budget year.

(1.5) (a) For the 2004-05 budget year through the 2007-08 budget year, an institute charter school shall be eligible for aid pursuant to this section if the institute charter school has a pupil enrollment of fewer than two hundred and is located twenty or more miles from any similar school attendance center.

(b) For the 2008-09 budget year and budget years thereafter, an institute charter school shall be eligible for aid pursuant to this section if the institute charter school has a pupil

enrollment of fewer than two hundred, is located twenty or more miles from any similar school attendance center, and received aid pursuant to this section prior to the 2008-09 budget year.

(2) (a) A district meeting the eligibility requirements of subsection (1) of this section shall be eligible to receive aid for each small attendance center as calculated by: Multiplying the pupil enrollment of the small attendance center by an amount equal to thirty-five percent of the difference between the district per pupil funding, as calculated pursuant to section 22-54-104, and the district per pupil funding, as calculated pursuant to section 22-54-104 except using the size factor calculated using the funded pupil count of the small attendance center; and then multiplying such amount by the percentage determined by dividing the difference between two hundred and the funded pupil count of the small attendance center by two hundred.

(b) An institute charter school meeting the eligibility requirements of subsection (1.5) of this section shall be eligible to receive aid as a small attendance center as calculated by: Multiplying the pupil enrollment of the institute charter school by an amount equal to thirty-five percent of the difference between the district per pupil funding of the institute charter school's accounting district, as calculated pursuant to section 22-54-104, and such district per pupil funding, as calculated pursuant to section 22-54-104 except using the size factor calculated using the pupil enrollment of the institute charter school, and then multiplying such amount by the percentage determined by dividing the difference between two hundred and the pupil enrollment of the institute charter school by two hundred.

(3) The general assembly shall appropriate annually an amount for small attendance center aid to be distributed pursuant to the formulas in subsection (2) of this section. In the event the amount of money appropriated by the general assembly is less than the amount of aid authorized by this section to all eligible districts and eligible institute charter schools, the amount to be distributed to each eligible school district and eligible institute charter school shall be in the same proportion as the amount that the appropriation bears to the total amount of aid for all eligible districts and eligible institute charter schools.

(4) If a school district receives small attendance center aid pursuant to this section for a small attendance center that is a district charter school, the school district shall forward the entire amount of such aid to the district charter school for which it was received. If an institute charter school is eligible for small attendance center aid pursuant to this section, the state charter school institute shall forward the entire amount of such aid to the institute charter school for which it was received.

**Source: L. 98:** Entire section added, p. 970, § 13, effective May 27. **L. 2002:** (4) added, p. 1737, § 8, effective June 7. **L. 2004:** (1.5) added and (2), (3), and (4) amended, p. 1642, § 49, effective July 1. **L. 2008:** (1) and (1.5) amended, p. 1198, § 10, effective May 22.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsections (1) and (1.5), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-54-123. Richard B. Russell national school lunch act - appropriation of state matching funds.** (1) For the 2001-02 budget year and budget years thereafter, the general assembly shall appropriate by separate line item an amount to comply with the requirements for state matching funds under the federal "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq. The department of education shall develop procedures to allocate and

disburse the funds among participating school food authorities each year in an equitable manner so as to comply with the requirements of said act.

(2) As used in this section, unless the context otherwise requires, "school food authority" means:

(a) A school district or the state charter school institute;

(a.3) A charter school collaborative formed pursuant to section 22-30.5-603;

(a.5) A board of cooperative services created pursuant to article 5 of this title that elects to operate as a school food authority pursuant to section 22-5-120; or

(b) A district charter school or an institute charter school that:

(I) The commissioner of education or his or her designee provisionally authorizes as a school food authority pursuant to section 22-32-120 (6); or

(II) The department of education authorizes as a school food authority pursuant to section 22-32-120 (5).

**Source: L. 2001:** Entire section added, p. 365, § 35, effective April 16. **L. 2004:** Entire section amended, p. 1643, § 50, effective July 1. **L. 2009:** Entire section amended, (SB 09-230), ch. 227, p. 1035, § 7, effective May 4. **L. 2010:** (1) amended, (HB 10-1013), ch. 399, p. 1905, § 15, effective June 10; (2)(a) amended and (2)(a.5) added, (HB 10-1335), ch. 326, p. 1513, § 6, effective August 11; (2)(b)(I) amended, (HB 10-1422), ch. 419, p. 2078, § 46, effective August 11. **L. 2011:** (2)(a.3) added, (HB 11-1277), ch. 306, p. 1505, § 37, effective August 10.

**22-54-123.5. School breakfast program - appropriation - low-performing schools.** (1) (a) For the 2002-03 budget year and each budget year thereafter, the general assembly may appropriate by separate line item an amount to assist school food authorities that are providing a school breakfast program through participation in programs authorized under the federal "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq., or the federal "Child Nutrition Act of 1966", 42 U.S.C. sec. 1771 et seq. The department of education shall develop procedures to appropriately allocate and disburse the funds among participating school food authorities.

(b) Each school district that receives moneys pursuant to this section shall use such moneys to create, expand, or enhance the school breakfast program in each low-performing school of the receiving district with the goal of improving the academic performance of the students attending such schools.

(c) A district charter school, 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.

(d) (Deleted by amendment, L. 2010, (HB 10-1422), ch. 419, p. 2078, § 47, effective August 11, 2010.)

(2) As used in this section:

(a) "Low-performing school" means a school that is required to implement a priority improvement or turnaround plan pursuant to section 22-11-405 or 22-11-406, respectively, or is subject to restructuring pursuant to section 22-11-210.

(b) "School food authority" means:

(I) A school district or the state charter school institute;

(I.3) A charter school collaborative formed pursuant to section 22-30.5-603;

(I.5) A board of cooperative services created pursuant to article 5 of this title that elects to operate as a school food authority pursuant to section 22-5-120; or

(II) A district charter school or an institute charter school that:

(A) The commissioner of education or his or her designee provisionally authorizes as a school food authority pursuant to section 22-32-120 (6); or

(B) The department of education authorizes as a school food authority pursuant to section 22-32-120 (5).

**Source: L. 2002:** Entire section added, p. 1787, § 53, effective June 7. **L. 2003:** (1) amended, p. 521, § 11, effective March 5. **L. 2004:** (1) amended, p. 1643, § 51, effective July 1. **L. 2006:** (1)(d) added, p. 1113, § 3, effective May 25. **L. 2009:** (1)(a), (1)(c), and (2) amended, (SB 09-230), ch. 227, p. 1035, § 8, effective May 4; (2) amended, (SB 09-163), ch. 293, p. 1544, § 51, effective May 21. **L. 2010:** (1)(d) and (2)(b)(II)(A) amended, (HB 10-1422), ch. 419, p. 2078, § 47, effective August 11; (2)(b)(I) amended and (2)(b)(I.5) added, (HB 10-1335), ch. 326, p. 1513, § 7, effective August 11. **L. 2011:** (1)(c) amended and (2)(b)(I.3) added, (HB 11-1277), ch. 306, p. 1505, §§ 38, 39, effective August 10.

**Editor's note:** Amendments to subsection (2) by Senate Bill 09-230 and Senate Bill 09-163 were harmonized.

**Cross references:** For the legislative declaration contained in the 2006 act enacting subsection (1)(d), see section 1 of chapter 242, Session Laws of Colorado 2006.

**22-54-124. State aid for charter schools - use of state education fund money - definitions.** (1) As used in this section:

(a) "Capital construction" means construction, demolition, remodeling, maintaining, financing, purchasing, or leasing of land, buildings, or facilities used to educate pupils enrolled in or to be enrolled in a charter school.

(b) "Charter school" means a district charter school as described in section 22-30.5-104 or an institute charter school as defined in section 22-30.5-502.

(c) "District's certified charter school pupil enrollment" means the total number of pupils who are not online pupils, as defined in section 22-30.5-103 (6), expected to be enrolled in all qualified charter schools that will receive funding from the district pursuant to section 22-30.5-112 for the budget year for which state education fund moneys are to be appropriated and distributed pursuant to subsection (4) of this section, as certified by the department of education pursuant to paragraph (b) of subsection (3) of this section during the budget year that immediately precedes said budget year.

(c.5) "Institute charter school's certified pupil enrollment" means the total number of pupils who are not online pupils, as defined in section 22-30.5-502 (9), expected to be enrolled in a qualified institute charter school that will receive funding pursuant to section 22-30.5-513 for the budget year for which state education fund moneys are to be appropriated and distributed pursuant to subsection (4) of this section, as certified by the department of education pursuant to

paragraph (b) of subsection (3) of this section during the budget year that immediately precedes said budget year.

(d) "Minimum capital reserve amount per pupil" means the minimum amount per pupil required to be budgeted by each district to the capital reserve fund created by section 22-45-103 (1)(c), a risk management fund or account, or both, pursuant to section 22-54-105 (2)(a) and (2)(b), without regard to any exception to said minimum budgeting requirement permitted pursuant to section 22-54-105 (2)(c).

(e) "Operating revenues" means the total amount of funding that a district charter school receives from a district for a budget year pursuant to section 22-30.5-112 minus the amounts required by section 22-30.5-112 (2)(a.7) to be allocated for capital reserve purposes or the management of risk-related activities. For purposes of an institute charter school, "operating revenues" means the total amount of funding that the institute charter school receives from the state charter school institute for a budget year pursuant to section 22-30.5-513, minus the amounts required by section 22-30.5-514 (1), to be allocated for capital reserve purposes or the management of risk-related activities.

(f) and (f.5) Repealed.

(f.6) (I) For the budget years commencing on or after July 1, 2003, "qualified charter school" means:

(A) A charter school that is not operating in a school district facility and that has capital construction costs;

(B) A charter school that is operating in a school district facility and that has capital construction costs; or

(C) A charter school that is operating or will operate in the next budget year in a facility that is listed on the state inventory of real property and improvements and other capital assets maintained by the office of the state architect pursuant to section 24-30-1303.5, C.R.S., and that is obligated to make lease payments for use of the facility.

(II) For budget years commencing on or after July 1, 2003, "qualified charter school" does not include:

(A) A charter school that is operating in a school district facility and that does not have capital construction costs;

(B) A charter school that does not have capital construction costs; or

(C) A charter school that is operating or will operate in the next budget year in a facility that is listed on the state inventory of real property and improvements and other capital assets maintained by the office of the state architect pursuant to section 24-30-1303.5, C.R.S., and that is not obligated to make lease payments for use of the facility.

(2) (a) For the 2001-02 budget year and budget years thereafter, a district shall be eligible to receive state education fund moneys for district charter school capital construction pursuant to this section if at least one qualified district charter school will be receiving funding from the district pursuant to section 22-30.5-112 during the budget year for which state education fund moneys are to be distributed.

(b) For the 2004-05 budget year and budget years thereafter, an institute charter school shall be eligible to receive state education fund moneys for institute charter school capital construction if the institute charter school will be receiving funding from the state charter school institute pursuant to section 22-30.5-513 during the budget year for which state education fund moneys are to be distributed.

(3) (a) (I) and (II) Repealed.

(III) (A) The total amount of state education fund moneys to be appropriated for all eligible districts and for all eligible institute charter schools for the 2003-04 through 2011-12 budget years shall be an amount equal to five million dollars; except that, for the 2006-07 budget year, an additional two million eight hundred thousand dollars shall be appropriated from the state education fund and shall be used for the purposes of this section, and for the 2008-09 budget year, an additional one hundred thirty-five thousand dollars shall be appropriated from the state education fund and shall be distributed pursuant to section 22-54-133, as said section existed prior to its repeal in 2010. The total amount of state education fund moneys to be appropriated for all eligible districts and for all eligible institute charter schools for the 2012-13 budget year is six million dollars. The total amount of state education fund moneys to be appropriated for all eligible districts and for all eligible institute charter schools for the 2013-14 budget year is seven million dollars.

(B) Repealed.

(IV) (A) The total amount of state education fund moneys to be appropriated for all eligible districts and for all eligible institute charter schools for the 2014-15 budget year is thirteen million five hundred thousand dollars.

(B) The total amount of state education fund money to be appropriated for all eligible districts and all eligible institute charter schools for the 2015-16 budget year and for each budget year thereafter through the 2018-19 budget year is twenty million dollars.

(C) The total amount of state education fund money to be appropriated for all eligible districts and all eligible institute charter schools for the 2019-20 budget year and for each budget year thereafter is twenty million dollars multiplied by the quotient of the number of students included in the statewide funded pupil count who were enrolled in charter schools for the school year immediately preceding the budget year and the number of students included in the statewide funded pupil count who were enrolled in charter schools for the 2017-18 school year.

(V) For the 2004-05 budget year, and each budget year thereafter, the amount of state education fund moneys to be distributed to any eligible district and any eligible institute charter school shall be an amount equal to the percentage of the sum of the district's certified charter school pupil enrollment and the institute charter school's certified pupil enrollment for all eligible districts and eligible institute charter schools in the state that is attributable to the eligible district or eligible institute charter school multiplied by the total amount of state education fund moneys distributed to all eligible districts and eligible institute charter schools for the same budget year pursuant to subparagraphs (III) and (IV) of this paragraph (a).

(b) Notwithstanding section 24-1-136 (11)(a)(I), no later than February 1 of each budget year, the department of education shall certify to the education committees of the senate and the house of representatives and the joint budget committee of the general assembly the total number of pupils expected to be enrolled in all qualified charter schools in the state during the next budget year, as derived from reports provided to the department by districts pursuant to section 22-30.5-112 (1) and by institute charter schools pursuant to section 22-30.5-513 (3)(a). For the purposes of any certification made during the 2003-04 budget year and budget years thereafter, a pupil expected to be enrolled in a qualified charter school as defined in subsection (1)(f.6)(I)(B) of this section shall be counted as one-half of one pupil.

(4) (a) For the 2001-02 budget year, the 2003-04 budget year, and each budget year thereafter, the general assembly shall annually appropriate from the state education fund created

in section 17 (4) of article IX of the state constitution, to the department of education for distribution to eligible school districts and eligible institute charter schools in accordance with the formula set forth in paragraph (a) of subsection (3) of this section, an amount equal to the total amount of moneys to be distributed to all districts and institute charter schools as determined pursuant to said formula.

(b) Prior to the 2009-10 budget year, from the moneys appropriated for a given budget year pursuant to this section, the department of education shall make lump sum payments of all moneys to be distributed to each eligible school district and eligible institute charter school during the budget year as soon as possible.

(c) For the 2009-10 budget year and each budget year thereafter, the department of education shall distribute the total amount to be distributed pursuant to this section to each eligible school district and eligible institute charter school in twelve approximately equal monthly payments during the applicable budget year in conjunction with the distribution of the state's share of district total program pursuant to section 22-54-115.

(4.5) Repealed.

(5) A district that receives state education fund moneys pursuant to this section shall distribute all moneys received to qualified charter schools as required by section 22-30.5-112.3 and may not retain any of such moneys to defray administrative expenses or for any other purpose.

(6) Pursuant to section 17 (3) of article IX of the state constitution, any moneys appropriated by the general assembly out of the state education fund, received by any eligible district or eligible institute charter school pursuant to this section, and distributed to a qualified charter school by any district pursuant to this section and section 22-30.5-112.3 shall be exempt from:

(a) The limitation on state fiscal year spending set forth in section 20 (7)(a) of article X of the state constitution and section 24-77-103, C.R.S.; and

(b) The limitation on local government fiscal year spending set forth in section 20 (7)(b) of article X of the state constitution.

(7) The general assembly hereby finds and declares that, for purposes of section 17 of article IX of the state constitution, providing funding for charter school capital construction from moneys in the state education fund created in section 17 (4) of article IX of the state constitution is a permissible use of the moneys in the state education fund since the moneys are being used for public school building capital construction as authorized by section 17 (4)(b) of article IX of the state constitution.

(8) The general assembly hereby finds that with the adoption of the new definition of "qualified charter" school, enacted in House Bill 02-1349 during the second regular session of the sixty-third general assembly, the program created in this section is a new program as of June 7, 2002, and that the general assembly enacted such new program in order to meet the eligibility requirements of the incentive grant program included in the federal "No Child Left Behind Act of 2001", Pub.L. 107-110.

(9) The general assembly recognizes charter schools' continuing need for assistance in meeting capital construction costs. The general assembly therefore strongly encourages the governor to allocate a portion of the moneys received by the state through the federal "American Recovery and Reinvestment Act of 2009", Pub.L. 111-5, to charter schools in the state to assist them in meeting their capital construction and facility costs.

**Source: L. 2001:** Entire section added, p. 346, § 9, effective April 16. **L. 2002:** (1)(c), (1)(f), and (3) amended and (1)(f.5) and (8) added, pp. 1752, 1768, 1767, §§ 28, 37, 38, effective June 7. **L. 2003:** (3)(a)(II), (3)(a)(III), and (4) amended and (4.5) added, p. 518, § 9, effective March 5; (1)(f.5), (3)(a)(III)(A), and (3)(b) amended and (1)(f.6) added, pp. 2132, 2133, §§ 27, 28, effective May 22. **L. 2004:** (1)(b), (1)(e), (2), (3)(a)(III), (3)(b), (4), and IP(6) amended and (1)(c.5) added, p. 1644, § 52, effective July 1. **L. 2006:** (1)(c), (1)(c.5), and (3)(a)(III)(A) amended, p. 701, § 50, effective April 28; (1)(f), (1)(f.5), (3)(a)(I), (3)(a)(II), (3)(a)(III)(B), and (4.5) repealed, p. 625, § 48, effective August 7. **L. 2007:** (1)(f.6)(I) and (1)(f.6)(II)(C) amended, p. 744, § 24, effective May 9. **L. 2008:** (3)(a)(III)(A) amended, p. 1199, § 11, effective May 22. **L. 2009:** (3)(a)(III)(A) amended, (SB 09-215), ch. 134, p. 579, § 3, effective April 17; (4) amended and (9) added, (SB 09-256), ch. 294, p. 1554, §§ 9, 10, effective May 21. **L. 2010:** (3)(a)(III)(A) amended, (HB 10-1013), ch. 399, p. 1907, § 19, effective June 10. **L. 2012:** (3)(a)(III)(A) amended, (HB 12-1345), ch. 188, p. 716, § 2, effective May 19. **L. 2013:** (3)(a)(III)(A) amended, (SB13-260), ch. 236, p. 1140, § 5, effective May 17. **L. 2014:** (3)(a) amended, (HB 14-1292), ch. 243, p. 914, § 17, effective May 21. **L. 2015:** (1)(f.6)(I)(C) and (1)(f.6)(II)(C) amended, (SB 15-270), ch. 296, p. 1215, § 13, effective June 5. **L. 2016:** (1)(a) amended, (HB 16-1422), ch. 351, p. 1436, § 14, effective June 10. **L. 2017:** (3)(b) amended, (HB 17-1267), ch. 242, p. 998, § 18, effective August 9. **L. 2019:** (3)(a)(IV)(B) amended and (3)(a)(IV)(C) added, (HB 19-1055), ch. 246, p. 2406, § 4, effective May 21.

**Cross references:** (1) For the legislative declaration contained in the 2008 act amending subsection (3)(a)(III)(A), see section 1 of chapter 286, Session Laws of Colorado 2008.

(2) For the short title ("Student Success Act") in HB14-1292, see section 1 of chapter 243, Session Laws of Colorado 2014.

**22-54-125. Increasing enrollment district aid. (Repealed)**

**Source: L. 2002:** Entire section added, p. 1737, § 9, effective June 7. **L. 2003:** Entire section repealed, p. 522, § 15, effective March 5.

**22-54-126. Declining enrollment districts with new charter schools - additional aid - definitions.** (1) As used in this section, unless the context otherwise requires:

(a) "Declining enrollment district" means a district whose funded pupil count is greater than the sum of the district's pupil enrollment, preschool program enrollment, and online pupil enrollment.

(b) "New charter school enrollment" means the number of pupils enrolled in a new district charter school of a declining enrollment district on the pupil enrollment count day in the budget year in which the new district charter school is opened in the declining enrollment district minus the number of pupils enrolled as of that date in an online program or an online school who are also enrolled in the new district charter school of the declining enrollment district.

(c) "Pupil enrollment count day" has the same meaning as set forth in section 22-54-103 (10.5).

(2) Beginning in the 2006-07 budget year, in any budget year in which a new district charter school is opened in a declining enrollment district, the declining enrollment district shall receive additional aid as specified in this section to help mitigate the impact of the enrollment of

pupils in the new district charter school who might otherwise have attended a traditional school in the declining enrollment district. The additional aid shall be available only for the first year of operation of a new district charter school in a declining enrollment district.

(3) For the 2006-07 budget year and each budget year thereafter, the general assembly shall annually appropriate moneys from the general fund or any other source for additional aid to a declining enrollment district in which a new charter school is opened. The additional aid shall be distributed to all declining enrollment districts in which new charter schools are opened in the budget year for which the aid is appropriated. The additional aid shall be distributed among the declining enrollment districts in which new charter schools are opened in the proportion that the declining enrollment district's new charter school enrollment bears to the total new charter school enrollment in all declining enrollment districts statewide in which new charter schools are opened in the budget year for which the additional aid is appropriated; except that for the 2007-08 budget year and budget years thereafter, a declining enrollment district shall not receive more than three hundred thousand dollars of additional aid pursuant to this section.

**Source: L. 2006:** Entire section added, p. 682, § 24, effective April 28. **L. 2007:** (3) amended, p. 736, § 7, effective May 9. **L. 2009:** (1)(a) amended, (SB 09-292), ch. 369, p. 1965, § 66, effective August 5. **L. 2012:** (1)(b) amended and (1)(c) added, (HB 12-1090), ch. 44, p. 157, § 21, effective March 22; (1)(b) amended, (HB 12-1240), ch. 258, p. 1331, § 47, effective June 4.

**Editor's note:** Amendments to subsection (1)(b) by House Bill 12-1090 and House Bill 12-1240 were harmonized.

**22-54-127. Tax increment financing task force - study impacts on public school finance - repeal. (Repealed)**

**Source: L. 2006:** Entire section added, p. 681, § 23, effective April 28.

**Editor's note:** Subsection (4) provided for the repeal of this section, effective January 1, 2007. (See L. 2006, p. 681.)

**22-54-128. Military dependent supplemental pupil enrollment aid - definitions. (Repealed)**

**Source: L. 2007:** Entire section added, p. 2085, § 1, effective August 3. **L. 2010:** IP(2), (4), (6), and (8) amended and (9) added, (HB 10-1013), ch. 399, p. 1905, § 16, effective June 10. **L. 2012:** (1)(b) amended and (1)(c) added, (HB 12-1090), ch. 44, p. 157, § 22, effective March 22; entire section repealed, (HB 12-1240), ch. 258, p. 1313, § 20, effective June 4.

**22-54-129. Facility school funding - definitions - legislative declaration.** (1) As used in this section, unless the context otherwise requires:

(a) "Approved facility school" shall have the same meaning as provided in section 22-2-402 (1).

(b) "Department" means the department of education created and operating pursuant to section 24-1-115, C.R.S.

(c) "Facility" shall have the same meaning as provided in section 22-2-402 (3).

(d) "Pupil enrollment" means the number of students receiving educational services at the approved facility school or state program on the pupil enrollment count day of the applicable budget year.

(d.5) "Pupil enrollment count day" has the same meaning as set forth in section 22-54-103 (10.5).

(e) Repealed.

(f) "State program" means the Colorado school for the deaf and the blind or the education program operated by the Colorado mental health institute at Pueblo or Fort Logan for students for whom the institute has responsibility because of a court order or other action by a public entity in Colorado.

(g) "Statewide base per pupil funding" means the amount annually specified in section 22-54-104 (5)(a).

(2) (a) The general assembly finds that:

(I) The unique environments of approved facility schools and state programs and the population of students that they serve create obstacles to learning and academic growth that other public schools and students do not encounter;

(II) Because approved facility schools and state programs must operate year-round, their need for funding remains constant year-round; and

(III) Although students in approved facility schools may or may not be economically at-risk, the circumstances that have resulted in their placement in approved facility schools and state programs make it likely that they are academically at-risk and require costly educational support services to achieve academic growth.

(b) The general assembly finds, therefore, that it is appropriate to fund approved facility schools and state programs:

(I) By an additional one-third above the statewide base per pupil funding amount to recognize the increased costs of educating students in approved facility schools and state programs year-round; and

(II) By an additional forty percent above the statewide base per pupil funding amount to offset the increased costs inherent in providing education services to the students who are placed in approved facility schools and state programs.

(c) (I) For the 2008-09 budget year through the 2012-13 budget year, each approved facility school and state program that meets the requirements of this section shall receive education program funding, which shall be distributed pursuant to subsection (4) of this section. The amount of funding available for all approved facility schools and state programs in a budget year shall be an amount equal to the pupil enrollment of each approved facility school and state program for the applicable budget year multiplied by an amount equal to one and one-third of the state average per pupil revenue for the applicable budget year.

(II) For the 2013-14 budget year and each budget year thereafter, each approved facility school and state program that meets the requirements of this section must receive education program funding, which must be distributed pursuant to subsection (4) of this section. The amount of funding available for all approved facility schools and state programs in a budget year is an amount equal to the pupil enrollment of each approved facility school and state program for

the applicable budget year multiplied by an amount equal to one and seventy-three hundredths of the statewide base per pupil funding for the applicable budget year.

(3) To receive education program funding pursuant to this section, an approved facility school or a state program shall submit its pupil enrollment for the applicable budget year to the department on or before November 10, 2008, and on or before October 5 of each budget year thereafter.

(4) (a) In addition to the requirements of subsection (3) of this section, on or before the fifteenth day of each month, an approved facility school or a state program shall report to the department, in a manner to be determined by the department, the actual number of students who received educational services at the approved facility school or through the state program during the prior calendar month and the corresponding number of full-time equivalent students to which the approved facility school or state program provided such services. The department may accept amended monthly reports from an approved facility school or a state program prior to making the distribution of funding for the applicable month pursuant to paragraph (b) of this subsection (4).

(b) On or before the fifteenth day of the month following the month in which an approved facility school or a state program reported the number of students to which it provided educational services and the number of full-time equivalent students to which the approved facility school or state program provided services pursuant to paragraph (a) of this subsection (4), the department shall pay the approved facility school or state program a proportional amount of the total amount of education program funding as determined pursuant to subsection (2) of this section, based on the approved facility school's or state program's reported number of full-time equivalent students.

(c) The department may prorate the payments made pursuant to paragraph (b) of this subsection (4), if the department determines that such action is necessary to accommodate a projected shortfall in education program funding as calculated pursuant to subsection (2) of this section.

(5) In each applicable budget year, the general assembly shall appropriate to the department the amount required for education program funding pursuant to subsection (2) of this section.

(6) (a) The state board shall promulgate rules in accordance with the "State Administrative Procedure Act", article 4 of title 24, C.R.S., as necessary for the administration and enforcement of this section. In promulgating the rules, the state board shall seek input from approved facility schools, state programs, districts, and organizations that represent facility schools.

(b) In promulgating rules pursuant to paragraph (a) of this subsection (6), the state board shall seek input from the facility schools board created in section 22-2-404.

(7) The general assembly hereby finds and declares that for the purposes of section 17 of article IX of the state constitution, providing funding for pupils who are placed in a facility and receive educational services through an approved facility school, who attend the Colorado school for the deaf and the blind, or who receive educational services through an education program operated by the Colorado mental health institute at Pueblo or Fort Logan is a program for accountable education reform and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 2008:** Entire section added, p. 1200, § 12, effective May 22. **L. 2009:** Entire section amended, (HB 09-1189), ch. 99, p. 368, § 1, effective April 3. **L. 2012:** (1)(d) amended and (1)(d.5) added, (HB 12-1090), ch. 44, p. 158, § 23, effective March 22. **L. 2013:** (1)(e) repealed, (1)(g) added, and (2) amended, (SB 13-260), ch. 236, p. 1140, § 6, effective May 17.

**Cross references:** For the legislative declaration contained in the 2008 act enacting this section, see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-54-130. Hold-harmless full-day kindergarten funding. (Repealed)**

**Source: L. 2008:** Entire section added, p. 1201, § 12, effective May 22. **L. 2019:** Entire section repealed, (HB 19-1262), ch. 245, p. 2401, § 11, effective May 21.

**22-54-131. Full-day kindergarten funding - guidelines - technical assistance - legislative intent - legislative declaration. (Repealed)**

**Source: L. 2008:** Entire section added, p. 1202, § 12, effective May 22. **L. 2019:** Entire section repealed, (HB 19-1262), ch. 245, p. 2401, § 11, effective May 21.

**22-54-132. Declining enrollment study - legislative declaration - repeal. (Repealed)**

**Source: L. 2008:** Entire section added, p. 1203, § 12, effective May 22. **L. 2009:** IP(2), (4), and (5) amended, (SB 09-215), ch. 134, p. 579, § 4, effective April 17.

**Editor's note:** Subsection (5) provided for the repeal of this section, effective July 1, 2010. (See L. 2009, p. 579.)

**22-54-133. Charter school for the deaf and the blind - supplementary funding - definitions. (Repealed)**

**Source: L. 2008:** Entire section added, p. 1205, § 12, effective May 22. **L. 2010:** Entire section repealed, (HB 10-1013), ch. 399, p. 1906, § 17, effective June 10.

**22-54-134. Hold-harmless facility school student funding - legislative declaration - repeal. (Repealed)**

**Source: L. 2008:** Entire section added, p. 1206, § 12, effective May 22. **L. 2009:** (1) amended, (HB 09-1189), ch. 99, p. 371, § 4, effective April 3.

**Editor's note:** Subsection (5) provided for the repeal of this section, effective July 1, 2009. (See L. 2008, p. 1206.)

**22-54-135. Average daily membership study - fund created - repeal. (Repealed)**

**Source: L. 2010:** Entire section added, (SB 10-008), ch. 149, p. 514, § 1, effective April 21.

**Editor's note:** Subsection (11) provided for the repeal of this section, effective October 21, 2011. On October 21, 2010, the revisor of statutes received the notice referred to in subsection (4) related to the repeal. For more information about the repeal and notice, see SB 10-008. (L. 2010, p. 514.)

**22-54-136. At-risk per pupil additional funding - definitions.** (1) As used in this section, unless the context otherwise requires, "at-risk per pupil additional funding" means an amount equal to five million dollars divided by the total district at-risk pupils for the applicable budget year.

(2) For the 2015-16 budget year, and each budget year thereafter, the general assembly shall appropriate five million dollars to the department of education for distribution as at-risk per pupil additional funding to districts and institute charter schools as provided in this section.

(3) (a) (I) For the 2015-16 budget year, and each budget year thereafter, the department of education shall distribute to each district an amount equal to the at-risk per pupil additional funding multiplied by the district at-risk pupils for the applicable budget year.

(II) Each district that is an authorizer for a charter school shall distribute to the district charter school an amount equal to one hundred percent of the at-risk per pupil additional funding multiplied by the number of at-risk pupils enrolled in the district charter school for the applicable budget year.

(b) (I) For the 2015-16 budget year, and each budget year thereafter, the department of education shall distribute to the state charter school institute for distribution to the institute charter schools an amount equal to the at-risk per pupil additional funding multiplied by the total number of at-risk pupils enrolled in the institute charter schools for the applicable budget year.

(II) The state charter school institute shall distribute to each institute charter school an amount equal to one hundred percent of the at-risk per pupil additional funding multiplied by the number of at-risk pupils enrolled in the institute charter school for the applicable budget year.

**Source: L. 2015:** Entire section added, (SB 15-267), ch. 295, p. 1203, § 6, effective June 5.

**22-54-137. Additional funding - small rural districts - eligible charter schools - definitions - repeal. (Repealed)**

**Source: L. 2015:** Entire section added, (HB 15-1321), ch. 217, p. 800, § 10, effective May 22.

**Editor's note:** Subsection (5) provided for the repeal of this section, effective July 1, 2016. (See L. 2015, p. 800.)

**22-54-138. Career development success program - created - funding - report - definitions - repeal.** (1) As used in this section, unless the context otherwise requires:

(a) "Charter school" means a charter school that enrolls pupils in any of grades nine through twelve and is authorized as a district charter school pursuant to part 1 of article 30.5 of this title or as an institute charter school pursuant to part 5 of article 30.5 of this title.

(b) "Construction industry apprenticeship program" means an apprenticeship program registered with the office of apprenticeship in the United States department of labor that trains individuals for careers in the construction industry.

(c) "Construction industry pre-apprenticeship program" means a program or set of strategies that:

(I) Is designed to prepare individuals for careers in the construction industry by facilitating the entry of individuals into a registered construction industry apprenticeship program;

(II) Has a documented relationship with at least one apprenticeship program registered with the office of apprenticeship in the United States department of labor; and

(III) Meets the quality pre-apprenticeship program standards maintained by the employment and training administration of the United States department of labor.

(d) "Institute" means the state charter school institute established in section 22-30.5-503.

(e) "Nonparticipating district" means a district that chooses not to participate in the career development success program created in this section but that is the authorizer for a participating district charter school.

(f) "Participating charter school" means a charter school that chooses to participate in the career development success program created in this section.

(g) "Participating district" means a district that chooses to participate in the career development success program created in this section.

(h) "Qualified advanced placement course" means a course in computer science that delivers a college-level curriculum and awards postsecondary course credit for pupils who achieve specified scores on the end-of-course examination.

(i) "Qualified industry-credential program" means a career and technical education program that:

(I) Upon completion, results in an industry-recognized credential and credits that apply to graduation from a school district, district charter school, or institute charter school, which credits may be earned through concurrent enrollment as provided in article 35 of this title; and

(II) Is identified by the Colorado work force development council as provided in subsection (3) of this section.

(j) "Qualified internship, residency, or construction industry pre-apprenticeship or apprenticeship program" means an internship program, a residency program, a construction industry apprenticeship program, or a construction industry pre-apprenticeship program, which program is identified by the Colorado work force development council as provided in subsection (3) of this section.

(k) "Residency program" means a program defined by the work force development council or the department of labor and employment that:

(I) Provides an individual with a set of well-defined occupational skills and abilities by teaching both theoretical and practical concepts primarily through on-the-job training and related instruction; and

(II) Ensures the individual receives a form of compensation for the on-the-job training.

(l) "Work force development council" or "council" means the state work force development council created in section 24-46.3-101, C.R.S.

(2) There is hereby created the career development success program in the department of education to provide financial incentives for participating districts and participating charter schools to encourage pupils enrolled in grades nine through twelve to enroll in and successfully complete qualified industry-credential programs, qualified internship, residency, or construction industry pre-apprenticeship or apprenticeship programs, and qualified advanced placement courses. For the 2017-18 budget year and each budget year thereafter, each participating district and each participating charter school, as provided in subsection (5) of this section, may receive up to one thousand dollars for each pupil who, in the preceding budget year, successfully completes a qualified industry-credential program, qualified internship, residency, or construction industry pre-apprenticeship or apprenticeship program, or qualified advanced placement course.

(3) (a) On or before August 15, 2016, and on or before July 1 each year thereafter, the work force development council, in collaboration with the department of higher education, the department of education, the department of labor and employment, and the Colorado office of economic development, shall publish on the council's website a list of the qualified industry-credential programs and qualified internship, residency, or construction industry pre-apprenticeship or apprenticeship programs for that school year. The council and its partners shall identify the qualified industry-credential programs and qualified internship, residency, or construction industry pre-apprenticeship or apprenticeship programs by identifying the jobs included in the Colorado talent pipeline report, prepared pursuant to section 24-46.3-103, C.R.S., with the greatest regional and state demand, including jobs in in-demand industries, and identifying the programs that align with or are likely to lead to the identified jobs.

(b) The work force development council may identify an internship as a qualified internship program only if, in addition to meeting the requirements specified in paragraph (a) of this subsection (3), the council finds that the internship:

(I) Is aligned with a postsecondary education or employment opportunity;

(II) Employs a sufficient number of internship case managers to monitor student participation in the internship;

(III) Provides students with pre-internship training or course work that is designed to prepare the students for the internship; and

(IV) Implements adequate safety and supervisory safeguards for the students participating in the internship.

(4) (a) Each district and each charter school may decide annually whether to participate in the career development success program. If a district chooses not to participate in the program but a charter school that is authorized by the district chooses to participate in the program, the nonparticipating district shall report the participating charter school pupil enrollments to the department of education as provided in this subsection (4) on behalf of the participating charter school and distribute to the participating charter school one hundred percent of the money received on behalf of the pupils enrolled in the participating charter school as provided in subsection (5) of this section.

(b) By June 30, 2017, and by June 30 each year thereafter, each participating district, each nonparticipating district on behalf of its participating charter schools, and the institute on behalf of each participating institute charter school, shall report to the department of education

the total number of pupils enrolled in the participating district, the total number of pupils enrolled in the participating charter schools of the nonparticipating district, or the total number of pupils enrolled in the participating institute charter schools, who, during the school year that ends on that June 30:

(I) Successfully earned an industry certificate by completing a qualified industry-credential program;

(II) Successfully completed a qualified internship, residency, or construction industry pre-apprenticeship or apprenticeship program; or

(III) Completed a qualified advanced placement course and earned a score on the end-of-course exam that is eligible for college credit.

(c) Each qualified internship and residency program shall determine whether a pupil successfully completes the program.

(d) A pupil successfully completes a qualified construction industry pre-apprenticeship program if the student completes the course requirements of the program with a passing grade and is accepted into a construction industry apprenticeship program as a registered apprentice.

(e) A pupil may be reported as successfully completing a qualified construction industry apprenticeship if the pupil is accepted as a registered apprentice in a construction industry apprenticeship program and employed by a construction industry contractor.

(5) (a) Beginning in the 2017-18 budget year and each budget year thereafter, the general assembly shall annually appropriate at least one million dollars to the department of education for the career development success program. The department shall distribute the money as provided in this subsection (5).

(b) (I) For each budget year, the department of education shall first distribute to each district and to the institute an amount equal to one thousand dollars multiplied by the number of pupils reported by the district or the institute as successfully earning an industry certificate by completing a qualified industry-credential program; except that a participating district or participating charter school shall not receive a distribution for more than ten percent of the total number of completed industry certificates reported by districts and the institute.

(II) Notwithstanding the provisions of subsection (5)(b)(I) of this section, if the amount appropriated is insufficient to fully fund the total number of completed industry certificates eligible for distribution under subsection (5)(b)(I) of this section, the department of education shall reduce the amount distributed to each district and to the institute by the same percentage that the deficit bears to the amount required to fully fund the total number of completed industry certificates eligible for distribution under subsection (5)(b)(I) of this section.

(c) In a budget year in which there is money remaining in the appropriation made pursuant to paragraph (a) of this subsection (5) after distributing the money as provided in paragraph (b) of this subsection (5), the department of education shall distribute to each district and to the institute an amount equal to one thousand dollars multiplied by the number of pupils reported by the district or the institute as successfully completing a qualified internship, residency, or construction industry pre-apprenticeship or apprenticeship program; except that, if the amount remaining is insufficient to fully fund the total number of reported pupils, the department of education shall reduce the amount distributed to each district and to the institute by the same percentage that the deficit bears to the amount required to fully fund the total number of pupils reported as successfully completing a qualified internship, residency, or construction industry pre-apprenticeship or apprenticeship program.

(d) In a budget year in which there is money remaining in the appropriation made pursuant to paragraph (a) of this subsection (5) after distributing the money as provided in paragraphs (b) and (c) of this subsection (5), the department of education shall distribute to each district and to the institute an amount equal to one thousand dollars multiplied by the number of pupils reported by the district or the institute as successfully completing a qualified advanced placement course; except that, if the amount remaining is insufficient to fully fund the total number of reported pupils, the department of education shall reduce the amount distributed to each district and to the institute by the same percentage that the deficit bears to the amount required to fully fund the total number of pupils reported as successfully completing a qualified advanced placement course.

(6) (a) Each district that authorizes a charter school shall forward to the charter school one hundred percent of the amount that the district receives pursuant to subsection (5) of this section for students enrolled in the charter school.

(b) The institute shall forward to each institute charter school one hundred percent of the amount that the institute receives pursuant to subsection (5) of this section for students enrolled in the institute charter school.

(7) Each participating district and each participating charter school shall regularly communicate to all high school students the availability of qualified industry-credential programs, qualified internship, residency, or construction industry pre-apprenticeship or apprenticeship programs, and qualified advanced placement courses and the benefits a student receives as a result of successfully completing one of these programs or courses. The participating district and participating charter school shall design the communications with students with the goal of increasing participation in these programs and courses across all student subgroups.

(7.5) The department of education shall at least annually provide to each district and charter school that does not participate in the career development success program information explaining the program, including the credentials and advanced placement courses for which a participating district or participating charter school may receive a distribution, the amounts of the distributions, and the requirements and procedures for participating in the program.

(8) At the hearing with the joint education committee of the general assembly held in accordance with section 2-7-203 in November or December 2017, and at the hearing held each year thereafter, the department of education shall provide a report that describes the outcomes achieved by the career development success program. At a minimum, the report must include the following information:

(a) The number of districts and charter schools that participated in the program;

(b) The number of students in each year of the program that the participating districts and participating charter schools reported as earning an industry certificate by completing a qualified industry-credential program, successfully completing a qualified internship, residency, or construction industry pre-apprenticeship or apprenticeship program, or completing a qualified advanced placement course and earning a score on the end-of-course exam that is eligible for college credit. The department shall report the student numbers in totals and disaggregated based on student demographics, including eligibility for free or reduced-price meals.

(c) The specific industry certificates earned;

(d) The total amount appropriated for the program and the amounts distributed pursuant to each of subsections (5)(b), (5)(c), and (5)(d) of this section, in total and to each participating district and participating charter school;

(e) Whether in any year of the program the department was required to make a pro rata reduction in the amounts distributed pursuant to subsection (5)(b), (5)(c), or (5)(d) of this section in accordance with the provisions of said subsections;

(f) To the extent information is available, whether more students met the requirements for funding under the program after the program was enacted as compared to before the program was enacted and the likelihood that a higher level of funding for the program would increase the number of students who meet the requirements for funding under the program; and

(g) Whether the students participating in the qualified industry-credential programs, qualified internship, residency, or construction industry pre-apprenticeship or apprenticeship programs, and qualified advanced placement courses graduated from high school and whether after graduation they enrolled in postsecondary education.

(9) This section is repealed, effective September 1, 2024.

**Source: L. 2016:** Entire section added, (HB 16-1289), ch. 196, p. 688, § 1, effective August 10. **L. 2018:** (1)(e) to (1)(g), (2), (4)(a), (5)(a), (5)(b), and (7) to (9) amended and (7.5) added, (HB 18-1266), ch. 374, p. 2273, § 1, effective August 8.

**22-54-139. Additional funding for schools - use of retail marijuana sales tax revenue transferred to state public school fund - definitions.** (1) As used in this section, unless the context otherwise requires:

(a) "Large rural district" means a district in Colorado that the department of education determines is rural, based on the geographic size of the district and the distance of the district from the nearest large, urbanized area, and that had a funded pupil count for the prior budget year of one thousand pupils or more but fewer than six thousand five hundred pupils.

(b) "Per pupil distribution amount" means:

(I) For a large rural district, an amount equal to thirty million dollars multiplied by the percentage specified in subsection (2)(a) of this section and then divided by the sum of the total funded pupil count for the prior budget year of all large rural districts; and

(II) For a small rural district, an amount equal to thirty million dollars multiplied by the percentage specified in subsection (2)(b) of this section and then divided by the sum of the total funded pupil count for the prior budget year of all small rural districts;

(c) "Small rural district" means a district in Colorado that the department of education determines is rural, based on the geographic size of the district and the distance of the district from the nearest large, urbanized area, and that had a funded pupil count for the prior budget year of fewer than one thousand pupils.

(2) For the 2017-18 budget year, all of the gross retail marijuana sales tax proceeds transferred from the general fund to the state public school fund created in section 22-54-114 (1) as required by section 39-28.8-203 (1)(b)(I.3)(B) is appropriated from the state public school fund to the department for monthly distribution to each large rural district and each small rural district for the purpose of improving student learning and the educational environment, including but not limited to loan forgiveness for educators and staff, technology, and transportation, as follows:

(a) Fifty-five percent of the money is allocated to large rural districts and distributed to each large rural district in an amount equal to the per pupil distribution amount multiplied by the large rural district's funded pupil count for the prior budget year for proportional apportionment to every school in the district based on the number of students enrolled in each school for the prior budget year; and

(b) Forty-five percent of the money is allocated to small rural districts and distributed to each small rural district in an amount equal to the per pupil distribution amount multiplied by the small rural district's funded pupil count for the prior budget year for proportional apportionment to every school in the district based on the number of students enrolled in each school for the prior budget year.

(3) For the 2019-20 budget year and for each budget year thereafter, the general assembly may appropriate all or any portion of the gross retail marijuana sales tax proceeds transferred from the general fund to the state public school fund created in section 22-54-114 (1) during the prior budget year as required by section 39-28.8-203 (1)(b)(I.5)(B) to the department to meet the state's share of the total program of all districts and funding for institute charter schools.

**Source: L. 2017:** Entire section added, (SB 17-267), ch. 267, p. 1438, § 4, effective May 30. **L. 2018:** (3) amended, (HB 18-1101), ch. 43, p. 468, § 1, effective March 15.

**Cross references:** For the legislative declaration in SB 17-267, see section 1 of chapter 267, Session Laws of Colorado 2017.

**22-54-140. Additional funding for rural schools - 2018-19 budget year - definitions - repeal. (Repealed)**

**Source: L. 2018:** Entire section added, (HB 18-1379), ch. 250, p. 1538, § 3, effective May 24.

**Editor's note:** Subsection (5) provided for the repeal of this section, effective July 1, 2019. (See L. 2018, p. 1540.)

**22-54-141. Additional funding for rural schools - 2019-20 budget year - definitions - repeal. (Repealed)**

**Source: L. 2019:** Entire section added, (SB 19-246), ch. 151, p. 1787, § 4, effective May 10.

**Editor's note:** Subsection (6) provided for the repeal of this section, effective July 1, 2020. (See L. 2019, p. 1787.)

**22-54-142. Rural school funding - rural schools cash fund - created - definitions - repeal. [*Editor's note: This section takes effect only if a ballot question is approved by the people at the next regular general election in November 2020. See the editor's note following this section.*]**(1) As used in this section, unless the context otherwise requires:

(a) "Distribution year" means the budget year in which rural school funding is distributed pursuant to this section.

(b) "Eligible institute charter school" means an institute charter school that has a small rural district or a large rural district as its accounting district.

(c) "Fund" means the rural schools cash fund created in subsection (5) of this section.

(d) "Large rural district" means a district that the department of education determines is a rural district, based on the geographic size of the district and the distance of the district from the nearest large, urbanized area, and that had a funded pupil count for the budget year immediately preceding the distribution year of at least one thousand but fewer than six thousand five hundred pupils in kindergarten through twelfth grade.

(e) "Per pupil distribution amount" means:

(I) For a large rural district, an amount equal to the amount appropriated pursuant to subsection (6) of this section for the applicable distribution year multiplied by the percentage specified in subsection (2)(a) of this section and then divided by the sum of the total funded pupil count for the budget year immediately preceding the distribution year of all large rural districts and the total student enrollment for the budget year immediately preceding the distribution year of all eligible institute charter schools that have a large rural district as the accounting district; or

(II) For a small rural district, an amount equal to the amount appropriated pursuant to subsection (6) of this section for the applicable distribution year multiplied by the percentage specified in subsection (2)(b) of this section and then divided by the sum of the total funded pupil count for the budget year immediately preceding the distribution year of all small rural districts and the total student enrollment for the budget year immediately preceding the distribution year of all eligible institute charter schools that have a small rural district as the accounting district.

(f) "Small rural district" means a district that the department of education determines is a rural district, based on the geographic size of the district and the distance of the district from the nearest large, urbanized area, and that had a funded pupil count for the budget year immediately preceding the distribution year of fewer than one thousand pupils in kindergarten through twelfth grade.

(2) For the 2020-21, 2021-22, and 2022-23 budget years, the department of education shall distribute the amount appropriated pursuant to subsection (6) of this section for the applicable distribution year to large rural districts, small rural districts, and eligible institute charter schools. The department of education shall distribute:

(a) Fifty-five percent of the money appropriated for the applicable distribution year to large rural districts and to eligible institute charter schools in large rural districts, as provided in this section; and

(b) Forty-five percent of the money appropriated for the applicable distribution year to small rural districts and to eligible institute charter schools in small rural districts, as provided in this section.

(3) (a) The department of education shall distribute to each large rural district and each small rural district an amount equal to the applicable per pupil distribution amount for the applicable distribution year multiplied by the large rural district's or small rural district's funded pupil count for the budget year immediately preceding the distribution year.

(b) Each large rural district and each small rural district that is the authorizer for a charter school shall distribute to the charter school one hundred percent of an amount equal to the applicable per pupil distribution amount for the applicable distribution year multiplied by the number of students enrolled in the charter school for the budget year immediately preceding the distribution year.

(4) The department of education shall calculate for each eligible institute charter school and distribute to the state charter school institute an amount equal to the applicable per pupil distribution amount for the applicable distribution year multiplied by the number of students enrolled in the eligible institute charter school for the budget year immediately preceding the distribution year. The state charter school institute shall distribute to each eligible institute charter school one hundred percent of the amount received for the eligible institute charter school pursuant to this subsection (4).

(5) The rural schools cash fund is hereby created in the state treasury. The fund consists of money transferred to the fund pursuant to section 24-22-118 (2). The state treasurer shall credit all interest and income derived from the deposit and investment of money in the rural schools cash fund to the fund.

(6) (a) For the 2020-21 budget year, the general assembly shall appropriate twenty-five million dollars from the fund to the department of education to provide additional funding for large rural districts, small rural districts, and eligible institute charter schools pursuant to this section.

(b) For the 2021-22 budget year, the general assembly shall appropriate thirty million dollars from the fund to the department of education to provide additional funding for large rural districts, small rural districts, and eligible institute charter schools pursuant to this section.

(c) For the 2022-23 budget year, the general assembly shall appropriate thirty-five million dollars from the fund to the department of education to provide additional funding for large rural districts, small rural districts, and eligible institute charter schools pursuant to this section.

(7) Each district, district charter school and eligible institute charter school that receives money pursuant to this section shall report to the department of education, by a date determined by the department, the specific expenditures for which the district or charter school used the money received pursuant to this section.

(8) This section is repealed, effective July 1, 2023.

**Source: L. 2020:** Entire section added, (HB 20-1427), ch. 248, p. 1204, § 20, effective ___. (See editor's note.)

**Editor's note:** This section was added by HB 20-1427. That bill contains a ballot question and will be submitted to a vote of the registered electors of the state of Colorado at the next biennial regular general election in 2020 for its approval or rejection. This section takes effect upon the proclamation of the Governor if the ballot question is approved by the registered electors.

## ARTICLE 54.5

Public School Finance Act

**Editor's note:** Section 15 of chapter 248, Session Laws of Colorado 2013, provides that the act adding this article takes effect upon the proclamation by the governor of the vote cast in a statewide election held no later than November 2017 at which a citizen-initiated increase in state tax revenues for the purpose of funding preschool through twelfth grade public education is approved. No such citizen-initiated tax increase occurred; therefore, this article did not take effect. For more information, see page 1297 of Session Laws of Colorado 2013.

## ARTICLE 55

State Policies Relating to Section 17
of Article IX of the State Constitution

**22-55-101. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) Section 17 of article IX of the state constitution, which was approved by the registered electors of this state at the 2000 general election, requires the general assembly to increase funding for preschool through twelfth grade public education and for categorical programs;

(b) Specifically, section 17 of article IX of the state constitution requires:

(I) A specified percentage of state income tax revenues collected on income earned on or after December 28, 2000, to be diverted to a newly created state education fund from which moneys may be appropriated only for specified education-related purposes;

(II) The general assembly to annually increase the statewide base per pupil funding for public education from preschool through the twelfth grade and total state funding for all categorical programs by at least the rate of inflation plus one percentage point for state fiscal years 2001-02 through 2010-11, and by at least the rate of inflation for state fiscal year 2011-2012 and each succeeding state fiscal year; and

(III) The general assembly to annually increase the general fund appropriation for total program education funding under the "Public School Finance Act of 1994", article 54 of this title, or any successor act, for each state fiscal year from 2001-02 through 2010-11 by at least five percent over the amount of the prior year's general fund appropriation for total program education funding, unless Colorado personal income grows less than four and one-half percent between the two calendar years preceding the state fiscal year in which an appropriation is made.

(2) The general assembly further finds and declares that:

(a) It is the duty and intent of the general assembly to comply with the requirements of section 17 of article IX of the state constitution;

(b) It is within the legislative prerogative of the general assembly to enact legislation to implement section 17 of article IX of the state constitution that will ensure compliance with the requirements of said section 17 of article IX and facilitate its operation;

(c) In enacting legislation to implement section 17 of article IX of the state constitution:

(I) The general assembly has attempted to interpret the provisions of section 17 of article IX of the state constitution in a manner that gives its words their natural and obvious significance;

(II) The general assembly has attempted to ascertain the intent of the proponents who initiated section 17 of article IX of the state constitution and the voters who adopted it and to

apply other generally accepted rules of constitutional construction where the meaning of said section 17 of article IX is uncertain.

(3) The general assembly further finds and declares that:

(a) Because the amount of funding provided for the prior state fiscal year plays a significant role in the calculation of the minimum amount of the increase in state appropriations for education required for each state fiscal year by section 17 of article IX of the state constitution, the amount of money that the state will be required to spend for education funding for each state fiscal year will increase dramatically over time due to a compounding effect;

(b) Since section 17 of article IX of the state constitution does not create any new tax, increase the rate of any existing tax, or otherwise increase the amount of revenues that will be collected by the state, some of the increases in state education funding that said section 17 of article IX requires will affect the amount of money available to fund other state programs and services;

(c) In enacting legislation to implement section 17 of article IX of the state constitution, it is the duty, intent, and legislative prerogative of the general assembly to mitigate any adverse impact that the state education funding requirements of said section 17 of article IX may have on the financial condition of the state and other state programs and services by ensuring that moneys are credited to the state education fund, invested while in the fund, and expended from the fund in a manner that will ensure that the fund remains viable and that fund moneys will always be available to meet a significant portion of the long-term state education funding requirements of said section 17 of article IX.

(d) This article reflects the considered judgment of the general assembly regarding the meaning and implementation of the provisions of section 17 of article IX of the state constitution.

**Source: L. 2001:** Entire article added, p. 673, § 1, effective May 30; entire article added, p. 571, § 1, effective May 30; entire article added, p. 990, § 1, effective June 5.

**Editor's note:** Senate Bill 01-082 was harmonized with Senate Bill 01-204 and House Bill 01-1262.

**22-55-102. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Accountability reporting" means any requirement established in law that mandates school districts to report or provide information relative to school improvement to the state board or the department, including, but not limited to:

(a) Data collection and reporting requirements that are required pursuant to part 5 of article 11 of this title in connection with school performance reports;

(b) Reporting requirements in connection with the administration of state assessments pursuant to section 22-7-1006.3; or

(c) Requirements specified in the "Education Accountability Act of 2009", article 11 of this title.

(2) (a) "Accountable education reform" means any program or plan for reforming preschool through twelfth-grade education in the state that complies with accountability standards imposed by law on school districts in the state, including, but not limited to, the requirements set forth in:

(I) Part 5 of article 11 of this title relating to school performance reports; and

(II) Part 10 of article 7 of this title.

(b) "Accountable education reform" includes any program or plan for improving teacher quality.

(c) "Accountable education reform" includes any program for improving student academic achievement that conforms with the requirements of federal programs related to student achievement.

(3) "Accountable programs to meet state academic standards" include, but are not limited to, programs designed to assist students in demonstrating improved academic achievement on state assessments administered pursuant to section 22-7-1006.3. "Accountable programs to meet state academic standards" include, but are not limited to, programs:

(a) For the purchase of additional or improved textbooks;

(b) To provide incentives to increase parental involvement;

(c) To improve literacy; or

(d) To provide assistance with English language proficiency beyond what is currently provided pursuant to the English language proficiency program established pursuant to section 22-24-104.

(4) "Categorical programs" includes only the following programs:

(a) Public school transportation as described in article 51 of this title;

(b) The English language proficiency program created in section 22-24-104;

(c) The expelled and at-risk student services grant program created in section 22-33-205;

(d) Special education programs for children with disabilities as described in article 20 of this title;

(e) Special education programs for gifted children as described in article 20 of this title;

(f) The grant program for in-school or in-home suspension described in article 37 of this title;

(g) Career and technical education as described in article 8 of title 23, C.R.S.;

(h) Small attendance centers for which state aid is available pursuant to section 22-54-122;

(i) The comprehensive health education program created in section 22-25-104; and

(j) Other current and future accountable programs specifically identified in statute as a categorical program.

(5) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(6) "Federal taxable income, as modified by law" means federal taxable income as modified by sections 39-22-104, 39-22-304, 39-22-509, and 39-22-518, and as apportioned and allocated under section 39-22-303.5, 39-22-303.6, or 39-22-303.7 to the extent federal taxable income is not being modified to effectuate a refund of excess state revenues required pursuant to section 20 of article X of the state constitution, earned on or after December 28, 2000.

(7) "Inflation" means the percentage change in the consumer price index for the Denver-Boulder consolidated metropolitan statistical area for all urban consumers, all goods, as published by the United States department of labor, bureau of labor statistics, or its successor index.

(8) (Deleted by amendment, L. 2009, (SB 09-292), ch. 369, p. 1965, § 67, effective August 5, 2009.)

(9) "Performance incentives for teachers" include, but are not limited to, programs that:

(a) Promote teacher retention;

(b) Promote teacher recruitment;

(c) Promote teacher use of technology; or

(d) Provide salary incentives based in whole or in part on student performance.

(10) "Preschool programs" includes, but is not limited to, the Colorado preschool program created pursuant to section 22-28-104.

(11) "State board" means the state board of education created and existing pursuant to section 1 (1) of article IX of the state constitution.

(12) "State education fund" means the state education fund created pursuant to section 17 (4) of article IX of the state constitution and section 22-55-103.

(13) "State education fund revenues" means revenues collected from a tax of one-third of one percent on federal taxable income, as modified by law, of every individual, estate, trust, and corporation, as defined in law, that are required to be transferred to the state education fund pursuant to section 17 (4)(a) of article IX of the state constitution.

(14) "Statewide base per pupil funding" means the amount specified for each budget year in section 22-54-104 (5)(a).

(15) "Statutory limitation on general fund appropriations" means the limitation on annual general fund appropriations set forth in section 24-75-201.1, C.R.S.

(16) "Student safety" includes, but is not limited to, any plan, program, or project designed to improve the safety of the physical environment of preschool through twelfth-grade students while on property owned or under the control of the school district.

(17) "Technology education" includes, but is not limited to, any plan, program, or project designed to enhance the computer and telecommunication skills of preschool through twelfth-grade students and teachers or improve instruction through technology application.

(18) "Total program" or "total program education funding" means a district's total program as determined pursuant to section 22-54-104 (1).

(19) "Total state funding for all categorical programs" means the aggregate amount of state funding for all categorical programs in any given fiscal year, including any adjustments made to said funding through the enactment of a supplemental appropriation bill or bills for that fiscal year.

**Source: L. 2001:** Entire article added, p. 675, § 1, effective May 30; entire article added, p. 573, § 1, effective May 30; entire article added, p. 992, § 1, effective June 5. **L. 2003:** (8) amended, p. 2138, § 38, effective May 22. **L. 2006:** (8) and (10) amended, p. 699, § 45, effective April 28. **L. 2008:** (6) amended, p. 953, § 1, effective January 1, 2009. **L. 2009:** (1), IP(2)(a), and (2)(a)(I) amended, (SB 09-163), ch. 293, p. 1545, § 52, effective May 21; (15) amended, (SB 09-228), ch. 410, p. 2256, § 3, effective July 1; (8) and (10) amended, (SB 09-292), ch. 369, p. 1965, § 67, effective August 5. **L. 2010:** (4)(g) amended, (SB 10-062), ch. 168, p. 591, § 1, effective April 29. **L. 2015:** (1)(b), (2)(a)(II), and IP(3) amended, (HB 15-1323), ch. 204, p. 726, § 38, effective May 20. **L. 2019:** (6) amended, (SB 19-241), ch. 390, p. 3467, § 20, effective August 2.

**Editor's note:** Provisions of this section, as enacted by Senate Bill 01-082, Senate Bill 01-204, and House Bill 01-1262, have been renumbered and harmonized.

**22-55-103. State education fund - creation - transfers to fund - use of moneys in fund - permitted investments - exempt from spending limitations.** (1) In accordance with section 17 (4) of article IX of the state constitution, there is hereby created in the state treasury the state education fund. The fund shall consist of state education fund revenues, all interest and income earned on the deposit and investment of moneys in the fund, and any gifts or other moneys that are exempt from the limitation on state fiscal year spending set forth in section 20 (7)(a) of article X of the state constitution and section 24-77-103, C.R.S., that may be credited to the fund. All interest and income derived from the deposit and investment of moneys in the fund shall be credited to the fund. At the end of any state fiscal year, all unexpended and unencumbered moneys in the fund shall remain in the fund and shall not revert to the general fund or any other fund.

(2) (a) The legislative council, in consultation with the office of state planning and budgeting, shall calculate the amount of state education fund revenues for the period commencing December 28, 2000, and ending June 30, 2001, and the amount of state education fund revenues for each state fiscal year commencing on or after July 1, 2001. The legislative council and the office of state planning and budgeting shall rely upon the quarterly state revenue estimates issued by the legislative council in calculating such amounts and shall update its calculations no later than five days following the issuance of each quarterly state revenue estimate.

(b) To ensure that all state education fund revenues are transferred to the state education fund and that other state revenues are not erroneously transferred to the fund:

(I) No later than two days after calculating or recalculating the amount of state education fund revenues for the period commencing December 28, 2000, and ending June 30, 2001, or for any state fiscal year commencing on or after July 1, 2001, the legislative council, in consultation with the office of state planning and budgeting, shall certify to the department of revenue the amount of state education fund revenues that the department shall transfer to the state treasurer for deposit into the state education fund on the first day of each of the three succeeding calendar months as required by paragraph (c) of this subsection (2);

(II) Notwithstanding the provisions of subparagraph (I) of this paragraph (b), no later than May 25 of any state fiscal year commencing on or after July 1, 2000, the legislative council, in consultation with the office of state planning and budgeting, may certify to the department of revenue an adjusted amount for any transfer to be made on the first business day of the immediately succeeding June; and

(III) Subject to review by the state auditor, the legislative council, in consultation with the office of state planning and budgeting, may correct any error in the total amount of state education fund revenues transferred during any state fiscal year by adjusting the amount of any transfer to be made during the next state fiscal year.

(c) On the first business day of each calendar month that commences after June 5, 2001, the department of revenue shall transfer to the state treasurer for deposit into the state education fund state education fund revenues in an amount certified to the department by the legislative council, in consultation with the office of state planning and budgeting, pursuant to paragraph (b) of this subsection (2).

(3) (a) Except as provided by law, all moneys in the state education fund are subject to annual appropriation by the general assembly to the department of education for the purposes set forth in this subsection (3). The department shall expend all interest derived from the deposit and

investment of moneys in the fund prior to expending any of the principal in the fund. The moneys in the fund shall only be used to comply with the requirements of section 17 (1) of article (IX) of the state constitution and for such purposes as may be authorized by law and that are consistent with section 17 (4)(b) of article IX of the state constitution.

(b) Nothing in this subsection (3) shall be construed to require additional or future appropriations from the state education fund for any program for which an appropriation from the fund has previously been authorized for any given fiscal year in accordance with the provisions of paragraph (a) of this subsection (3).

(4) Moneys in the state education fund may be invested in the types of investments authorized in sections 24-36-109, 24-36-112, and 24-36-113, C.R.S.

(5) Pursuant to section 17 (3) of article IX of the state constitution, all moneys credited to the fund, appropriated by the general assembly out of the fund, or distributed from the fund and expended by any school district shall be exempt from:

(a) The limitation on state fiscal year spending set forth in section 20 (7)(a) of article X of the state constitution and section 24-77-103, C.R.S.;

(b) The limitation on local government fiscal year spending set forth in section 20 (7)(b) of article X of the state constitution; and

(c) The statutory limitation on general fund appropriations.

**Source: L. 2001:** Entire article added, p. 993, § 1, effective June 5. **L. 2009:** (5)(c) amended, (SB 09-228), ch. 410, p. 2256, § 4, effective July 1.

**22-55-104. Procedures relating to state education fund revenue estimates - legislative declaration.** (1) The general assembly finds and declares that:

(a) Section 17 (4)(a) of article IX of the state constitution requires that a portion of state income tax revenues be deposited in the newly created state education fund;

(b) Section 17 (4)(b) of article IX of the state constitution authorizes the general assembly to annually appropriate moneys from the state education fund to comply with the required increase in funding for preschool through twelfth grade public education and for categorical programs;

(c) In order to ensure the availability of moneys in the state education fund to comply with the increase in funding for preschool through twelfth grade public education and for categorical programs, the general assembly must preserve the fund, foster its growth, and protect its solvency;

(d) To preserve the fund, foster its growth, and protect its solvency, the general assembly must restrict appropriations from the fund and make an annual determination of the maximum amount that may be appropriated from the fund based on analyses prepared on a regular basis.

(2) Repealed.

(3) By February 1, 2002, and by each February 1 thereafter, the staff of the legislative council, in consultation with the state auditor, the office of state planning and budgeting, the state treasurer, the department of education, and the joint budget committee, shall cause to be conducted a review of the model used to forecast revenues in and expenditures from the fund and the spending requirements of the "Public School Finance Act of 1994", article 54 of this title. Copies of the review shall promptly be transmitted to the joint budget committee, and the office

of state planning and budgeting, and the education committees of the senate and the house of representatives. The review shall include, but need not be limited to, the following:

(a) A determination of the reasonableness of the assumptions used to forecast the revenues and expenditures;

(b) A revision of the assumptions as necessary;

(c) Information on the financial stability of the fund;

(d) Projections of the amount of total state moneys required to meet the funding requirements of sections 22-55-106 and 22-55-107 for the next state fiscal year;

(e) Projections of the amount of state moneys available from funds other than the general fund and the state education fund to meet the funding requirements of sections 22-55-106 and 22-55-107 for the next state fiscal year;

(f) Revenue projections for the state education fund;

(g) An estimate of the maximum amount of moneys that can be appropriated from the state education fund and the minimum amount of moneys that can be appropriated from the general fund to meet the funding requirements of sections 22-55-106 and 22-55-107 for the next state fiscal year without adversely impacting the solvency of the state education fund or the ability of the general assembly to comply with said funding requirements in future years; and

(h) Estimates of the impact of various levels of general fund appropriations above the minimum level identified pursuant to paragraph (g) of this subsection (3) on the amount of moneys available in the state education fund to provide funding in the next state fiscal year for programs that may be authorized by law and that are consistent with section 17 (4)(b) of article IX of the state constitution.

**Source: L. 2001:** Entire article added, p. 574, § 1, effective May 30. **L. 2003:** (3)(h) amended, p. 2138, § 39, effective May 22. **L. 2009:** (2) repealed, (SB 09-181), ch. 147, p. 614, § 1, effective April 20.

**Editor's note:** This section was enacted as section 22-55-103 in Senate Bill 01-204 but has been renumbered for ease of location and harmonized with Senate Bill 01-082 and House Bill 01-1262.

**22-55-105. General fund appropriations requirements - maintenance of effort base - definition.** (1) (a) In accordance with section 17 (5) of article IX of the state constitution, for state fiscal years 2001-02 through 2010-11, the general assembly shall annually appropriate from the general fund for total program under the "Public School Finance Act of 1994", article 54 of this title, an amount equal to the maintenance of effort base plus an amount as determined annually by the general assembly that is equal to at least five percent of the maintenance of effort base, unless Colorado personal income grows less than four and one-half percent between the two calendar years preceding the state fiscal year in which an appropriation is made.

(b) (I) The general assembly shall determine whether the requirements of this subsection (1) apply in the next state fiscal year based on Colorado personal income growth estimates or data made available by the bureau of economic analysis in the United States department of commerce at the time the general assembly enacts the annual general appropriation act for that state fiscal year.

(II) The general assembly shall increase the general fund appropriation for total program funding when it considers supplemental appropriation bills during the state fiscal year for which a determination has been made pursuant to subparagraph (I) of this paragraph (b) if:

(A) The general assembly had initially determined that the requirements of this subsection (1) do not apply in that state fiscal year and had not increased the general fund appropriation for total program funding for that state fiscal year by the minimum amount specified in paragraph (a) of this subsection (1); and

(B) The bureau of economic analysis in the United States department of commerce releases, adjusts, or updates Colorado personal income data during that state fiscal year, as reported to the general assembly in the December revenue forecast by the staff of the legislative council, and the released, adjusted, or updated data indicates that Colorado personal income grew by at least four and one-half percent between the two calendar years preceding that state fiscal year.

(III) The general assembly may reduce the general fund appropriation for total program funding when it considers supplemental appropriation bills during the state fiscal year for which a determination has been made pursuant to subparagraph (I) of this paragraph (b) if:

(A) The general assembly had initially determined that the requirements of this subsection (1) do apply in that state fiscal year and had increased the general fund appropriation for total program funding for that state fiscal year by the minimum amount specified in paragraph (a) of this subsection (1); and

(B) The bureau of economic analysis in the United States department of commerce releases, adjusts, or updates Colorado personal income data during that state fiscal year, as reported to the general assembly in the December revenue forecast by the staff of the legislative council, and the released, adjusted, or updated data indicates that Colorado personal income grew by less than four and one-half percent between the two calendar years preceding that state fiscal year.

(IV) The determination and general fund appropriation for total program funding made pursuant to this paragraph (b) shall not be subject to modification in state fiscal years following the state fiscal year for which the determination and appropriation were made based on any Colorado personal income growth data released, adjusted, or updated by the bureau of economic analysis in the United States department of commerce on or after January 1 of the state fiscal year for which the determination and appropriation were made.

(2) For purposes of this section, "maintenance of effort base" means the aggregate amount of general fund appropriations for total program pursuant to the "Public School Finance Act of 1994", article 54 of this title, for the immediately preceding state fiscal year, including any increases or decreases made to said appropriations through the enactment of a supplemental appropriation bill or bills for that state fiscal year.

**Source: L. 2001:** Entire article added, p. 576, § 1, effective May 30. **L. 2005:** (1) amended, p. 1349, § 1, effective June 3. **L. 2010:** (2) amended, (HB 10-1013), ch. 399, p. 1906, § 18, effective June 10.

**Editor's note:** This section was enacted as section 22-55-104 in Senate Bill 01-204 but has been renumbered for ease of location and harmonized with Senate Bill 01-082 and House Bill 01-1262.

**22-55-106. Statewide base per pupil funding - increases.** (1) (a) For school district budget years 2001-02 through 2010-11, the general assembly shall annually increase the statewide base per pupil funding for public education from preschool through the twelfth grade by at least the rate of inflation for the calendar year ending in the immediately preceding school district budget year plus one percentage point.

(b) For the school district budget year 2011-12 and each school district budget year thereafter, the general assembly shall annually increase the statewide base per pupil funding for public education from preschool through the twelfth grade by at least the rate of inflation for the calendar year ending in the immediately preceding school district budget year.

(2) The general assembly may annually appropriate moneys in the state education fund, the general fund, any other state fund, or some combination thereof, as necessary in the sole discretion of the general assembly, to satisfy the requirements of subsection (1) of this section, and such moneys shall be distributed to public school districts and the state charter school institute in accordance with the provisions of the "Public School Finance Act of 1994", article 54 of this title.

**Source: L. 2001:** Entire article added, p. 576, § 1, effective May 30; entire article added, p. 678, § 1, effective May 30. **L. 2004:** (2) amended, p. 1646, § 53, effective July 1.

**Editor's note:** This section was enacted as section 22-55-103 in Senate Bill 01-082 and as section 22-55-105 in Senate Bill 01-204 but has been renumbered for ease of location and harmonized with House Bill 01-1262.

**22-55-107. Categorical programs - increases in funding.** (1) (a) For school district budget years 2001-02 through 2010-11, the general assembly shall annually increase the total state funding for all categorical programs by at least the rate of inflation for the calendar year ending in the immediately preceding school district budget year plus one percentage point.

(b) For the school district budget year 2011-12 and each school district budget year thereafter, the general assembly shall annually increase the total state funding for all categorical programs by at least the rate of inflation for the calendar year ending in the immediately preceding school district budget year.

(2) The general assembly may annually appropriate moneys in the state education fund, the general fund, any other state fund, or some combination thereof, as necessary in the sole discretion of the general assembly but consistent with section 17 (5) of article IX of the state constitution, to satisfy the requirements of subsection (1) of this section. The general assembly may annually determine the particular categorical programs for which state funding will be increased for purposes of complying with the requirements of subsection (1) of this section, and the allocation of such increase shall be reflected in the annual general appropriation bill.

(3) For the 2008-09 budget year and each budget year thereafter, on or before February 15, the education committees of the house of representatives and senate, or any successor committees, may submit to the joint budget committee of the general assembly a joint recommendation regarding the allocation of the increase in total state funding for all categorical programs as required by subsection (1) of this section for the next budget year. The joint budget committee shall consider but shall not be bound by any joint recommendations made pursuant to

this subsection (3) when developing the annual general appropriation bill for the budget year for which the joint recommendation is made.

**Source: L. 2001:** Entire article added, p. 577, § 1, effective May 30; entire article added, p. 678, § 1, effective May 30. **L. 2007:** (3) added, p. 743, § 22, effective May 9.

**Editor's note:** This section was enacted as section 22-55-104 in Senate Bill 01-082 and as section 22-55-106 in Senate Bill 01-204 but has been renumbered for ease of location and harmonized with House Bill 01-1262.

**22-55-108. Accountability.** Each school district in the state shall adopt a continuous plan for the use of revenues distributed to the school district pursuant to sections 22-55-106 and 22-55-107. The plan shall be annually updated by the school district to reflect any changes in the use of the revenues distributed to the school district pursuant to sections 22-55-106 and 22-55-107. The plan shall include, but need not be limited to, a statement concerning the need for lower class sizes in school districts with a total enrollment of more than six thousand pupils and the need for increased funding for textbooks in the school district as determined based on discussions in public meetings held in the school district to address the class size and textbook funding issues and whether the need will be addressed by the plan. Each school district shall also include in its electronic transmissions required by section 22-11-501 (4)(d) an accounting of the impact of such revenues on student achievement.

**Source: L. 2001:** Entire article added, p. 679, § 1, effective May 30. **L. 2009:** Entire section amended, (SB 09-163), ch. 293, p. 1545, § 53, effective May 21.

**Editor's note:** This section was enacted as section 22-55-105 in Senate Bill 01-082 but has been renumbered for ease of location and harmonized with Senate Bill 01-204 and House Bill 01-1262.

## ARTICLE 56

Colorado Opportunity Contract Pilot Program

**22-56-101 to 22-56-110. (Repealed)**

**Source: L. 2006:** Entire article repealed, p. 627, § 49, effective August 7.

**Editor's note:** This article was added in 2003 and was not amended prior to its repeal in 2006. For the text of this article prior to 2006, consult the 2005 Colorado Revised Statutes.

## ARTICLE 57

Supplemental On-line Education Courses - Financing

**22-57-101 to 22-57-104. (Repealed)**

**Editor's note:** (1) This article was added in 2006 and was not amended prior to its repeal in 2007. For the text of this article prior to 2007, consult the 2006 Colorado Revised Statutes.

(2) Section 22-57-104 provided for the repeal of this article, effective July 1, 2007. (See L. 2006, p. 936.)

**Cross references:** For current provisions concerning supplemental online education programs, see §§ 22-2-130 and 22-5-119.

## ARTICLE 58

School Funding Models Pilot Program

**22-58-101 to 22-58-105. (Repealed)**

**Editor's note:** (1) This article was added in 2010. For amendments to this article prior to its repeal in 2015, consult the 2014 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 22-58-105 provided for the repeal of this article, effective July 1, 2015. (See L. 2010, p. 632.)

# TEACHERS

## ARTICLE 60

Teacher Certification

**22-60-101 to 22-60-119. (Repealed)**

**Editor's note:** (1) This article was numbered as article 17 of chapter 123 in C.R.S. 1963. For amendments to this article prior to its repeal in 1999, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 22-60-119 provided for the repeal of this article, effective July 1, 1999. (See L. 91, p. 512.)

## ARTICLE 60.3

Teacher Residency Expansion Program

**22-60.3-101. Legislative declaration.** (1) The general assembly finds that:

(a) A recent report by the department of education and the department of higher education shows that the number of students who enroll in and graduate from teacher preparation programs in Colorado continues to decline;

(b) School districts in Colorado, especially rural school districts, are facing a serious shortage in trained, licensed teachers in the areas of math, science, English language arts, special education, and early childhood education. This shortage is driven both by decreasing numbers of persons entering the profession and increasing numbers of persons leaving the profession after just two or three years of teaching. As a result, more school districts are hiring teachers from other states.

(c) The growing shortage of teachers potentially jeopardizes the ability of every student in Colorado to have access to a high-quality teacher who is reflective of and responsive to the needs of the state's diverse student populations; and

(d) Building partnerships between teacher preparation programs and local education providers will strengthen the pipeline of teacher candidates from high school to postsecondary teacher preparation to teaching in the classroom and increase the likelihood that Colorado's graduates will be employed to teach Colorado's students.

(2) The general assembly further finds that:

(a) Institutions of higher education, alternative teacher programs, school districts, and supporting nonprofit organizations and foundations have collaborated to create effective teacher residency programs that serve school districts and public schools in rural and urban areas of the state;

(b) These teacher residency programs are specifically designed to meet the needs of the participating school districts and public schools and to achieve positive academic outcomes for students; and

(c) Expanding the design of these teacher residency programs to enable more institutions of higher education, alternative teacher programs, and local education providers throughout the state to implement these teacher residency programs is necessary to increase the supply of effective teachers for employment by local education providers.

(3) The general assembly finds, therefore, that, to address the growing teacher shortage in Colorado, it is necessary to create the teacher residency expansion program through which the department of education will review and evaluate teacher residency programs operating on a pilot basis to identify the best practices, effective strategies, and critical components of a teacher residency program that are appropriate for expansion by institutions of higher education, alternative teacher programs, and local education providers across the state.

**Source: L. 2018:** Entire article added, (HB 18-1189), ch. 323, p. 1931, § 1, effective May 30.

**22-60.3-102. Definitions.** As used in this article 60.3, unless the context otherwise requires:

(1) "Alternative teacher program" has the same meaning as provided in section 22-60.5-102.

(2) "Board of cooperative services" means a regional educational service unit created pursuant to article 5 of this title 22.

(3) "Charter school" means a charter school authorized by a school district as provided in part 1 of article 30.5 of this title 22 or an institute charter school authorized by the state charter school institute as provided in part 5 of article 30.5 of this title 22.

(4) "Cultural competence" means the ability to understand, communicate with, and effectively interact with people across cultures, including understanding one's own cultural views and developing a positive attitude toward cultural differences.

(5) "Department" means the department of education created and existing pursuant to section 24-1-115.

(6) "Fund" means the teacher residency expansion program fund created in section 22-60.3-106.

(7) "Institution of higher education" means a public, private, or proprietary postsecondary institution authorized by the Colorado commission on higher education to offer teacher preparation programs.

(8) "Local education provider" means a school district, board of cooperative services, or charter school.

(9) "Paraprofessional" means a person who is trained to assist a licensed teacher.

(10) "Pilot program" means a teacher residency pilot expansion program that is implemented pursuant to section 22-60.3-104 as a component of the teacher residency expansion program.

(11) "Program" means the teacher residency expansion program created in section 22-60.3-103.

(12) "State board" means the state board of education created in section 1 of article IX of the state constitution.

(13) "Teacher residency program" means a type of teacher preparation program that, at a minimum, includes a full year of classroom apprenticeship that integrates theory and practice.

**Source: L. 2018:** Entire article added, (HB 18-1189), ch. 323, p. 1932, § 1, effective May 30.

**22-60.3-103. Teacher residency expansion program - created - rules.** (1) There is created in the department of education the teacher residency expansion program to identify the best practices, effective strategies, and critical components of effective teacher residency programs, which practices, strategies, and components may be used by institutions of higher education, alternative teacher programs, and local education providers across the state to assist local education providers in hiring and retaining well-trained, effective teachers. A local education provider may also consider the identified practices, strategies, and components in designing and implementing an effective teacher induction program.

(2) The program is designed to accomplish the following goals:

(a) Developing teacher candidates who are prepared to be successful in the classroom when they begin teaching, including being prepared to improve academic outcomes for all students in their classrooms;

(b) Supporting local education providers, alternative teacher programs, and institutions of higher education in collaborating to create a seamless, high-functioning, highly effective system of teacher preparation;

(c) Addressing barriers to effective teacher preparation, which include insufficient support for effective field experiences for teaching candidates and insufficient support for new teachers when they transition to the classroom, due to a lack of communication, sharing of

resources, and collaboration among local education providers, alternative teacher programs, institutions of higher education, and other teacher preparation program providers; and

(d) Identifying the best practices, effective strategies, and critical components of effective teacher residency program models that can be used by local education providers across the state and that may inform state policy changes.

(3) In implementing the program, the department shall provide to local education providers, alternative teacher programs, and institutions of higher education information concerning the outcomes of the pilot programs, the effectiveness of the methods and strategies implemented, and best practices and critical components identified to support expansion of teacher residency programs and how these strategies, practices, and components inform the design and implementation of teacher induction programs. The department shall provide the information using electronic methods, which may include posting information to the department website, e-mailing information, hosting electronic conversations among local education providers and institutions of higher education, and providing programming via the internet.

(4) The state board may promulgate rules pursuant to the "State Administrative Procedure Act", article 4 of title 24, as necessary to implement the program.

**Source: L. 2018:** Entire article added, (HB 18-1189), ch. 323, p. 1933, § 1, effective May 30.

**22-60.3-104. Teacher residency pilot expansion programs - funding.** (1) Beginning in the 2018-19 school year, the department shall contract with up to three institutions of higher education and up to three alternative teacher programs, each of which operates a proven and successful teacher residency program in Colorado, to operate the pilot teacher residency programs for the teacher residency expansion program. In selecting the institutions of higher education and the alternative teacher programs, the department shall ensure that the teacher residency programs that they operate have demonstrated success in training and retaining effective teachers and responsiveness to statewide needs in geographically diverse communities and are operating in partnership with a school district, charter school, or board of cooperative services that operates a public school. The selected institutions of higher education and alternative teacher programs shall expand their teacher residency programs on a pilot basis with local education providers, alternative teacher programs, and institutions of higher education, which expansion must, at a minimum, include documentation of the tuition model, course scope, mentoring supports, models for paraprofessional development, and multiple staffing models. The pilot programs shall also share these components with the department, which shall share them with other local education providers, alternative teacher programs, and institutions of higher education that are not participating in the pilot programs.

(2) (a) Subject to available appropriations, based on the terms of the contracts to provide pilot programs pursuant to subsection (1) of this section, the department shall distribute to the contracting institutions of higher education and alternative teacher programs money to offset a portion of the direct costs incurred in implementing the pilot programs.

(b) Each institution of higher education and alternative teacher program that enters into a contract with the department to provide pilot programs pursuant to subsection (1) of this section shall, pursuant to the terms of the contract, agree to match one hundred percent of the amount distributed to the institution and alternative teacher program by the department to offset a portion

of the direct costs incurred in implementing the pilot programs. An institution of higher education or alternative teacher program that applies to operate a pilot program must provide to the department written documentation demonstrating that, by a specified date, the institution or alternative teacher program will have an amount sufficient in total to meet the requirements of the contract. The department shall not enter into a contract with an institution of higher education or alternative teacher program that fails to provide the required documentation.

(3) After the pilot programs described in this section have operated for one school year, and annually thereafter, the department shall review the information collected from the pilot programs to determine whether the pilot programs are effective in increasing retention of the teachers employed by the participating local education providers and raising the cultural competence of the teacher residents who participate in the pilot programs. In measuring the effectiveness of the pilot programs, the department shall consider:

(a) The developmental progress, including levels of cultural competence, of the teacher residents participating in the pilot program before, during, and after participation in the pilot program;

(b) The levels of satisfaction with the pilot program expressed by the teacher residents, local education providers, alternative teacher programs, and institutions of higher education; and

(c) A comparison of the participating local education provider's teacher retention rate before, during, and after participating in the pilot program.

**Source: L. 2018:** Entire article added, (HB 18-1189), ch. 323, p. 1934, § 1, effective May 30.

**22-60.3-105. Reports.** (1) Notwithstanding the provisions of section 24-1-136 (11)(a)(I), by January 15, 2020, and by January 15 each year thereafter, the department shall prepare a progress report on implementing the program. At a minimum, the report must include:

(a) A summary of the data collected from each pilot program concerning the effectiveness of the pilot programs as described in section 22-60.3-104 (3);

(b) Recommendations, if any, for legislative or regulatory changes to facilitate the effective implementation of the pilot programs; and

(c) Recommendations for continued funding.

(2) The department shall submit the report to the state board, the Colorado commission on higher education, the executive director of the department of higher education, the governor, and the education committees of the house of representatives and the senate, or any successor committees. The department shall also post the report on the department website for public access.

**Source: L. 2018:** Entire article added, (HB 18-1189), ch. 323, p. 1936, § 1, effective May 30.

**22-60.3-106. Teacher residency expansion program fund - created.** (1) The teacher residency expansion program fund is hereby created in the state treasury. The fund consists of money that the general assembly may appropriate or transfer to the fund. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(2) Money in the fund is continuously appropriated to the department for use in implementing the program.

(3) The state treasurer shall transfer all unexpended and unencumbered money in the fund on July 1, 2023, to the general fund.

**Source: L. 2018:** Entire article added, (HB 18-1189), ch. 323, p. 1936, § 1, effective May 30.

**22-60.3-107. Repeal of article.** This article 60.3 is repealed, effective July 1, 2023.

**Source: L. 2018:** Entire article added, (HB 18-1189), ch. 323, p. 1936, § 1, effective May 30.

## ARTICLE 60.5

Colorado Educator Licensing Act

PART 1

GENERAL PROVISIONS

**22-60.5-101. Short title.** This article shall be known and may be cited as the "Colorado Educator Licensing Act of 1991".

**Source: L. 91:** Entire article added, p. 468, § 1, effective June 6.

**22-60.5-102. Definitions.** As used in this article 60.5, unless the context otherwise requires:

(1) "Accepted institution of higher education" means an institution of higher education that offers at least the standard bachelor's degree and is recognized by one of the following regional associations: The western association of schools and colleges; northwest association of schools, colleges, and universities; north central association of colleges and schools; New England association of schools and colleges; southern association of colleges and schools; or middle states association of colleges and secondary schools.

(2) Repealed.

(3) "Administrator" means any person who administers, directs, or supervises the education instructional program, or a portion thereof, in any school, school district, or nonpublic school in the state and who is not the chief executive officer or an assistant chief executive officer of such school.

(4) "Alternative teacher contract" means a contract, as described in section 22-60.5-207, entered into for an alternative teacher position by a holder of an alternative teacher license pursuant to section 22-60.5-201 (1)(a) and a school district, board of cooperative services, or nonpublic school that provides, or charter school that provides or participates in, a one-year or two-year alternative teacher program.

(5) "Alternative teacher program" means a one-year or two-year program of study and training for teacher preparation, as described in section 22-60.5-205, for a person of demonstrated knowledge and ability who holds an alternative teacher license pursuant to section 22-60.5-201 (1)(a). An "alternative teacher program" shall meet the standards of and obtain the approval of the state board of education and, upon completion, lead to a recommendation for licensure by the designated agency providing the alternative teacher program.

(6) "Alternative teacher support team" means a team established by the designated agency for each holder of an alternative teacher license employed as an alternative teacher. At a minimum, each alternative teacher support team shall be composed of the alternative teacher's mentor teacher and the principal and a representative of an accepted institution of higher education.

(7) "Approved induction program" means a program of continuing professional development for initial licensees that meets the standards of the state board of education and that upon completion leads to a recommendation for licensure by the school district or districts, charter school, the institute, or nonpublic school providing such induction program.

(8) (a) "Approved program of preparation" means a program of study for preparation that is approved by the Colorado commission on higher education pursuant to section 23-1-121, C.R.S., and that upon completion leads to a recommendation for licensure by an accepted institution of higher education.

(b) Every "approved program of preparation" for principals or administrators shall include proficiencies in the principles of business management and budgeting practices and in the analysis of student assessment data and its use in planning for student instruction.

(9) "Board of education" means the governing body authorized by law to administer the affairs of any school district in the state except junior and community college districts. "Board of education" includes a board of cooperative services organized pursuant to article 5 of this title.

(9.3) "Charter school" means a charter school authorized by a school district pursuant to part 1 of article 30.5 of this title 22 or a charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title 22.

(9.5) "Department" means the department of education, created in section 24-1-115, C.R.S.

(10) "Designated agency" means a school district or districts, a board of cooperative services, an accepted institution of higher education, a nonprofit organization, a charter school, the institute, a nonpublic school, or any combination thereof, that is responsible for the organization, management, and operation of an approved alternative teacher program.

(11) "Endorsement" means the designation on a license or an authorization of grade level or developmental level, subject matter, or service specialization in accordance with the preparation, training, and experience of the holder of such license or authorization.

(11.5) "Institute" means the state charter school institute created pursuant to section 22-30.5-503.

(12) "Mentor administrator" means any administrator who is designated by the school district or districts, charter school, the institute, or nonpublic school providing an approved induction program for initial administrator licensees and who has demonstrated outstanding administrative skills and school leadership and can provide exemplary modeling and counseling to initial administrator licensees participating in an approved induction program.

(13) "Mentor principal" means any principal who is designated by the school district or districts, charter school, the institute, or nonpublic school providing an approved induction program for initial principal licensees and who has demonstrated outstanding principal skills and school leadership and can provide exemplary modeling and counseling to initial principal licensees participating in an approved induction program.

(14) "Mentor special services provider" means any special services provider who is designated by the school district or districts, charter school, the institute, or nonpublic school providing an approved induction program for initial special services licensees and who has demonstrated outstanding special services provider skills and school leadership and can provide exemplary modeling and counseling to initial special services licensees participating in an approved induction program.

(15) "Mentor teacher" means:

(a) A teacher designated by the school district, charter school, or nonpublic school employing an alternative teacher and who has demonstrated outstanding teaching and school leadership and can provide exemplary modeling and counseling to alternative teachers participating in an alternative teacher program; or

(b) Any teacher who is designated by the school district or districts, charter school, the institute, or nonpublic school providing an approved induction program for initial teacher licensees and who has demonstrated outstanding teaching and school leadership and can provide exemplary modeling and counseling to initial teacher licensees participating in an approved induction program.

(15.5) "Nonpublic school" means any independent or parochial school that provides a basic academic education, as defined in section 22-33-104 (2)(b). Neither the state board of education nor any local school board of education has jurisdiction over the internal affairs of any independent or parochial school in Colorado.

(16) "Principal" means any person who is employed as the chief executive officer or an assistant chief executive officer of any school or nonpublic school in the state and who administers, directs, or supervises the education instructional program in such school or nonpublic school.

(17) "School" means any of the public schools of the state.

(18) "School district" means any school district organized and existing pursuant to law, but it does not include junior or community college districts. "School district" includes a board of cooperative services organized pursuant to article 5 of this title.

(19) "Special services provider" means any person other than a teacher, principal, or administrator who is employed by any school district, charter school, the institute, or nonpublic school to provide professional services to students in direct support of the education instructional program.

(20) "State board of education" means the state board of education established by section 1 of article IX of the state constitution.

(21) "Teacher" means any person employed to instruct students in any school or nonpublic school in the state.

**Source: L. 91:** Entire article added, p. 468, § 1, effective June 6. **L. 97:** (8) amended, p. 43, § 1, effective March 20. **L. 99:** (8)(a) amended, p. 1191, § 5, effective June 1. **L. 2004:** (1) and (11) amended, p. 1271, § 1, effective May 28. **L. 2005:** (7), (12), (13), (14), and (15)(b)

amended, p. 174, § 6, effective April 7. **L. 2007:** (4) and (5) amended, p. 55, § 1, effective March 14. **L. 2009:** (4), (5), and (10) amended and (9.5) added, (SB 09-160), ch. 292, p. 1447, § 2, effective May 21. **L. 2017:** IP, (4), (10), and (15)(a) amended and (2) repealed, (SB 17-052), ch. 5, p. 9, § 2, effective August 9. **L. 2018:** (4), (7), (10), (12) to (15), and (19) amended and (9.3) and (11.5) added, (SB 18-160), ch. 97, p. 758, § 1, effective August 8. **L. 2019:** (3), (4), (7), (10), (12), (13), (14), (15), (16), (19), and (21) amended and (15.5) added, (SB 19-069), ch. 37, p. 120, § 1, effective August 2.

**22-60.5-103. Applicants - licenses - authorizations - submittal of form and fingerprints - failure to comply constitutes grounds for denial.** (1) (a) Prior to submitting to the department of education an application for any license specified in section 22-60.5-201, 22-60.5-210, 22-60.5-301, or 22-60.5-306 or for any authorization specified in section 22-60.5-111, each applicant shall submit to the Colorado bureau of investigation a complete set of fingerprints of such applicant, taken by a qualified law enforcement agency, an authorized employee of a school district or board of cooperative services, or any third party approved by the Colorado bureau of investigation, unless the applicant previously submitted a complete set of his or her fingerprints to the department of education or the Colorado bureau of investigation in connection with an application for a license or authorization specified in this article 60.5 or, if the applicant has continuously resided in Colorado since submitting fingerprints to the bureau, has previously submitted fingerprints pursuant to section 22-2-119.3. At the request of a school district, a law enforcement agency that has fingerprinting equipment that meets the federal bureau of investigation image quality standards shall take the fingerprints of an applicant pursuant to this section if an approved third-party vendor is not operating within twenty miles of the school district within the law enforcement agency's jurisdiction. A school district employee or board of cooperative services employee may use any fingerprinting equipment that meets the federal bureau of investigation image quality standards. If an approved third party takes the person's fingerprints, the fingerprints may be electronically captured using Colorado bureau of investigation-approved livescan equipment. Third-party vendors shall not keep the applicant information for more than thirty days unless requested to do so by the applicant. The applicant shall submit the fingerprints for the purpose of obtaining a fingerprint-based criminal history record check through the Colorado bureau of investigation and the federal bureau of investigation to determine whether the applicant for licensure or authorization has a criminal history. The applicant shall pay to the Colorado bureau of investigation the fee established by the bureau for conducting the criminal history record check. Upon completion of the criminal history record check, the bureau shall forward the results to the department of education.

(b) Any person applying for any license specified in section 22-60.5-201, 22-60.5-210, 22-60.5-301, or 22-60.5-306 or for any authorization specified in section 22-60.5-111 or for renewal of such license or authorization or for any master certificate specified in section 22-60.5-202, 22-60.5-211, 22-60.5-302, or 22-60.5-307 shall submit to the department of education at the time of application a completed form as specified in subsection (2) of this section.

(2) (a) On a form provided by the department of education, an applicant shall certify, under penalty of perjury, either:

(I) That he has never been convicted of committing any felony or misdemeanor, but not including any misdemeanor traffic offense or traffic infraction; or

(II) That he has been convicted of committing any felony or misdemeanor, but not including any misdemeanor traffic offense or traffic infraction. Such certification shall specify such felony or misdemeanor for which convicted, the date of such conviction, and the court entering the judgment of conviction.

(b) For the purposes of paragraph (a) of this subsection (2), a person is deemed to have been convicted of committing a felony or misdemeanor if such person has been convicted under the laws of any other state, the United States, or any territory subject to the jurisdiction of the United States of an unlawful act which, if committed within this state, would have been a felony or misdemeanor.

(c) For the purposes of this section, "convicted" or "conviction" means a conviction by a jury verdict or by entry of a verdict or acceptance of a guilty plea by a court and shall also include the forfeiture of any bail, bond, or other security deposited to secure the appearance by a person charged with having committed a felony or misdemeanor, the payment of a fine, a plea of nolo contendere, the imposition of a deferred or suspended sentence by the court, or an agreement for a deferred prosecution approved by the court.

(3) In addition to any other requirements established by law for the issuance or renewal of any license specified in section 22-60.5-201, 22-60.5-210, 22-60.5-301, or 22-60.5-306 or for any authorization specified in section 22-60.5-111, the submittal of fingerprints and forms pursuant to the provisions of subsection (1) of this section shall be a prerequisite to the issuance or renewal of such license or authorization by the department of education. Said department shall not issue or renew any license specified in section 22-60.5-201, 22-60.5-210, 22-60.5-301, or 22-60.5-306 or any authorization specified in section 22-60.5-111 to any person making application who does not comply with the provisions of subsection (1) of this section.

(4) To facilitate a criminal history record check conducted pursuant to subsection (1) of this section, the department of education may conduct a search on the ICON system at the state judicial department, as defined in section 24-33.5-102 (3), C.R.S., and may use any other available source of criminal history information that the department of education determines is appropriate, including obtaining records from any law enforcement agency and juvenile delinquency records pursuant to section 19-1-304, C.R.S. The department of education may use the specified sources to determine any crime or crimes for which the person was arrested or charged and the disposition of any criminal charges.

(5) (Deleted by amendment, L. 2006, p. 925, § 5, effective July 1, 2006.)

(5.5) For the purposes of this section, the department of education is a criminal justice agency as that term is defined in section 24-72-302 (3), C.R.S. Law enforcement agencies shall cooperate with the department of education when the department conducts a criminal history record check pursuant to this section.

(6) (a) When the department of education finds probable cause to believe that an educator licensed or authorized pursuant to this article 60.5 has been convicted of a felony or misdemeanor, other than a misdemeanor traffic offense or traffic infraction, subsequent to the educator's licensure or authorization, the department of education shall require the educator to submit a complete set of the educator's fingerprints taken by a qualified law enforcement agency, an authorized employee of the licensee's employing school district or board of cooperative services, or any third party approved by the Colorado bureau of investigation. At the request of a school district, a law enforcement agency that has fingerprinting equipment that meets the federal bureau of investigation image quality standards shall take the fingerprints of an educator

pursuant to this section if an approved third-party vendor is not operating within twenty miles of the school district within the law enforcement agency's jurisdiction. A school district or board of cooperative services employee may use any fingerprinting equipment that meets the federal bureau of investigation image quality standards. If an approved third party takes the person's fingerprints, the fingerprints may be electronically captured using Colorado bureau of investigation-approved livescan equipment. Third-party vendors shall not keep the educator's information for more than thirty days unless requested to do so by the educator. The educator shall submit the fingerprints within thirty days after receipt of the written request for fingerprints from the department of education. The department of education shall deny, suspend, annul, or revoke, pursuant to section 22-60.5-107 (2.5), the educator's license or authorization if he or she fails to submit fingerprints on a timely basis pursuant to this subsection (6).

(b) The department of education shall forward fingerprints submitted pursuant to this subsection (6) to the Colorado bureau of investigation for the purpose of obtaining a fingerprint-based criminal history record check through the Colorado bureau of investigation and the federal bureau of investigation, to determine whether the educator has a criminal history. In addition, the department of education may use the records of the ICON system at the state judicial department, as defined in section 24-33.5-102 (3), C.R.S., or any other source available, including obtaining records from any law enforcement agency and juvenile delinquent records pursuant to section 19-1-304, C.R.S., to ascertain whether the educator has been convicted of an offense described in section 22-60.5-107 (2), (2.5), or (2.6).

(7) When the results of a fingerprint-based criminal history record check of an applicant or a search of any other source of criminal history information performed pursuant to this section reveals a record of arrest without a disposition, the department of education shall require that applicant to submit to a name-based criminal history record check, as defined in section 22-2-119.3 (6)(d).

**Source: L. 91:** Entire article added, p. 471, § 1, effective June 6. **L. 97:** (1) and (3) amended, p. 1653, § 1, effective June 5. **L. 99:** (2)(c) amended, p. 1103, § 6, effective July 1. **L. 2003:** (1), (2)(c), and (4) amended and (6) added, p. 2516, § 7, effective June 5. **L. 2005:** (5) amended, p. 175, § 7, effective April 7. **L. 2006:** (1)(a), (4), and (5) amended, p. 925, § 5, effective July 1. **L. 2008:** (4) and (6)(b) amended and (5.5) added, p. 1665, § 6, effective May 29. **L. 2011:** (6)(b) amended, (HB 11-1121), ch. 242, p. 1058, § 5, effective August 10. **L. 2017:** (1)(a) and (6)(a) amended, (SB 17-189), ch. 149, p. 503, § 12, effective August 9. **L. 2018:** (1)(a) amended, (SB 18-229), ch. 232, p. 1452, § 4, effective August 8. **L. 2019:** (1)(a) and (6)(a) amended, (HB 19-1186), ch. 94, p. 347, § 6, effective April 10; (7) added, (HB 19-1166), ch. 125, p. 549, § 28, effective April 18.

**Cross references:** (1) In 2011, subsection (6)(b) was amended by the "Safer Schools Act of 2011". For the short title, see section 1 of chapter 242, Session Laws of Colorado 2011.

(2) For the legislative declaration in HB 19-1186, see section 1 of chapter 94, Session Laws of Colorado 2019.

**22-60.5-104. Applicants for initial licensure - statement of completion of approved program of preparation.** (1) Each applicant for any initial license issued pursuant to the provisions of this article may be required to submit a statement from the designated

recommending official of the accepted institution of higher education. Such statement shall certify that the applicant has completed the approved program of preparation appropriate to the initial license being applied for in a satisfactory manner and is in good standing. Such statement shall not be required for the renewal of such license.

(2) If an applicant for an initial principal license or an initial administrator license is required to submit a statement from the designated recommending official of an accepted institution of higher education pursuant to subsection (1) of this section, he shall be provided with an opportunity to submit statements from two or more such designated recommending officials at different accepted institutions of higher education, each of which statements certifies partial completion of an approved program of preparation appropriate to the initial license being applied for in a satisfactory manner. Pursuant to the rules and regulations of the state board of education, the department of education shall provide a procedure through which such statements of partial completion of an approved program may be combined to certify regular completion of an approved program of preparation. The combination of such statements shall result in a combined approved program of preparation when it is, in the judgment of the department of education, at least the equivalent of the regular approved program of preparation at any one of the accepted institutions of higher education of attendance. Any reference in this article to completion of an approved program shall be deemed to include reference to partial completion of two or more approved programs combined pursuant to this subsection (2).

**Source: L. 91:** Entire article added, p. 473, § 1, effective June 6. **L. 2005:** Entire section amended, p. 175, § 8, effective April 7.

**22-60.5-105. Applicants for licensure or authorization - moral qualifications.** In determining the moral qualifications of applicants for licensure or authorization, the department of education shall be governed by the provisions of section 24-5-101, C.R.S.

**Source: L. 91:** Entire article added, p. 474, § 1, effective June 6.

**22-60.5-106. Endorsement of license - effect - rules.** (1) The department of education is authorized to cause a license to be endorsed. Any such endorsement shall identify the grade, age, or developmental level or levels, subject matter area or areas, or other specialization appropriate to an applicant's preparation, training, or experience. Any endorsement made pursuant to this section shall be subject to review at the expiration of the license so endorsed. The state board of education may establish, by rule and regulation, appropriate endorsements and the criteria for such endorsements.

(2) Notwithstanding the discretionary authority granted in subsection (1) of this section, the department of education shall issue a special education teacher endorsement to an applicant who completes course work and assessments, as specified by rule of the state board of education, in a program in special education offered by an accepted institution of higher education, which program has been approved by the state board of education.

(3) The department of education shall collaborate with the department of higher education to create a mentor teacher endorsement for teachers who provide mentoring and oversight for teacher candidates in accordance with the standards adopted by the department of higher education pursuant to section 23-78-105 (3). The state board of education by rule shall

establish the criteria for the endorsement, which must, at a minimum, include successfully completing training provided by an educator preparation program, as defined in section 23-78-103, and at least one full school year of successful experience serving as a mentor teacher for a teacher candidate who is participating in clinical practice, as defined in section 23-78-103.

**Source: L. 91:** Entire article added, p. 474, § 1, effective June 6. **L. 96:** Entire section amended, p. 1785, § 1, effective June 3. **L. 2005:** (2) amended, p. 172, § 1, effective April 7. **L. 2019:** (3) added, (SB 19-190), ch. 153, p. 1819, § 2, effective May 10.

**22-60.5-107. Grounds for denying, annulling, suspending, or revoking license, certificate, endorsement, or authorization.** (1) If any person obtains or attempts to obtain any license, certificate, endorsement, or authorization pursuant to the provisions of this article through misrepresentation or fraud or through misleading information or an untruthful statement submitted or offered with the intent to misrepresent or mislead or to conceal the truth, such license, certificate, endorsement, or authorization may be annulled or denied by the department of education in the manner prescribed in section 22-60.5-108.

(2) Any license, certificate, endorsement, or authorization may be denied, annulled, suspended, or revoked in the manner prescribed in section 22-60.5-108, notwithstanding the provisions of subsection (1) of this section:

(a) When the holder has been determined to be mentally incompetent by a court of competent jurisdiction and a court has entered, pursuant to part 3 or part 4 of article 14 of title 15 or section 27-65-109 (4) or 27-65-127, C.R.S., an order specifically finding that the mental incompetency is of such a degree that the holder is incapable of continuing to perform his or her job; except that the license, certificate, endorsement, or authorization held by a person who has been determined to be mentally incompetent and for whom such an order has been entered shall be revoked or suspended by operation of law without a hearing, notwithstanding the provisions of section 22-60.5-108;

(b) When the applicant or holder is convicted of, pleads nolo contendere to, or receives a deferred sentence for a violation of any one of the following offenses:

(I) Misdemeanor sexual assault as described in section 18-3-402, C.R.S.;

(II) Misdemeanor unlawful sexual conduct as described in section 18-3-404, C.R.S.;

(III) Misdemeanor sexual assault on a client by a psychotherapist as described in section 18-3-405.5, C.R.S.;

(IV) Misdemeanor child abuse as described in section 18-6-401, C.R.S.;

(V) Repealed.

(VI) A misdemeanor, the underlying factual basis of which has been found by the court on the record to involve domestic violence, as defined in section 18-6-800.3 (1), C.R.S., and the conviction is a second or subsequent conviction for the same offense;

(VII) Contributing to the delinquency of a minor as described in section 18-6-701, C.R.S.;

(VII.5) A misdemeanor committed under the laws of the United States, another state, a municipality of another state, or any territory subject to the jurisdiction of the United States, the elements of which are substantially similar to sexual exploitation of children as described in section 18-6-403 (3)(b.5), C.R.S.; or

(VIII) A crime under the laws of the United States, another state, a municipality of this state or another state, or any territory subject to the jurisdiction of the United States, the elements of which are substantially similar to one of the offenses described in subparagraphs (I) to (VII) of this paragraph (b);

(c) When the applicant or holder is found guilty of or upon the court's acceptance of a guilty plea or a plea of nolo contendere to a misdemeanor violation of any law of this state or another state, any municipality of this state or another state, or the United States or any territory subject to the jurisdiction of the United States involving the illegal sale of controlled substances, as defined in section 18-18-102 (5), C.R.S.;

(d) When the applicant or holder is found guilty of a felony, other than a felony described in subsection (2.5) or (2.6) of this section, or upon the court's acceptance of a guilty plea or a plea of nolo contendere to a felony, other than a felony described in subsection (2.5) or (2.6) of this section, in this state or, under the laws of any other state, the United States, or any territory subject to the jurisdiction of the United States, of a crime which, if committed within this state, would be a felony, other than a felony described in subsection (2.5) or (2.6) of this section, when the commission of said felony, in the judgment of the state board of education, renders the applicant or holder unfit to perform the services authorized by his or her license, certificate, endorsement, or authorization;

(e) When the applicant or holder has received a disposition or an adjudication for an offense involving what would constitute a physical assault, a battery, or a drug-related offense if committed by an adult and the offense was committed within the ten years preceding the date of application for a license, certificate, endorsement, or authorization pursuant to this article;

(f) When the applicant or holder has forfeited any bail, bond, or other security deposited to secure the appearance by the applicant or holder who is charged with having committed a felony or misdemeanor, has paid a fine, has entered a plea of nolo contendere, or has received a deferred or suspended sentence imposed by the court for any offense described in subparagraph (I) or (II) of paragraph (a) of subsection (2.5) of this section or in subsection (2.6) of this section.

(2.5) (a) A license, certificate, endorsement, or authorization shall be denied, annulled, suspended, or revoked in the manner prescribed in section 22-60.5-108, notwithstanding the provisions of subsection (1) of this section to the contrary, in the following circumstances:

(I) When the applicant or holder is convicted of one of the following offenses:

(A) Felony child abuse, as specified in section 18-6-401, C.R.S.;

(B) A crime of violence, as defined in section 18-1.3-406, C.R.S.;

(C) A felony offense involving unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S.;

(D) Except as provided in paragraph (c) of this subsection (2.5), a felony, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3, C.R.S.;

(E) A felony offense in another state, the United States, or territory subject to the jurisdiction of the United States, the elements of which are substantially similar to the elements of one of the offenses described in sub-subparagraphs (A) to (D) of this subparagraph (I);

(II) When the applicant or holder is convicted of indecent exposure, as described in section 18-7-302, C.R.S., or of a crime under the laws of another state, a municipality of this or another state, the United States, or a territory subject to the jurisdiction of the United States, the

elements of which are substantially similar to the offense of indecent exposure described in this subparagraph (II);

(III) When the applicant or holder has received a disposition or an adjudication for an offense that would constitute felony unlawful sexual behavior, as defined in section 16-22-102 (9), C.R.S., if committed by an adult; or

(IV) When the applicant or holder fails to submit fingerprints on a timely basis after receipt of the written request from the department of education pursuant to section 22-60.5-103 (6)(a).

(b) For purposes of this subsection (2.5), "convicted" or "conviction" means a conviction by a jury verdict or by entry of a verdict or acceptance of a guilty plea or a plea of nolo contendere by a court.

(c) The grounds for mandatory denial, annulment, suspension, or revocation of a license, certificate, endorsement, or authorization pursuant to sub-subparagraph (D) of subparagraph (I) of paragraph (a) of this subsection (2.5) shall only apply for a period of five years following the date the offense was committed, provided the applicant or holder has successfully completed any domestic violence treatment required by the court.

(2.6) (a) In addition to the offenses described in subsection (2.5) of this section, the state board of education shall deny, annul, suspend, or revoke a license, certificate, endorsement, or authorization if the applicant for or holder of the license, certificate, endorsement, or authorization is convicted of a felony drug offense described in part 4 of article 18 of title 18, C.R.S., committed on or after August 25, 2012. The requirement that the state board of education deny, annul, suspend, or revoke a license, certificate, endorsement, or authorization shall only apply for a period of five years following the date the offense was committed.

(b) Nothing in this subsection (2.6) shall limit the authority of the state board of education to deny, annul, suspend, or revoke a license, certificate, endorsement, or authorization if the applicant or holder is convicted of a felony drug offense described in part 4 of article 18 of title 18, C.R.S., committed prior to August 25, 2012.

(c) For purposes of this subsection (2.6), "convicted" or "conviction" means a conviction by a jury verdict or by entry of a verdict or acceptance of a guilty plea or a plea of nolo contendere by a court.

(2.7) Notwithstanding any other provision of subsection (2.5) of this section to the contrary, if the state board determines a person who held a license, certificate, endorsement, or authorization prior to June 6, 1991, has been convicted of an offense described in subsection (2.5) of this section, the state board may annul, suspend, or revoke a license, certificate, endorsement, or authorization in the manner prescribed in section 22-60.5-108, unless the holder was previously afforded the rights set forth in section 22-60.5-108 with respect to the offense and the holder received or retained his or her license, certificate, endorsement, or authorization as a result.

(3) A certified copy of the judgment of a court of competent jurisdiction of a conviction, the acceptance of a guilty plea, a plea of nolo contendere, or a deferred sentence shall be conclusive evidence for the purposes of paragraphs (b) and (c) of subsection (2) of this section. A certified copy of the judgment of a court of competent jurisdiction of a conviction or the acceptance of a guilty plea shall be conclusive evidence for the purposes of subsections (2.5) and (2.6) of this section. Upon receipt of a certified copy of the judgment, the department of education may take immediate action to deny, annul, or suspend any license, certificate,

endorsement, or authorization without a hearing, notwithstanding the provisions of section 22-60.5-108. The department of education may revoke a suspended license based on a violation of paragraph (b) or (c) of subsection (2) of this section and shall revoke a suspended license based on a violation of subsection (2.5) or (2.6) of this section without a hearing and without any further action, after the exhaustion of all appeals, if any, or after the time for seeking an appeal has elapsed, and upon the entry of a final judgment.

(4) The department of education may deny, annul, suspend, or revoke any license, certificate, endorsement, or authorization if the state board finds and determines that the applicant or holder thereof is professionally incompetent or guilty of unethical behavior.

(5) The state board of education shall promulgate appropriate rules defining the standards of unethical behavior and professional incompetency.

(6) The state board of education may promulgate, pursuant to the provisions of the "State Administrative Procedure Act", article 4 of title 24, C.R.S., such rules as it may deem necessary to establish procedures for the filing and investigation of complaints alleging conduct that, if true, may establish grounds for denying, annulling, revoking, or suspending an educator license or certificate.

(7) In the manner prescribed in section 22-60.5-108, the department of education may suspend a license, certificate, endorsement, or authorization when the holder, without good cause, resigns or abandons his or her contracted position with a school district without giving the written notice required by section 22-63-202 (2)(b).

(8) When an applicant's or holder's license is denied, annulled, suspended, or revoked pursuant to the provisions of subsection (2.5) or (2.6) of this section, the department of education shall post the name of the person and basis for the denial, annulment, suspension, or revocation on its website.

(9) In furtherance of its duties under this section and section 22-60.5-103, the department of education may conduct a search on the ICON system at the state judicial department, as defined in section 24-33.5-102 (3), C.R.S., and may use any other available source of criminal history information the department of education deems appropriate, including obtaining records from any law enforcement agency and juvenile delinquency records pursuant to section 19-1-304, C.R.S.

**Source: L. 91:** Entire article added, p. 474, § 1, effective June 6. **L. 94:** (2)(a) amended, p. 1636, § 47, effective May 31. **L. 99:** (2)(b) and (3) amended, p. 1103, § 7, effective July 1. **L. 2000:** (5) amended, p. 1099, § 2, effective August 2. **L. 2003:** (2) and (3) amended and (2.5) and (2.7) added, p. 2517, § 8, effective June 5. **L. 2005:** (6) added, p. 172, § 2, effective April 7. **L. 2006:** (1), IP(2)(b), (2)(c), (2.5)(a)(II), (4), and (5) amended and (2)(b)(VIII) and (7) added, pp. 922, 923, §§ 2, 3, effective July 1; (2)(b)(V) repealed, p. 2044, § 4, effective July 1. **L. 2008:** (2)(b)(VII) amended and (2)(b)(VII.5) and (9) added, p. 1666, §§ 7, 8, effective May 29; (8) added, p. 2227, § 5, effective June 5. **L. 2010:** (2)(a) amended, (SB 10-175), ch. 188, p. 794, § 48, effective April 29. **L. 2011:** (2)(d), (2)(f), (2.5)(a)(I)(D), (2.5)(b), (3), and (8) amended and (2.5)(c) and (2.6) added, (HB 11-1121), ch. 242, pp. 1058, 1060, §§ 6, 7, effective August 10. **L. 2012:** (2)(c) amended, (HB 12-1311), ch. 281, p. 1626, § 66, effective July 1.

**Cross references:** In 2011, subsections (2)(d), (2)(f), (2.5)(a)(I)(D), (2.5)(b), (3), and (8) were amended and subsections (2.5)(c) and (2.6) were added by the "Safer Schools Act of 2011". For the short title, see section 1 of chapter 242, Session Laws of Colorado 2011.

**22-60.5-108. Procedure - denial, suspension, annulment, or revocation - license, certificate, endorsement, or authorization.** (1) (a) Procedures for the denial, suspension, revocation, or annulment of any license, certificate, endorsement, or authorization shall be in accordance with the provisions of sections 24-4-102 to 24-4-107, C.R.S.; except that, where judicial review is pending or the time in which to seek judicial review has not elapsed, the department of education may take emergency action relating to the annulment, suspension, or revocation of any license, certificate, endorsement, or authorization, and the expiration date of any license, certificate, endorsement, or authorization shall not be extended, even though judicial review is pending or the time for seeking such review has not elapsed.

(b) If the department of education seeks to contact a crime victim for the purposes of a licensure hearing, the department shall contact the victim's advocate in the law enforcement agency or district attorney's office of the jurisdiction in which the offense was prosecuted or the victim's advocate in the attorney general's office, if applicable. The victim's advocate shall make reasonable efforts to contact the victim, advise the victim of the hearing, and invite the victim to participate in the licensure hearing. A victim shall not be required to participate in a licensure hearing.

(2) If the department of education denies, annuls, suspends, or revokes a license, authorization, or endorsement pursuant to this section, the department, as soon as practicable, shall notify the board of education of the employing school district or the governing board of the employing charter school or institute charter school, if any, of the action taken.

(3) When the department of education denies, annuls, suspends, or revokes a license, certificate, endorsement, or authorization because the applicant or holder was convicted of felony child abuse or a felony offense involving unlawful sexual behavior pursuant to section 22-60.5-107 (2.5), the department shall release the name of that individual to the public.

(4) When the department of education denies, annuls, or revokes a license, certificate, endorsement, or authorization because the applicant or holder was convicted of felony child abuse or a felony offense involving unlawful sexual behavior pursuant to section 22-60.5-107 (2.5), the department shall enter into a settlement agreement with that individual that prohibits the individual from ever teaching at a public or nonpublic school in the United States.

**Source: L. 91:** Entire article added, p. 476, § 1, effective June 6. **L. 2008:** Entire section amended, p. 1667, § 9, effective May 29; entire section amended, p. 2227, § 6, effective June 5. **L. 2009:** (4) amended, (SB 09-292), ch. 369, p. 1965, § 68, effective August 5. **L. 2019:** (4) amended, (SB 19-069), ch. 37, p. 122, § 2, effective August 2.

**Editor's note:** Amendments to this section by House Bill 08-1344 and Senate Bill 08-208 were harmonized.

**22-60.5-109. Hearing commissioner - duties.** The state board of education is authorized to appoint a hearing commissioner, who may preside at hearings on the denial, annulment, suspension, or revocation of any license, certificate, endorsement, or authorization.

When so appointed, he shall reduce his findings to written form and submit them to the state board of education, and he shall not participate in the deliberations of said board.

**Source: L. 91:** Entire article added, p. 476, § 1, effective June 6.

**22-60.5-109.5. Inactive status of licenses.** (1) Any person who holds a professional license issued pursuant to this article may choose to convert the professional license to inactive status by notifying the department of education in writing and simultaneously transferring, either in person or by first-class mail, the professional license to the department of education. While on inactive status, the expiration date of a professional license shall be suspended. When the professional license is returned to active status, it shall be valid for the period remaining on the license as of the date the license holder assumed inactive professional license status. While on inactive professional license status, the person shall be deemed to not hold a professional license.

(2) (a) A person may return a professional license to active status at any time by notifying the department of education in writing, either in person or by first-class mail, and simultaneously requesting the return of his or her professional license from the department of education. Upon receipt of notice to return to active status, the department of education shall reissue the professional license with a new expiration date reflecting the period remaining on the professional license as of the date the license holder converted to inactive professional license status. The department shall return the reissued license to the license holder within thirty days after receiving notice to return to active status. Upon receipt of the professional license, the license holder shall resume active status.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (2), if a person converts his or her professional license to inactive status because the person is called into the active military service of the United States or the state of Colorado, when the person notifies the department of education of his or her intent to return the professional license to active status, the person may include with the notice a copy of the official notice of honorable discharge or release from active service. Upon receipt of the notice to return to active status and the evidence of honorable discharge or release, the department of education shall reissue the professional license with a new expiration date reflecting a period equal to the period remaining on the professional license as of the date the license holder converted to inactive professional license status plus the period during which the person was in active military service.

(3) Any person who is on inactive status pursuant to this section may, but is not required to, complete professional development activities while on inactive status. Any professional development activities completed while on inactive status shall apply to renewal of the person's professional license after the person returns to active status, so long as:

(a) The person submits to the department of education evidence of completion of the professional development activities;

(b) The professional development activities meet the criteria specified by the state board of education pursuant to section 22-60.5-110 (3); and

(c) The professional development activities are completed within the five years preceding the date on which the professional license will expire after it is returned to active status.

**Source: L. 97:** Entire section added, p. 1657, § 7, effective June 5. **L. 2005:** (2) amended, p. 172, § 3, effective April 7.

**22-60.5-110. Renewal of licenses.** (1) Any license shall expire as prescribed in section 22-60.5-201, 22-60.5-210, 22-60.5-301, or 22-60.5-306, subject to the provisions of section 24-4-104 (7), C.R.S., when applicable.

(2) Any initial license may be renewed upon submitting an application for renewal, payment of the statutory fee, and evidence of satisfying any requirements established by rule and regulation of the state board of education.

(3) (a) A licensee may renew his or her professional license by submitting an application for renewal, paying the fee established by the state board of education pursuant to section 22-60.5-112, and providing the affidavit of satisfactory completion of ongoing professional development as described in paragraph (a.5) of this subsection (3). A licensee need not be employed as a professional educator during all or any portion of the term for which his or her professional educator license is valid. Employment as a professional educator shall not constitute a requirement for renewal of a professional license. Except as otherwise provided in paragraph (e) of this subsection (3), the professional development activities completed by an applicant for license renewal shall apply equally to renewal of any professional educator license or endorsement held by the applicant.

(a.5) A licensee who seeks renewal of his or her professional license shall sign and submit with the renewal application an affidavit in which the licensee affirms under oath that he or she satisfactorily completed the ongoing professional development activities specified in the affidavit; that the activities were completed within the term of the professional license; and that, to the best of the licensee's knowledge, the activities meet the requirements of this section and rules adopted by the state board of education implementing this section. The department may accept a licensee's affidavit of satisfactory completion of ongoing professional development as proof of completion of the specified professional development activities without further verification.

(b) A professional licensee shall complete such ongoing professional development within the period of time for which such professional license is valid. Such professional development may include but need not be limited to in-service education programs, including training in preventing, identifying, and responding to child sexual abuse and assault; behavioral health training that is culturally responsive and trauma- and evidence-informed; and laws and practices relating to the education of students with disabilities in the classroom, including but not limited to child find and inclusive learning environments; college or university credit from an accepted institution of higher education or a community, technical, or local district college; educational travel that meets the requirements specified in subsection (3)(d) of this section; involvement in school reform; service as a mentor teacher for teacher candidates participating in clinical practice, as defined in section 23-78-103; internships; and ongoing professional development training and experiences. The state board of education, by rule, may establish minimum criteria for professional development; except that such criteria shall not:

(I) Specify any particular type of professional development activity as a requirement or partial requirement for license renewal, except as provided in subsection (3)(b.7) or (3)(f) of this section;

(II) Require completion of more than six credit hours or more than ninety total clock hours of activities during the term of any professional license;

(III) Prescribe a schedule for completion of professional development activity during the term of any professional license; or

(IV) Require prior approval or supervision of professional development activities.

(b.5) In adopting minimum criteria for professional development activities, the state board, by rule, may require all or a portion of the professional development activities to be related to increasing the license holder's competence in his or her existing or potential endorsement area; increasing the professional licensee's skills and competence in delivery of instruction in his or her existing or potential endorsement area; the teaching of literacy; increasing awareness and knowledge of behavioral health concerns, responses, and strategies; or increasing awareness of laws and practices relating to educating students with disabilities in the classroom, including but not limited to child find and inclusive learning environments.

(b.7) (I) Except as provided in subsection (3)(f) of this section for renewal of a professional teacher license, in selecting professional development activities for renewal of a special services, principal, or administrator license, in addition to the other requirements set forth in this section, the special services, principal, or administrator licensee shall complete a minimum of ten clock hours of professional development hours required during the term of any special services, principal, or administrator license in professional development activities relating to increasing awareness of laws and practices relating to educating students with disabilities in the classroom, including but not limited to child find and inclusive learning environments.

(II) A licensee who has less than three years left in the license renewal period on June 30, 2020, has until the end of the next applicable renewal period to complete the requirements established in subsection (3)(b.7)(I) of this section and may submit classes and activities completed within five years prior to June 30, 2020, to satisfy the requirements of subsection (3)(b.7)(I) of this section.

(III) Nothing in subsection (3)(b.7)(I) of this section prohibits a licensee from applying a single professional development course or ability to one or more content or hourly requirements established pursuant to this section or by rule of the state board of education.

(c) In selecting professional development activities for the renewal of a professional license pursuant to this section, each licensee shall choose those activities that will aid the licensee in meeting the standards for a professional educator, including but not limited to the following goals:

(I) Knowledge of subject matter content and learning, including knowledge and application of standards-based education pursuant to part 10 of article 7 of this title;

(II) Effective use of assessments in planning for instructional delivery and in individualizing student instruction;

(III) Effective teaching of the democratic ideal;

(IV) Recognition, appreciation, and support for ethnic, cultural, gender, economic, and human diversity to provide fair and equitable treatment and consideration for all;

(V) Effective communication with students, colleagues, parents, and the community;

(VI) Effective modeling of appropriate behaviors to ensure quality learning experiences for students and for colleagues;

(VII) Effective leadership to ensure a school community that is committed to and focused on learning;

(VIII) Consistently ethical behavior and creation of an environment that encourages and develops responsibility, ethics, and citizenship in self and others;

(IX) Achievement as a continuous learner who encourages and supports personal and professional development of self and others;

(X) Effective organization and management of human and financial resources to create a safe and effective working and learning environment;

(XI) Awareness of warning signs of dangerous behavior in youth and situations that present a threat to the health and safety of students and knowledge of the community resources available to enhance the health and safety of students and the school community, youth mental health, safe de-escalation of crisis situations, recognition of signs of poor mental health and substance use, and support of students. Training provided pursuant to this subsection (3)(c)(XI) must be provided using culturally responsive and trauma- and evidence-based practices; and

(XII) Awareness of laws and practices relating to educating students with disabilities in the classroom, including but not limited to child find and inclusive learning environments.

(d) To be accepted as a professional development activity, educational travel shall be applicable to the endorsement area of the professional licensee's license, as demonstrated by the professional licensee.

(e) In selecting professional development activities for renewal of a professional principal license, the professional licensee shall select activities that are specific to improving his or her skills as a principal. In addition, if the school district in which the professional licensee is employed has identified, pursuant to section 22-9-106, specific areas in which he or she needs improvement or, pursuant to section 22-32-109 (1)(jj), specific professional development programs to assist the professional licensee in improving his or her skills as a principal, the professional licensee shall complete activities in those identified areas or shall complete those specific programs. In reviewing the professional licensee's application for license renewal, the department shall deny the application for renewal if the professional licensee does not comply with the requirements specified in this paragraph (e).

(f) (I) In selecting professional development activities for renewal of a professional teacher license only, in addition to the other requirements set forth in this section, except for those set forth for special services, principal, or administrator licenses in subsection (3)(b.7) of this section, the professional teacher licensee shall complete a minimum of ten clock hours of the professional development hours required during the term of any professional license in training relating to:

(A) Behavioral health training that is culturally responsive and trauma- and evidence-informed; and

(B) Increasing awareness of laws and practices relating to educating students with disabilities in the classroom, including but not limited to child find and inclusive learning environments.

(II) The ten clock hours required pursuant to subsection (3)(f)(I) of this section may be obtained through any combination of courses related to subsection (3)(f)(I) of this section, so long as at least one of the required clock hours is related to behavioral health training that is culturally responsive and trauma- and evidence-informed and one of the required clock hours is related to increasing awareness of laws and practices relating to educating students with

disabilities in the classroom, including but not limited to child find and inclusive learning environments.

(III) A professional teacher licensee who has less than three years left in the license renewal period on June 30, 2020, has until the end of the next applicable renewal period to complete the requirements established in subsection (3)(f)(I) of this section and may submit classes and activities completed within five years prior to June 30, 2020, to satisfy the requirements of subsection (3)(f)(I) of this section.

(IV) Nothing in subsection (3)(f)(I) of this section prohibits a professional teacher licensee from applying a single professional development course or activity to one or more content or hourly requirements established pursuant to this section or by rule of the state board of education.

(V) The behavioral health training required pursuant to subsection (3)(f)(I) of this section may include programs such as:

(A) Mental health first aid specific to youth and teens;

(B) Staff development training modules concerning how to prevent teen suicide;

(C) Interconnected systems framework for positive behavioral interventions and supports and mental health;

(D) Training approved or provided by the school district where the teacher is employed;

(E) Training concerning students with behavioral concerns or disabilities;

(F) Training modules concerning child traumatic stress; and

(G) Any other program or training that meets the requirements of this subsection (3)(f).

(4) Any applicant whose application for renewal of any license has been denied may appeal to the state board of education. If the state board of education finds that the applicant has met the criteria established by this section and by rule and regulation of the state board of education, the renewal of the license shall be approved by said board.

(5) Any person whose professional license or master certificate is not renewed may reinstate his or her professional license or master certificate by submitting to the department of education such information or other evidence as may be necessary to cure the defect that resulted in nonrenewal of the professional license or master certificate and by paying the reinstatement fee set by the state board of education pursuant to section 22-60.5-112. Such curative information or evidence includes but is not limited to evidence of completion of professional development requirements, as specified in subsection (3) of this section, where the license or master certificate is not renewed because of failure to complete such requirements. Prior to reinstatement, any licensee whose professional license or master certificate is not renewed shall be deemed to not hold a professional license or master certificate. No person shall be required to demonstrate professional competencies in order to reinstate a professional license or master certificate.

**Source: L. 91:** Entire article added, p. 476, § 1, effective June 6. **L. 97:** (3) amended and (5) added, pp. 1654, 1657, §§ 3, 5, effective June 5. **L. 98:** (3)(c)(I) amended, p. 991, § 15, effective July 1. **L. 2004:** (5) amended, p. 1286, § 21, effective May 28. **L. 2005:** (2), IP(3)(b), and (3)(c)(II) amended and (3)(b.5) and (3)(d) added, pp. 176, 173, §§ 9, 4, effective April 7. **L. 2006:** (3)(a) amended and (3)(e) added, p. 1240, § 3, effective May 26; IP(3)(b), (3)(c)(IX), and (3)(c)(X) amended and (3)(c)(XI) added, p. 251, § 1, effective August 7. **L. 2011:** (3)(a) amended and (3)(a.5) added, (HB 11-1201), ch. 139, p. 482, § 1, effective May 4. **L. 2015:**

(3)(c)(I) amended, (HB 15-1323), ch. 204, p. 726, § 39, effective May 20; IP(3)(b) amended, (SB 15-020), ch. 277, p. 1136, § 6, effective June 5. **L. 2019:** IP(3)(b) amended, (SB 19-190), ch. 153, p. 1820, § 3, effective May 10. **L. 2020:** IP(3)(b), (3)(b)(I), (3)(b.5), (3)(c)(X), and (3)(c)(XI) amended and (3)(b.7) and (3)(c)(XII) added, (HB 20-1128), ch. 86, p. 343, § 2, effective March 24; IP(3)(b), (3)(b)(I), (3)(b.5), (3)(b.7)(I), and (3)(c)(XI) amended and (3)(f) added, (HB 20-1312), ch. 258, p. 1248, § 1, effective July 8.

**Cross references:** For the legislative declaration in HB 20-1128, see section 1 of chapter 86, Session Laws of Colorado 2020.

**22-60.5-111. Authorization - types - applicants' qualifications - rules.** (1) Pursuant to the rules of the state board of education, the department of education may issue the authorizations specified in this section to persons of good moral character who meet the qualifications prescribed by this section and by the rules of the state board of education.

(2) **Adjunct instructor authorization.** (a) An adjunct instructor authorization certifies that a person is a specialist or an expert in a content area that is not available through an approved program of preparation, although the person has not received formal training in education. A school district may employ a person who has an adjunct instructor authorization to provide students with highly specialized academic enrichment that is in addition to and supportive of required content areas. The department of education may issue an adjunct instructor authorization to a person who applies to the department, providing such information as may be required by rule of the state board of education, including, at a minimum, documentation demonstrating the following:

(I) The applicant possesses outstanding talent and demonstrates specific abilities and knowledge in a particular area of specialization that is not included in an approved endorsement area, as specified in rule;

(II) A school district board of education has requested the applicant's services and requires the applicant's services, based upon evidence of a documented student need;

(III) The potential employing school district has documented evidence of the applicant's outstanding talent, specific abilities, and particular knowledge of the area of specialization;

(IV) The applicant has been employed for at least five years in the area of specialization or holds a bachelor's degree or higher degree in the area of specialization.

(b) An adjunct instructor authorization is valid for three years. The department of education may renew an adjunct instructor authorization for succeeding three-year periods at the employing school district's request. To request renewal, the employing school district, at a minimum, shall submit to the department of education documented evidence of continuing need within the school district for the adjunct instructor's services.

(3) **Special services intern authorization.** (a) The department of education may issue an intern authorization to an applicant who holds at least a bachelor's degree from an accepted institution of higher education and who is enrolled in an approved program of preparation for a special services provider that requires completion of an internship. A person employed under an intern authorization shall work under the supervision of a person who holds a professional special services provider license. A school district may pay a person who is employed under an intern authorization. An intern authorization is valid for one academic year and may not be renewed.

(b) Notwithstanding the provisions of subsection (3)(a) of this section to the contrary, the department of education may renew an intern authorization for one academic year if the special services intern is employed by a school district or board of cooperative services and the intern has not completed the approved program of preparation for a special services provider due to unforseen circumstances or hardship.

(4) **Emergency authorization.** (a) The department may issue an emergency authorization to an applicant who is enrolled in an approved preparation program but has not yet met the requirements for an initial educator license or a school speech-language pathology assistant authorization. The department may issue an emergency authorization if:

(I) A school district requests the emergency authorization to employ a nonlicensed teacher, principal, administrator, or special services provider, including but not limited to an unauthorized school speech-language pathology assistant who has a bachelor's degree in:

(A) Speech, language, and hearing sciences;

(B) Communications disorders-speech sciences; or

(C) Any other field if the unauthorized school speech-language pathology assistant has completed a minimum number of credits of course work in speech, language, and hearing sciences, which minimum number of credits is established by rules promulgated by the state board of education pursuant to paragraph (c) of subsection (10) of this section;

(II) The requesting school district submits to the department documented evidence of a demonstrated need for specific and essential educational services for students that the applicant would provide and that would otherwise be unavailable to students in the school district due to a shortage of licensed educators or authorized speech-language pathology assistants with appropriate endorsements; and

(III) The state board of education determines that employment of the applicant is essential to preservation of the school district's instructional program and that establishment of a one-year or two-year alternative teacher preparation program within the school district is not a practicable solution for resolution of the demonstrated shortage.

(b) An emergency authorization is valid for one year. If the state board of education determines that the employing school district continues to require the services of the person holding the emergency authorization, based on evidence submitted by the school district demonstrating the continued existence of the hardship circumstances described in subparagraphs (II) and (III) of paragraph (a) of this subsection (4), the state board of education may renew the emergency authorization for one additional year only.

(c) (I) A school district that employs a person who holds an emergency authorization may provide an induction program for the person, as described in section 22-60.5-204, 22-60.5-213, 22-60.5-304, or 22-60.5-309, whichever is applicable. If the person successfully completes the induction program while employed under the emergency authorization, the person may apply completion of the induction program toward meeting the requirements for a professional educator license.

(II) If a person who is employed under an emergency authorization successfully completes an induction program and completes the requirements prescribed in section 22-60.5-201 (1)(b)(I), 22-60.5-210 (1)(a)(I), 22-60.5-301 (1)(a)(I), or 22-60.5-306 (1)(a)(I), whichever is applicable, for an initial educator license while employed under the emergency authorization, the department of education may issue a professional educator license to the person upon application.

(5) **Temporary educator eligibility authorization.** (a) The department of education may issue a temporary educator eligibility authorization to a person who is enrolled in an approved program of preparation for a special education educator or who is working to attain a special services provider initial license but who has not yet met the requirements for the applicable initial educator license. The department may issue the authorization under the following circumstances:

(I) A school district requests the temporary educator eligibility authorization to employ as a special education teacher or director or as a special services provider an applicant who does not yet meet the requirements to obtain the applicable initial educator license but who meets the eligibility criteria specified in paragraph (b) of this subsection (5);

(II) The requesting school district provides documented evidence of a demonstrated need for specific and essential educational services that the applicant would provide but that would otherwise be unavailable to students due to a shortage of licensed educators with the appropriate endorsement.

(b) An applicant for a temporary educator eligibility authorization shall:

(I) Be continuously enrolled in an approved or alternative program of preparation leading to a bachelor's degree or higher degree from an accepted institution of higher education; or

(II) Be enrolled in an approved or alternative special education or special education director preparation program offered by an accepted institution of higher education; or

(III) Be approved for a temporary educator eligibility authorization based on evidence that documents compliance with requirements specified by rule of the state board of education.

(c) In addition to the circumstances and criteria specified in paragraphs (a) and (b) of this subsection (5), the department of education may issue a temporary educator eligibility authorization to a special services provider who has met the minimum degree requirements necessary to practice in his or her area of specialization, but who has not completed the necessary national content examination or school practicum in the area of specialization. A school district may employ a person who holds a temporary educator eligibility authorization issued pursuant to this paragraph (c) only if the person is under the supervision of a professionally licensed person in the same area of specialization.

(d) A temporary educator eligibility authorization is valid for one year and may be renewed twice.

(e) (I) A school district that employs a person who holds a temporary educator eligibility authorization may provide an induction program for the person, as described in section 22-60.5-204, 22-60.5-213, or 22-60.5-309, whichever is applicable. If the person successfully completes the induction program while employed under the temporary educator eligibility authorization, the person may apply completion of the induction program toward meeting the requirements for a professional educator license.

(II) If a person who is employed under a temporary educator eligibility authorization successfully completes an induction program and completes the requirements prescribed in section 22-60.5-201 (1)(b)(I), 22-60.5-210 (1)(a)(I), or 22-60.5-306 (1)(a)(I), whichever is applicable, for an initial educator license while employed under the temporary educator eligibility authorization, the department of education may issue a professional educator license to the person upon application.

(6) **Substitute authorization.** A substitute authorization authorizes a school district to employ a person to teach on a substitute basis. A substitute authorization shall be valid for such periods of time as specified in, and may be renewed as authorized in, rules adopted by the state board of education.

(7) **Interim authorization.** (a) An interim authorization authorizes a school district to employ a person who is certified or licensed, or is eligible for certification or licensure, as a teacher, principal, or administrator in another state and who has not successfully completed the assessment of professional competencies to obtain an initial license under section 22-60.5-201 (1)(b), 22-60.5-301 (1)(a), or 22-60.5-306 (1)(a) but who meets the other requirements for an initial license specified in said sections. An interim authorization is valid for one year, and the department of education may renew the authorization for one additional year. The employing school district may include the period during which a person works under an interim authorization toward the three full years of continuous employment necessary to cease being a probationary teacher pursuant to section 22-63-103 (7).

(b) A school district that employs a person who holds an interim authorization may provide an induction program for the person, as described in section 22-60.5-204, 22-60.5-304, or 22-60.5-309, whichever is applicable. If the person successfully completes the induction program while employed under the interim authorization, the person may apply completion of the induction program toward meeting the requirements for a professional educator license.

(7.5) **Military spouse interim authorization.** (a) The department of education may issue a military spouse interim authorization that authorizes a school district to employ a person who:

(I) Is certified or licensed, or is eligible for certification or licensure, as a teacher, special services provider, principal, or administrator in another state and who has not successfully completed the assessment of professional competencies to obtain an initial license under section 22-60.5-201 (1)(b), 22-60.5-301 (1)(a), or 22-60.5-306 (1)(a) but who meets the other requirements for an initial license specified in said sections; and

(II) Is a military spouse.

(b) Prior to issuing an authorization under this section, the department of education may contract with a qualified third party to work with a military spouse to meet the requirements of section 22-60.5-103 concerning a fingerprint-based criminal history record check.

(c) The Colorado bureau of investigation shall return the results of each fingerprint-based criminal history record check submitted pursuant to this section to the department of education no later than sixty days following receipt of the request.

(d) A military spouse interim authorization is valid for one year, and the department of education may renew the authorization for one additional year.

(e) The employing school district shall include the period during which a person works under a military spouse interim authorization toward the three full years of continuous employment necessary to cease being a probationary teacher pursuant to section 22-63-103 (7).

(f) A school district that employs a person who holds a military spouse interim authorization may provide an induction program for the person, as described in section 22-60.5-204, 22-60.5-304, or 22-60.5-309, whichever is applicable. If the person successfully completes the induction program while employed under the military spouse interim authorization, he or she may apply the completion of the induction program toward meeting the requirements for a professional educator license.

(g) The department of education shall issue a military spouse interim authorization to a person who meets the criteria of this subsection (7.5) no later than ninety days after the receipt of the initial application.

(h) For the purposes of this section, "military spouse" means a spouse of an active duty member of the armed forces of the United States who has been transferred or is scheduled to be transferred to Colorado, is domiciled in Colorado, or has moved to Colorado on a permanent change-of-station basis.

(7.7) **Exchange educator interim authorization.** (a) The department of education may issue an exchange educator interim authorization that authorizes a school district to assign a person who is a participant in a district-recognized educator exchange program and is certified or licensed, or is eligible for certification or licensure, as a teacher, special services provider, principal, or administrator in another country.

(b) Prior to issuing an authorization under this section, the department of education may contract with a qualified third party to work with an exchange educator to meet the requirements of section 22-60.5-103 concerning a fingerprint-based criminal history record check.

(c) The Colorado bureau of investigation shall return the results of each fingerprint-based criminal history record check submitted pursuant to this section to the department of education no later than sixty days following receipt of the request.

(d) An exchange educator interim authorization is valid for one year, and the department of education may renew the authorization for one additional year.

(e) The department of education shall issue an exchange educator interim authorization to a person who meets the criteria of this subsection (7.7) no later than ninety days after the receipt of the initial application.

(8) (Deleted by amendment, L. 2009, (SB 09-160), ch. 292, p. 1448, § 3, effective May 21, 2009.)

(9) **Career and technical education authorization.** (a) The department of education may issue an initial career and technical education authorization to a person who meets the minimum qualifications that the state board for community colleges and occupational education adopts pursuant to section 23-60-304 (3)(a), C.R.S. An initial career and technical education authorization is valid for three years and may not be renewed.

(b) The department of education may issue a professional career and technical education authorization to a person who meets the criteria that the state board for community colleges and occupational education adopts pursuant to section 23-60-304 (3)(a), C.R.S. A professional career and technical education authorization is valid for five years. The department of education may renew a professional career and technical education authorization for succeeding five-year periods when the person holding the authorization completes the renewal requirements that the state board for community colleges and occupational education adopts pursuant to section 23-60-304 (3)(a), C.R.S.

(10) **School speech-language pathology assistant authorization.** (a) The department of education may issue a school speech-language pathology assistant authorization to a person who meets the criteria specified by rule of the state board of education, which at a minimum shall include:

(I) (A) Completion of at least a bachelor's degree, which degree is from an accepted institution of higher education, in speech communication, speech-language pathology, or communication disorders-speech sciences, or a bachelor's degree in any other field if the

unauthorized school speech-language pathology assistant has completed a minimum number of credits of course work in speech, language, and hearing sciences, which minimum number of credits is established by rules promulgated by the state board of education pursuant to paragraph (c) of subsection (10) of this section.

(B) (Deleted by amendment, L. 2010, (HB 10-1034), ch. 116, p. 391, § 1, effective August 11, 2010.)

(II) Successful completion of a school speech-language pathology assistant program that:

(A) Meets or exceeds recommended guidelines established by a national association of speech-language-hearing professionals; and

(B) Includes a requirement that each student complete at least one hundred clock hours of a school-based practicum under the supervision of a nationally certified speech-language pathologist who resides or works within Colorado or within a reasonable commuting distance to Colorado, which supervision may be performed electronically via remote interactive technology; and

(III) (Deleted by amendment, L. 2010, (HB 10-1034), ch. 116, p. 391, § 1, effective August 11, 2010.)

(IV) Demonstrated knowledge and skills in competencies specified by rule of the state board of education.

(b) A school speech-language pathology assistant authorization is valid for five years. The department of education may renew the authorization for succeeding five-year periods upon presentation of documented evidence of completion of content-related renewal requirements established by rule of the state board of education, which requirements shall include, but not be limited to, continuing education requirements.

(c) On or before November 1, 2010, the state board of education shall promulgate rules establishing a minimum number of credits of course work in speech, language, and hearing sciences that a person with a bachelor's degree must complete for the purposes of sub-subparagraph (C) of subparagraph (I) of paragraph (a) of subsection (4) of this section and of sub-subparagraph (A) of subparagraph (I) of paragraph (a) of this subsection (10).

(11) **Educational interpreter authorization.** The department of education may issue an educational interpreter authorization to a person to allow the school district to employ the person to provide teaching and interpreting services for students who are deaf or hard of hearing. To receive an educational interpreter authorization, a person shall comply with the criteria established by rule of the state board of education. An educational interpreter authorization is valid for five years. The department of education may renew the authorization for succeeding five-year periods upon submittal of documented evidence of completion of content-related renewal requirements established by rule of the state board of education.

(12) **Junior reserve officer training corps instructor authorization.** The department of education may issue a junior reserve officer training corps instructor authorization, referred to in this subsection (12) as a "JROTC instructor authorization", to a person who provides documented evidence of junior reserve officer training corps certification based on successful acquisition of service-specific junior reserve officer training corps program director certification or completion of service-specific junior reserve officer training corps preparation program requirements, including but not limited to, completion of a service-specified junior reserve officer training corps certification training program. A JROTC instructor authorization is valid

for five years. The department of education may renew a JROTC instructor authorization for succeeding five-year periods when the authorization holder submits documented evidence of service-specific junior reserve officer training corps recertification following successful completion of a service-specific junior reserve officer training corps recertification course or such other requirements as the applicable branch of military service may stipulate.

(13) **Adult basic education authorization.** The department of education may issue an adult basic education authorization to an applicant who provides documented evidence of adult basic education training and experience. A school district may employ a person who holds an adult basic education authorization to work as an adult basic education instructor in an adult education program operated by the school district before, during, or after regular school hours. An adult basic education authorization is valid for five years from the date of issuance. The department of education may renew the adult basic education authorization for successive five-year periods upon receipt of documented evidence that the person holding the authorization has completed additional adult basic education training or practice and any other renewal requirements specified by rule of the state board of education.

(14) **Principal authorization.** (a) The department may issue a principal authorization to a person who does not hold a principal license but who holds an earned baccalaureate or higher degree from an accepted institution of higher education and who will be employed pursuant to the provisions of section 22-60.5-305.5 by a school district, charter school, or nonpublic school under an individualized alternative principal program if the program is approved by the state board of education as provided in this subsection (14). A school district may employ a person who holds a principal authorization to perform the duties of a principal or a vice-principal in a school, so long as the person who holds the authorization is under the supervision of a professional principal licensee.

(b) To receive a principal authorization, a person, in collaboration with a school district, charter school, the institute, or nonpublic school, shall submit to the department of education documentation that includes:

(I) The course work, practicums, and other educational requirements, identified by the person and the collaborating school district, charter school, the institute, or nonpublic school that will comprise the person's individualized alternative principal program and that the person will complete while he or she is employed under the principal authorization; and

(II) A letter from the collaborating school district or charter school stating the school district's, charter school's, or nonpublic school's intention to employ the applicant as a principal or a vice-principal upon issuance of the principal authorization; and

(III) Any additional documentation required by rule of the state board of education.

(c) At a minimum, a person's individualized alternative principal program shall ensure that:

(I) The person receives information, experience, and training and develops skills comparable to the information, experience, training, and skills possessed by a person who qualifies for an initial principal license as provided in section 22-60.5-301 (1)(a);

(II) The person receives coaching and mentoring from one or more licensed principals and administrators and continuing performance-based assessment of the person's skills development; except that, if the person participates in an individualized alternative principal program offered by a nonpublic school, the person must receive coaching and mentoring from

one or more principals and administrators who have three or more years of experience in a nonpublic school;

(III) The person demonstrates professional competencies in subject matter areas as specified by rule of the state board of education pursuant to section 22-60.5-303; and

(IV) The person receives education and training that provides the person with an overview of Title II of the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., as amended, and its implementing regulations; section 504 of the federal "Rehabilitation Act of 1973", 29 U.S.C. sec. 701 et seq., as amended, and its implementing regulations; the "Individuals with Disabilities Education Act", 20 U.S.C. sec. 1400 et seq., as amended, and its implementing regulations; individualized education programs; and child find and that teaches effective special education classroom practices, including but not limited to inclusive learning environments.

(d) If the state board of education determines the individualized alternative principal program meets the requirements specified in paragraph (c) of this subsection (14), the state board of education shall approve the individualized alternative principal program, and the department of education shall issue the principal authorization to the applicant. A principal authorization shall be valid for three years and may not be renewed.

(e) (I) A school district, charter school, or nonpublic school that employs a person who holds a principal authorization may provide an induction program for the person, as described in section 22-60.5-304. If the person successfully completes the induction program while employed under the principal authorization, the person may apply completion of the induction program toward meeting the requirements for a professional principal license.

(II) If a person who is employed under a principal authorization successfully completes an induction program and completes the individualized alternative principal program while employed under the principal authorization, the department of education may issue a professional principal license to the person upon application.

(15) **Native American language and culture instruction authorization.** (a) The department may issue a Native American language and culture instruction authorization to an individual under the following circumstances:

(I) If the individual qualifies for an adjunct instructor authorization pursuant to subsection (2) of this section in the area of native languages; or

(II) If an individual cannot be identified who meets the criteria of subparagraph (I) of this paragraph (a), the employing school district may allow an individual to apply to the department for approval of a Native American language and culture instruction authorization if the individual has demonstrated expertise in a Native American language of a federally recognized tribe. The Native American language and culture instruction authorization shall allow the individual to teach the Native American language in which he or she has demonstrated expertise for the employing school district. An individual authorized pursuant to this subparagraph (II) shall work in partnership with a licensed teacher who currently teaches world languages for the employing school district. The approval process for the Native American language and culture instruction authorization shall be established by rule of the state board and shall include, at a minimum:

(A) A method to establish and document the expertise of the applicant in the Native American language of a federally recognized tribe;

(B) The identification of the partnering licensed teacher;

(C) A requirement that the applicant meet any objective standards for language proficiency established by the state board;

(D) A prohibition on the applicant from teaching any subject other than the Native American language for which he or she has demonstrated expertise; and

(E) A renewal process for the authorization.

(b) A Native American language and culture authorization issued pursuant to paragraph (a) of this subsection (15) is valid for five years from the date of issuance. The department may renew the authorization for succeeding five-year periods upon the receipt of documented evidence that the person holding the authorization has completed any renewal requirements specified by rule by the state board of education.

(c) All laws and rules, including but not limited to section 22-9-106 and any rules promulgated thereunder related to educator evaluation and effectiveness, shall apply to the individual holding an authorization pursuant to this subsection (15).

**Source: L. 91:** Entire article added, p. 477, § 1, effective June 6. **L. 95:** (1)(a) amended and (1)(f) added, p. 270, § 1, effective July 1. **L. 97:** (1)(d) amended, p. 1656, § 4, effective June 5. **L. 99:** IP(1) and (1)(c) amended, p. 1195, § 10, effective June 1. **L. 2000:** (1)(d) amended, p. 1858, § 63, effective August 2. **L. 2002:** (1)(c) amended, p. 1623, § 3, effective June 7. **L. 2003:** (1)(g) added, p. 2520, § 9, effective June 5. **L. 2004:** Entire section R&RE, p. 1271, § 2, effective May 28. **L. 2005:** IP(4)(a), (4)(c)(II), IP(5)(a), (5)(a)(I), (5)(d), (5)(e)(II), (7), and (14)(c)(I) amended, pp. 176, 174, §§ 10, 5, effective April 7. **L. 2007:** (10)(a)(I) amended, p. 745, § 27, effective May 9. **L. 2008:** (7.5) added, p. 97, § 1, effective March 19; (7.7) added, p. 1364, § 2, effective May 27. **L. 2009:** IP(4)(a), (4)(a)(III), (8), and (14)(a) amended, (SB 09-160), ch. 292, p. 1448, § 3, effective May 21. **L. 2010:** (4)(a) and (10) amended, (HB 10-1034), ch. 116, p. 391, § 1, effective August 11; (14)(a), (14)(b)(III), (14)(c)(III), and (14)(d) amended, (HB 10-1422), ch. 419, p. 2079, § 48, effective August 11. **L. 2012:** (15) added, (SB 12-057), ch. 120, p. 408, § 1, effective August 8. **L. 2013:** (13) amended, (HB 13-1219), ch. 104, p. 364, § 14, effective August 7. **L. 2015:** (9) amended, (HB 15-1170), ch. 224, p. 823, § 5, effective May 26. **L. 2018:** (3) amended, (HB 18-1309), ch. 269, p. 1662, § 7, effective August 8; (14)(a), (14)(b), and (14)(e)(I) amended, (SB 18-160), ch. 97, p. 759, § 2, effective August 8. **L. 2019:** (14)(a), IP(14)(b), (14)(b)(I), (14)(b)(II), (14)(c)(II), and (14)(e)(I) amended, (SB 19-069), ch. 37, p. 122, § 3, effective August 2. **L. 2020:** (14)(c)(II) and (14)(c)(III) amended and (14)(c)(IV) added, (HB 20-1128), ch. 86, p. 344, § 3, effective March 24.

**Cross references:** For the legislative declaration in HB 20-1128, see section 1 of chapter 86, Session Laws of Colorado 2020.

**22-60.5-112. Fees - fund - repeal.** (1) (a) The fee for the examination and review of an application for any license, endorsement, or authorization, or any renewal or reinstatement thereof, shall be established by the state board of education and shall be nonrefundable. Upon determination of eligibility, such license, endorsement, or authorization shall be issued without an additional fee. The state board of education shall adjust if necessary all such fees annually so that they generate an amount of revenue that approximates the direct and indirect costs of the state board of education and of the department for the administration of this article; however, the state board of education shall establish and adjust such fees for licenses issued pursuant to

section 22-60.5-201 (1)(a) so that the fees generate an amount of revenue that approximates the direct and indirect costs of the state board of education and the department for the administration of sections 22-60.5-201 (1)(a) and 22-60.5-205. All fees collected under this section shall be transmitted to the state treasurer and credited to the educator licensure cash fund, which fund is hereby created and referred to in this subsection (1) as the "cash fund". The general assembly shall make annual appropriations from the cash fund for expenditures of the state board of education and of the department incurred in the administration of this article. At the end of any fiscal year, all unexpended and unencumbered moneys in the cash fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.

(b) (I) Notwithstanding any provision of subsection (1)(a) of this section to the contrary, for the 2011-12 fiscal year through the 2020-21 fiscal year, the money in the cash fund is continuously appropriated to the department to offset the direct and indirect costs incurred by the state board of education and the department in administering this article 60.5. In each of the fiscal years, the general appropriation bill must, for informational purposes, reflect the estimated amount of expenditures, including any funding for personnel, from the cash fund.

(II) Notwithstanding section 24-1-136 (11), during each of the regular legislative sessions from 2012 through 2021, the department shall report to the education committees of the house of representatives and the senate, or any successor committees, and the joint budget committee of the general assembly concerning expenditures from the cash fund and the department's progress in meeting the goal of reducing to six weeks or less the processing time for issuing or renewing an educator license.

(III) For the 2011-12 fiscal year through the 2017-18 fiscal year, any persons hired to assist the department in reducing the processing time for issuing or renewing an educator license shall be independent contractors with the department, and the contracts for services shall not extend beyond June 30, 2018.

(IV) This subsection (1)(b) is repealed, effective July 1, 2021.

(2) Notwithstanding any provision of this section to the contrary, on March 5, 2003, the state treasurer shall deduct one hundred forty-three thousand five hundred thirty-five dollars from the educator licensure cash fund and transfer such sum to the general fund.

**Source: L. 91:** Entire article added, p. 479, § 1, effective June 6. **L. 97:** Entire section amended, p. 1657, § 6, effective June 5. **L. 2000:** Entire section amended, p. 1858, § 64, effective August 2. **L. 2003:** Entire section amended, p. 456, § 11, effective March 5. **L. 2011:** (1) amended, (HB 11-1201), ch. 139, p. 483, § 2, effective May 4. **L. 2013:** (1)(b) amended, (HB 13-1219), ch. 104, p. 364, § 15, effective August 7. **L. 2015:** (1)(b) amended, (SB 15-111), ch. 75, p. 198, § 1, effective April 3. **L. 2018:** (1)(b)(I), (1)(b)(II), and (1)(b)(IV) amended, (HB 18-1100), ch. 40, p. 460, § 1, effective March 15.

**22-60.5-112.5. National credential - fee assistance - one-time payments.** (1) (a) For the 2002-03 budget year, the 2004-05 budget year, and each budget year thereafter, subject to available appropriations, the department of education shall assist persons who are seeking national credentials by paying a portion of the fees charged for such national credential. The general assembly shall annually appropriate, if available, moneys from the state education fund, created in section 17 (4) of article IX of the state constitution, to the department of education to

be used for the purposes of this section. Fee assistance pursuant to this section shall be available to any person who:

(I) Is seeking a national credential from an approved professional organization as a requirement for or in the course of obtaining master teacher certification pursuant to this article;

(II) Repealed.

(III) Is employed as a teacher in a public school or an approved facility school, as defined in section 22-2-402 (1), in this state at the time of applying for fee assistance pursuant to this section; and

(IV) Applies for national credential fee assistance as provided in this section.

(b) Repealed.

(2) (a) To apply for national credential fee assistance pursuant to this section, a person shall present to the department of education the following items:

(I) Proof that the person has begun the process to obtain the national credential and identification of the national credential program in which the person will participate to obtain the national credential;

(II) Proof that the person has received or will receive national credential fee assistance through a federal assistance program and the amount of such assistance; and

(III) Proof that the person is employed as a teacher at a public school or an approved facility school, as defined in section 22-2-402 (1), in this state at the time of applying for national credential fee assistance.

(b) Following receipt of the items specified in paragraph (a) of this subsection (2) and verification that the person meets the criteria specified in subsection (1) of this section, the department of education shall forward the fee assistance to the identified national credential program on behalf of the person in the amount specified in subsection (1) of this section. The fee assistance shall be paid out of moneys appropriated to the department of education pursuant to paragraph (a) of subsection (1) of this section.

(c) If a person who receives fee assistance pursuant to this section does not complete the national credential program for which he or she received such assistance, the national credential program shall refund to the department of education the amount of fee assistance paid on behalf of said person.

(3) (a) The state board of education shall promulgate rules as necessary for the implementation of this section, including but not limited to a rule identifying those nationally recognized professional credentialing organizations that are approved for purposes of this section.

(b) (Deleted by amendment, L. 2006, p. 677, § 18, effective April 28, 2006.)

(4) (a) The general assembly recognizes that, to obtain a national credential from an approved professional organization, a teacher must demonstrate excellence in teaching skills and achieve a very high level of performance. The general assembly further recognizes that incentives to encourage teachers to obtain national credentialing will benefit the students of Colorado by encouraging teachers to achieve higher levels of performance. Therefore, the general assembly hereby finds that, for purposes of section 17 of article IX of the state constitution, providing national credential fee assistance to teachers who obtain a national credential from an approved professional organization constitutes a performance incentive for teachers and such teachers may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

(b) Repealed.

(5) As used in this section, unless the context otherwise requires:

(a) "Approved professional organization" means a nationally recognized professional credentialing organization that is approved by rule of the state board of education.

(b) "National credential" means a certification or other form of registration or credential issued by a nationally recognized professional credentialing organization. "National credential" shall include, but need not be limited to, certification by the national board for professional teaching standards.

**Source: L. 2002:** Entire section added, p. 1791, § 55, effective June 7. **L. 2003:** IP(1)(a) amended, p. 2136, § 33, effective May 22. **L. 2006:** IP(1)(a), (2)(b), (3)(b), and (4)(b) amended, p. 677, § 18, effective April 28. **L. 2008:** (1)(a)(II) and (1)(b) repealed, p. 1217, § 30, effective May 22; (1)(a)(III) and (2)(a)(III) amended, p. 1405, § 53, effective May 27.

**Cross references:** For the legislative declaration contained in the 2008 act repealing subsections (1)(a)(II) and (1)(b), see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-60.5-113. Issuance of professional licenses to certificate holders. (Repealed)**

**Source: L. 91:** Entire article added, p. 479, § 1, effective June 6. **L. 2000:** Entire section repealed, p. 1859, § 65, effective August 2.

**22-60.5-114. State board of education - waivers.** (1) Notwithstanding any law to the contrary and upon application of any institution of higher education, school district, board of cooperative services, charter school, the institute, or nonpublic school, the state board of education is authorized to waive any requirement imposed by this article 60.5 in regard to alternative teacher programs or approved induction programs. Such waiver may be granted only upon a majority vote of the members of the state board of education and upon a sufficient showing that such waiver is necessary to allow innovative programs intended to improve the quality of such educators. The state board of education shall promulgate rules regarding such procedures and criteria necessary for the implementation of this section.

(2) Notwithstanding the provisions of subsection (1) of this section, the state board of education may grant a waiver of the induction program requirement upon a two-thirds majority vote of the board members and upon a sufficient showing that implementation of an induction program would cause extreme hardship to the school district, charter school, the institute, or nonpublic school. An application for waiver of the induction program requirement shall include a plan for the support, assistance, and training of initially licensed educators.

(3) Upon application by a school district, nonpublic school, or board of cooperative services, the state board may grant a waiver of the requirement that a person applying for an initial license demonstrate professional competencies. Such a waiver may be granted only by a two-thirds majority vote of the board members following a demonstration that:

(a) The license applicant is employed by the school district, nonpublic school, or board of cooperative services under an authorization issued pursuant to section 22-60.5-111;

(b) Enforcement of the requirement would cause extreme hardship to the school district, nonpublic school, or board of cooperative services or to the license applicant; and

(c) The skill level of the license applicant is comparable to the skill level of an applicant who has successfully demonstrated professional competencies. The school district, nonpublic school, or board of cooperative services shall provide documentary evidence of the skill level of the license applicant.

**Source: L. 91:** Entire article added, p. 480, § 1, effective June 6. **L. 95:** Entire section amended, p. 269, § 2, effective July 1. **L. 97:** (1) amended, p. 1658, § 8, effective June 5. **L. 99:** (1) amended, p. 1192, § 8, effective June 1. **L. 2000:** (3) added, p. 1114, § 3, effective May 26. **L. 2005:** (2) and IP(3) amended, p. 177, § 11, effective April 7. **L. 2018:** (1) and (2) amended, (SB 18-160), ch. 97, p. 760, § 3, effective August 8. **L. 2019:** Entire section amended, (SB 19-069), ch. 37, p. 123, § 4, effective August 2.

**22-60.5-115. Rules.** (1) The state board of education is authorized to adopt and prescribe rules not inconsistent with the provisions of this article for its proper administration. It is the intent of the general assembly that, in prescribing rules for the administration of this article, the state board of education shall adopt the minimum amount of rules necessary to ensure the least cumbersome process possible for issuing and renewing educator licenses.

(2) The state board of education shall promulgate rules as necessary to implement sections 22-60.5-201 (1)(a) and 22-60.5-205. The rules must include, but need not be limited to, the following:

(a) Application procedures to obtain approval by the state board of education of any proposed alternative teacher program. Such application for approval shall include, but shall not be limited to, statements by the designated agency making such application as to the expectations of what such program would accomplish, the goals and objectives of such alternative teacher program, and what benefits alternative teachers would expect to receive by participating in such alternative teacher program.

(b) Criteria for the approval by the state board of education of any proposed alternative teacher program;

(c) Criteria relating to the designation of mentor teachers by school districts, charter schools, or the institute providing alternative teacher programs. The guidelines may include consideration of the following factors in regard to potential mentor teachers:

(I) Educational attainment;

(II) Level of experience;

(III) The general consensus of professional opinion in the school district or charter school.

(d) Procedures and criteria for the evaluation of approved alternative teacher programs by the department of education;

(e) Procedures and criteria for performance evaluations of alternative teachers which shall be in accordance with section 22-9-106. However, the state board may provide for such performance evaluations by mentor teachers. Notwithstanding any other provision of this article 60.5, a nonpublic school is not required to conduct performance evaluations of any teacher in accordance with section 22-9-106; except that the state board may require a nonpublic school to periodically evaluate a person participating in an induction program or alternative preparation program pursuant to this article 60.5 to ensure that the person meets or exceeds the quality standards established by the state board for that person's profession.

**Source: L. 91:** Entire article added, p. 480, § 1, effective June 6. **L. 97:** (1) amended, p. 1654, § 2, effective June 5. **L. 2017:** IP(2), IP(2)(c), and (2)(c)(III) amended, (SB 17-052), ch. 5, p. 10, § 3, effective August 9. **L. 2018:** IP(2)(c) and (2)(c)(III) amended, (SB 18-160), ch. 97, p. 761, § 4, effective August 8. **L. 2019:** (2)(e) amended, (SB 19-069), ch. 37, p. 124, § 5, effective August 2.

**22-60.5-116. Evaluation of approved programs of preparation for teachers, principals, and administrators. (Repealed)**

**Source: L. 91:** Entire article added, p. 481, § 1, effective June 6. **L. 98:** Entire section amended, p. 991, § 16, effective July 1. **L. 99:** (2) and (4) amended, p. 1189, § 3, effective June 1. **L. 2001:** (2) and (4) amended, p. 1176, § 7, effective August 8. **L. 2004:** Entire section repealed, p. 1283, § 9, effective May 28.

**22-60.5-116.5. Education committees - evaluation of educator preparation programs - biennial joint meeting.** (1) (a) The committees on education of the house of representatives and the senate, or any successor committees, shall biennially hold a joint meeting to assess the reports received concerning the effectiveness of the approved educator preparation programs offered by accepted institutions of higher education in the state and the reports of the survey of superintendents conducted by the department of education and submitted by the state board of education pursuant to section 22-2-109 (7).

(b) At the meeting, the committees shall consider the reports on the review of approved educator preparation programs received from the Colorado commission on higher education pursuant to section 23-1-121 (6), C.R.S. The committees shall take testimony from representatives of the institutions of higher education that provide the educator preparation programs, the state board of education, the Colorado commission on higher education, and from any other interested persons. Based on the review of said reports and any testimony received, the committees shall assess whether the approved educator preparation programs are adequately preparing candidates to meet the performance-based educator licensure standards adopted by rule of the state board of education pursuant to section 22-2-109 (3).

(c) At the meeting, the committees shall consider the reports of the survey of superintendents conducted by the department of education and submitted by the state board of education pursuant to section 22-2-109 (7). The committees shall take testimony from representatives of the institutions of higher education that provide the principal preparation programs, the state board of education, the Colorado commission on higher education, and from any other interested persons. Based on the review of said reports and any testimony received, the committees shall assess whether the approved principal preparation programs and alternative forms of principal preparation are adequately preparing principal candidates to meet the performance-based principal licensure standards adopted by rule of the state board of education pursuant to section 22-2-109 (6).

(2) If the committees, based on the reports received from the Colorado commission on higher education and the state board of education, determine that an approved educator preparation program is not adequately preparing licensure candidates, the committees shall instruct the Colorado commission on higher education to reduce the funding received by the institution of higher education that provides the approved educator preparation program during

the next fiscal year. The commission shall notify the committees of the amount of said reduction prior to introduction of the annual general appropriation bill.

**Source: L. 99:** Entire section added, p. 1190, § 4, effective June 1. **L. 2004:** Entire section amended, p. 1283, § 10, effective May 28. **L. 2006:** Entire section amended, p. 1239, § 2, effective May 26. **L. 2011:** (1)(b) and (2) amended, (SB 11-052), ch. 232, p. 999, § 6, effective May 27; (1)(a) and (1)(b) amended, (SB 11-245), ch. 201, p. 849, § 9, effective August 10.

**Editor's note:** Amendments to subsection (1)(b) by Senate Bill 11-052 and Senate Bill 11-245 were harmonized.

**Cross references:** For the legislative declaration in the 2011 act amending subsections (1)(a) and (1)(b), see section 1 of chapter 201, Session Laws of Colorado 2011.

**22-60.5-117. Prior certificates validated. (Repealed)**

**Source: L. 91:** Entire article added, p. 482, § 1, effective June 6. **L. 2000:** Entire section repealed, p. 1859, § 66, effective August 2.

**22-60.5-118. Educator licenses - holding simultaneously.** Nothing in this article shall prohibit a person from simultaneously holding and maintaining different types of educator licenses.

**Source: L. 97:** Entire section added, p. 1659, § 9, effective June 5.

**22-60.5-119. Applications for licenses - authority to suspend licenses - rules.** (1) Every application by an individual for a license issued by the department of education or any authorized agent of such department shall require the applicant's name, address, and social security number.

(2) The department of education or any authorized agent of the department shall deny, suspend, or revoke any license pursuant to the provisions of section 26-13-126, C.R.S., and any rules promulgated in furtherance thereof, if the department or agent thereof receives a notice to deny, suspend, or revoke from the state child support enforcement agency because the licensee or applicant is out of compliance with a court or administrative order for current child support, child support debt, retroactive child support, child support arrearages, or child support when combined with maintenance or because the licensee or applicant has failed to comply with a properly issued subpoena or warrant relating to a paternity or child support proceeding. Any such denial, suspension, or revocation shall be in accordance with the procedures specified by rule of the department of education, rules promulgated by the state board of human services, and any memorandum of understanding entered into between the department of education or an authorized agent thereof and the state child support enforcement agency for the implementation of this section and section 26-13-126, C.R.S.

(3) (a) The department of education shall enter into a memorandum of understanding with the state child support enforcement agency, which memorandum shall identify the relative responsibilities of the department of education and the state child support enforcement agency in

the department of human services with respect to the implementation of this section and section 26-13-126, C.R.S.

(b) The appropriate rule-making body of the department of education is authorized to promulgate rules to implement the provisions of this section.

(4) For purposes of this section, "license" means any recognition, authority, or permission that the department of education or any authorized agent of such department is authorized by law to issue for an individual to practice a profession or occupation or for an individual to participate in any recreational activity. "License" may include, but is not necessarily limited to, any license, certificate, certification, letter of authorization, or registration issued for an individual to practice a profession or occupation or for an individual to participate in any recreational activity.

**Source: L. 97:** Entire section added, p. 1277, § 19, effective July 1.

**Cross references:** For the legislative declaration contained in the 1997 act enacting this section, see section 1 of chapter 236, Session Laws of Colorado 1997.

**22-60.5-120. Provisional license - initial license - change of term.** As of April 7, 2005, "provisional" educator licenses shall be known as "initial" educator licenses. A person who holds a provisional educator license as of April 7, 2005, shall be deemed to hold an initial educator license on and after said date, so long as the license is valid.

**Source: L. 2005:** Entire section added, p. 190, § 34, effective April 7.

PART 2

TEACHERS AND SPECIAL SERVICES PROVIDERS

**22-60.5-201. Types of teacher licenses issued - term - rules.** (1) The department is designated as the sole agency authorized to issue the following teacher licenses to persons of good moral character:

(a) **Alternative teacher license.** (I) The department may, at its discretion, issue an alternative teacher license to any applicant who:

(A) Holds an earned baccalaureate degree from a fully accredited institution of higher education;

(B) (Deleted by amendment, L. 2004, p. 1279, 3, effective May 28, 2004.)

(C) Has been recommended by an accepted institution of higher education as holding a baccalaureate degree and has demonstrated to the state board of education, in a manner prescribed by rule of the board pursuant to section 22-60.5-203 (6), the subject matter knowledge necessary for teaching in the appropriate endorsement areas.

(D) Agrees to participate fully in a one-year or two-year alternative teacher program provided by a designated agency, which may include working as an alternative teacher in a licensed nonpublic child care facility or other preschool facility. The state board of education is authorized to promulgate rules as necessary to implement this subsection (1)(a)(I)(D).

(II) (Deleted by amendment, L. 2009, (SB 09-160), ch. 292, p. 1449, § 4, effective May 21, 2009.)

(III) Holders of alternative teacher licenses shall not be used to replace regularly licensed teachers in any action resulting from a contract dispute.

(IV) An alternative teacher license is valid in any school district, charter school, or nonpublic school and entitles the holder to work exclusively as an alternative teacher pursuant to the terms of an alternative teacher contract. A holder of an alternative teacher license is the teacher of record.

(V) For applicants enrolled in a one-year alternative teacher program, the alternative teacher license issued pursuant to this subsection (1)(a) is valid for a period of one year after the date of issuance and may be renewed for only one additional year, but only upon written evidence that the employing school district, board of cooperative services, charter school, or nonpublic school anticipates extending the alternative teacher's contract for one additional year pursuant to section 22-60.5-207 (2). For applicants enrolled in a two-year alternative teacher program, the alternative teacher license issued pursuant to this subsection (1)(a) is valid for a period of two years after the date of issuance.

(a.5) **Teacher of record license.** (I) The department shall issue a teacher of record license to an applicant who:

(A) Is enrolled in an accepted institution of higher education and has successfully completed all, or substantially all, of the course work requirements for completion of a bachelor's degree but has not yet completed teaching field work requirements;

(B) Is enrolled in a one- or two-year teacher of record program pursuant to section 22-60.5-208.7; and

(C) The applicant is or will be employed in a position for which no other qualified, licensed teacher has applied by a local education provider, as defined in section 22-60.5-208.7 (1), that determines that there is a critical teacher shortage.

(II) A teacher of record license is valid for two years after the date of issuance and can only be renewed one time if the holder did not complete a bachelor's degree due to unforeseen circumstances or hardship.

(III) The state board of education shall establish the competencies and standards necessary for a teacher of record to be employed by a school district or public school.

(b) **Initial teacher license.** (I) Except as otherwise provided in subsection (1)(b)(II) of this section, the department, in its discretion, may issue an initial teacher license to any applicant who:

(A) Holds an earned baccalaureate degree from an accepted institution of higher education;

(B) Has completed an approved program of preparation for teachers or a one-year or two-year alternative teacher program;

(C) Has demonstrated professional competencies in subject areas as specified by rule of the state board of education pursuant to section 22-60.5-203.

(II) The department of education, in its discretion, may issue an initial or a professional teacher license to any applicant who:

(A) Holds a valid initial or professional principal license or a valid initial or professional administrator license;

(B) Has previously held an initial teacher license.

(II.5) (Deleted by amendment, L. 2009, (SB 09-160), ch. 292, p. 1449, § 4, effective May 21, 2009.)

(III) (A) An initial teacher license is valid in any school districts or nonpublic schools that provide, or charter schools that provide or participate in, an approved induction program for teachers or have obtained a waiver of the approved induction program requirement pursuant to section 22-60.5-114 (2). Except as otherwise provided in subsection (1)(b)(III)(B) of this section, any initial license issued pursuant to this subsection (1)(b) is valid for a period of three years after the date of issuance and is renewable only once for an additional period of three years.

(B) If an initial teacher licensee is unable to complete an induction program for reasons other than incompetence, the state board of education may renew the licensee's initial teacher license for one or more additional three-year periods upon the initial licensee's showing of good cause for inability to complete an induction program.

(c) **Professional teacher license.** (I) Except as otherwise provided in subsections (1)(c)(II), (1)(c)(II.5), and (1)(c)(II.7) of this section, the department of education may, in its discretion, issue a professional teacher license to any applicant who:

(A) Holds a valid initial teacher license;

(B) Has completed an approved induction program and has been recommended for licensure by the school districts, charter school, the institute, or nonpublic school that provided such induction program; except that the applicant need not complete an approved induction program as an initial teacher licensee if the applicant previously completed an induction program while teaching under an adjunct instructor authorization, an emergency authorization, or an interim authorization or if the school district or charter school in which the applicant is employed has obtained a waiver of the induction program requirement pursuant to section 22-60.5-114 (2). If the applicant is employed by a school district, charter school, or nonpublic school that has obtained a waiver of the induction program requirement, the applicant shall demonstrate completion of any requirements specified in the school district's, charter school's, or nonpublic school's plan for support, assistance, and training of initially licensed educators.

(C) Has demonstrated professional competencies in subject areas as specified by rule and regulation of the state board of education pursuant to section 22-60.5-203 if the applicant received an initial teacher license without demonstrating professional competencies pursuant to sub-subparagraph (C) of subparagraph (I) of paragraph (b) of this subsection (1).

(II) The department of education may, in its discretion, issue a professional teacher license to any applicant who:

(A) Holds a valid initial or professional principal license or a valid initial or professional administrator license;

(B) Has previously held a professional teacher license issued pursuant to this article or an equivalent certificate which was issued pursuant to article 60 of this title prior to July 1, 1994.

(II.5) The department of education may issue a professional teacher license to any applicant who meets or exceeds the requirements specified in paragraph (b) of subsection (3) of this section.

(II.7) The department of education may issue a professional teacher license to an applicant who meets the requirements specified in section 22-60.5-111 (4)(c)(II) or (5)(e)(II).

(III) (A) Except as otherwise provided in sub-subparagraph (B) of this subparagraph (III), any professional teacher license issued pursuant to this paragraph (c) shall be valid for a

period of five years after the date of issuance and is renewable at its expiration as provided in section 22-60.5-110.

(B) Any professional teacher license issued pursuant to this paragraph (c) which is held in conjunction with a master certificate pursuant to section 22-60.5-202 shall be valid for a period of seven years after the date of issuance and is renewable as provided in section 22-60.5-110.

(2) The state board of education is authorized to establish, by rule and regulation, such other requirements for licenses specified in subsection (1) of this section as it deems necessary to maintain and improve the quality of education instructional programs in the public schools of this state; except that the state board of education may not require any person who applies for a professional teacher license either while holding a valid initial teacher license or upon expiration of an initial teacher license to demonstrate professional competencies if said person demonstrated professional competencies prior to obtaining the initial teacher license.

(3) (a) The department of education may, at its discretion, issue an initial teacher license provided for in paragraph (b) of subsection (1) of this section to any applicant from another state or country whose qualifications meet or exceed the standards of the state board of education for the issuance of an initial teacher license.

(b) (I) The department of education may issue a professional teacher license to any applicant from another state if:

(A) The applicant holds a license or certificate from that state that is comparable to a teacher license in this state and the standards for the issuance of such license or certificate meet or exceed the standards of the state board of education for the issuance of a professional teacher license; and

(B) The applicant has had at least three years of successful, evaluated experience within the previous seven years as a teacher in an established elementary or secondary school and can provide documentation of such experience on forms provided by the department.

(II) An applicant for a professional teacher license pursuant to this paragraph (b) need not have:

(A) Completed an approved induction program for teachers;

(B) Held an initial teacher license pursuant to paragraph (b) of subsection (1) of this section; or

(C) Demonstrated professional competencies in subject areas as specified by rule of the state board of education pursuant to section 22-60.5-203.

(III) Repealed.

(c) In an area deemed by the state board of education to be a shortage area, the state board of education shall establish reasonable criteria, including the recognition of experience as a licensed or certificated teacher, for the issuance of an initial teacher license to any applicant from another state or country.

(d) An applicant for an initial teacher license who has three years or more of teaching experience in another state or country for which the department of education has granted reciprocity pursuant to this subsection (3) shall be licensed without having to demonstrate professional competencies pursuant to section 22-60.5-203 if such person meets all the other qualifications for an initial teacher license or professional teacher license and if such person is qualified to teach in that state or country.

(3.5) The department of education may, at its discretion, issue a professional license provided for in paragraph (c) of subsection (1) of this section to any applicant who is certified by a nationally recognized teacher certification organization that is approved by the state board of education.

(4) The state board of education is authorized to enter into interstate reciprocal agreements in which the department of education agrees to issue initial teacher licenses to persons licensed to teach in another state.

(5) (Deleted by amendment, L. 2006, p. 637, § 50, effective August 7, 2006.)

**Source: L. 91:** Entire article added, p. 483, § 1, effective June 6. **L. 94:** (1)(b)(I)(C), (1)(b)(III), and (1)(c)(I)(B) amended and (1)(c)(I)(C) added, p. 1801, § 1, effective May 31. **L. 96:** (3) amended, p. 1785, § 2, effective June 3. **L. 97:** (1)(b)(III), (1)(c)(I)(B), and (2) amended and (3.5) added, pp. 1659, 1662, 1664, §§ 10, 14, 22, effective June 5. **L. 99:** (3) amended, p. 890, § 1, effective May 24; IP(1)(b)(I) amended and (1)(b)(II.5) added, p. 1196, § 11, effective June 1. **L. 2000:** IP(1)(c)(I) and (3) amended and (1)(c)(II.5) added, p. 1103, § 1, effective August 2. **L. 2002:** IP(1)(c)(I) amended, p. 1020, § 33, effective June 1. **L. 2004:** (1)(a)(I)(B), (1)(a)(I)(C), (1)(a)(II)(A), (1)(b)(I)(A), IP(1)(c)(I), and (1)(c)(I)(B) amended and (1)(c)(II.7) added, p. 1279, § 3, effective May 28. **L. 2005:** (1)(b), (1)(c)(I), (1)(c)(II), (2), (3), and (4) amended, p. 177, § 12, effective April 7. **L. 2006:** (1)(b)(I)(C), (1)(b)(III)(A), and (5) amended, p. 637, § 50, effective August 7. **L. 2007:** (1)(a)(IV) amended, p. 55, § 2, effective March 14. **L. 2009:** IP(1), (1)(a), IP(1)(b)(I), (1)(b)(I)(B), and (1)(b)(II.5) amended, (SB 09-160), ch. 292, p. 1449, § 4, effective May 21. **L. 2017:** (1)(a)(I)(D) amended, (HB 17-1332), ch. 268, p. 1479, § 1, effective August 9; (1)(a)(IV) and (1)(a)(V) amended, (SB 17-052), ch. 5, p. 11, § 6, effective August 9. **L. 2018:** (1)(a)(IV), (1)(a)(V), (1)(b)(III)(A), IP(1)(c)(I), and (1)(c)(I)(B) amended, (SB 18-160), ch. 97, p. 761, § 5, effective August 8; (1)(a.5) added and IP(1)(b)(I) and (1)(b)(I)(B) amended, (HB 18-1309), ch. 269, p. 1661, § 4, effective August 8; (3)(b)(I)(B) amended and (3)(b)(III) added, (HB 18-1095), ch. 47, p. 481, § 1, effective August 8; (3)(b)(I)(B) amended, (HB 18-1130), ch. 76, p. 659, § 1, effective August 8. **L. 2019:** (3)(b)(I)(B) amended and (3)(b)(III) repealed, (HB 19-1059), ch. 30, p. 97, § 2, effective March 11; (1)(a)(IV), (1)(a)(V), (1)(b)(III)(A), and (1)(c)(I)(B) amended, (SB 19-069), ch. 37, p. 124, § 6, effective August 2. **L. 2020:** (1)(a.5)(I)(B) and (1)(b)(I)(B) amended, (HB 20-1418), ch. 197, p. 944, § 14, effective June 30.

**Editor's note:** Amendments to subsection (3)(b)(I)(B) by HB 18-1095 and HB 18-1130 were harmonized.

**Cross references:** For the legislative declaration in HB 19-1059, see section 1 of chapter 30, Session Laws of Colorado 2019. For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

**22-60.5-202. Professional teacher licensees - master certification.** The department of education may, in its discretion, issue a master certificate to any applicant who holds a valid professional teacher license and who meets the criteria for master certification as specified by rule and regulation of the state board of education. Master certification shall recognize those professional teacher licensees who are involved in ongoing professional development and

training and who have advanced competencies or expertise or who have demonstrated outstanding achievements. Any master certificate issued pursuant to this section shall be valid for the period of time for which the applicant's professional teacher license is valid and is renewable at its expiration.

**Source: L. 91:** Entire article added, p. 485, § 1, effective June 6. **L. 2006:** Entire section amended, p. 638, § 51, effective August 7.

**22-60.5-203. Assessment of professional competencies - rules.** (1) The state board of education shall, by rule, establish areas of knowledge in which initial teacher licensees shall possess a satisfactory level of proficiency.

(2) The state board by rule shall identify the professional competencies required of the applicants described in subsection (3) of this section specifically in the context of the requirements of standards-based education pursuant to the requirements of part 10 of article 7 of this title. Such professional competencies apply to an applicant only within the scope of the subject matter to be taught by the applicant.

(3) The department of education shall develop and administer, pursuant to the rules of the state board of education, a system for the assessment of such professional competencies of applicants for initial teacher licenses and of applicants for professional teacher licenses who do not demonstrate professional competencies prior to obtaining an initial teacher license.

(4) The state board of education shall annually review the assessment program developed pursuant to subsection (3) of this section to assure the appropriateness of the assessments and the standards established to determine a satisfactory level of proficiency.

(5) The state board of education shall, by rule, establish common credit hour standards for all approved educator preparation programs for the purpose of satisfying subsection (6) of this section.

(6) For purposes of establishing minimum competency in a licensure endorsement area, the state board of education shall establish minimum course work standards that align with the content standards established by the state board of education pursuant to section 22-2-109 (3). Minimum course work standards may be shown in one of the following ways:

(a) For elementary teachers, including special education generalist teachers, passage of the elementary content test;

(b) For secondary teachers:

(I) A degree in the endorsement area;

(II) Passage of a content test in the endorsement area; or

(III) Twenty-four hours of course work in the endorsement area.

**Source: L. 91:** Entire article added, p. 486, § 1, effective June 6. **L. 93:** (2)(h) and (2)(i) amended and (2)(j) added, p. 1048, § 8, effective June 3. **L. 97:** (1) and (3) amended, p. 1662, § 15, effective June 5; (2)(j) amended, p. 461, § 10, effective August 6. **L. 98:** (1), (2)(a), (2)(b), and (3) amended and (4) added, pp. 993, 990, §§ 17, 10, effective July 1. **L. 2000:** (2) R&RE, p. 1114, § 1, effective May 26. **L. 2005:** (1) and (3) amended, p. 180, § 13, effective April 7. **L. 2009:** (5) and (6) added, (SB 09-160), ch. 292, p. 1450, § 5, effective May 21. **L. 2010:** (5) amended, (HB 10-1422), ch. 419, p. 2079, § 49, effective August 11. **L. 2011:** (5) amended, (SB

11-245), ch. 201, p. 849, § 10, effective August 10. **L. 2015:** (2) amended, (HB 15-1323), ch. 204, p. 727, § 40, effective May 20.

**Cross references:** For the legislative declaration in the 2011 act amending subsection (5), see section 1 of chapter 201, Session Laws of Colorado 2011.

**22-60.5-204. Approved induction program - initial teacher licensee.** (1) Any approved induction program of a school district or districts, charter school, the institute, or nonpublic school for initial teacher licensees may include, but is not limited to, supervision by mentor teachers; ongoing professional development and training, including ethics; and performance evaluations. Such school district or districts, charter school, the institute, or nonpublic school may enter into agreements with accepted institutions of higher education in regard to the organization, management, and operation of an approved induction program, or any portion thereof. The school district's or districts' performance evaluations must be conducted in accordance with section 22-9-106; however, the state board of education may provide by rule for performance evaluations by mentor teachers.

(2) The approved induction program of any individual initial teacher licensee may be extended if deemed necessary by the school district or districts, charter school, the institute, or nonpublic school providing such program; however, such program shall not exceed a maximum of three years.

(3) The state board of education shall, by rule and regulation, establish standards and criteria for the approval of proposed induction programs for initial teacher licensees and for the review of approved induction programs for initial teacher licensees. Such rules and regulations shall provide for such standards and criteria to be fully implemented on and after July 1, 1999, and shall provide for the gradual implementation of such standards and criteria over the five-year period prior to said date. Such standards and criteria shall, at a minimum, provide multiple approaches and options in regard to the provision of approved induction programs which take into consideration factors which the state board of education deems relevant and appropriate. Such factors shall include, but shall not be limited to, the setting categories and geographical location of school districts, the cost of providing approved induction programs, and the availability of state moneys to fund, in whole or in part, approved induction programs.

**Source: L. 91:** Entire article added, p. 486, § 1, effective June 6. **L. 2005:** Entire section amended, p. 181, § 14, effective April 7. **L. 2018:** (1) and (2) amended, (SB 18-160), ch. 97, p. 762, § 6, effective August 8. **L. 2019:** (1) and (2) amended, (SB 19-069), ch. 37, p. 125, § 7, effective August 2.

**22-60.5-205. One-year and two-year alternative teacher programs - legislative declaration - standards and evaluation - duties of department - duties of the state board of education - fees.** (1) (a) The general assembly hereby finds and declares that:

(I) Many school districts face a shortage of teachers and often struggle to find qualified persons to teach their students;

(II) The increased use of emergency authorizations to hire persons who do not have teacher licenses and, in some cases, have not received any form of teacher preparation or

education potentially jeopardizes a school district's goal of providing a quality education for each student; and

(III) Often, persons with experience in areas other than education can help alleviate the teacher shortage faced by many school districts, so long as these persons receive adequate supervision and education in teaching methods and practices.

(b) The general assembly therefore declares that it is in the best interest of the state of Colorado to allow designated agencies to create one-year and two-year alternative teacher programs pursuant to the provisions of this section with the intent that these programs provide a vehicle for designated agencies to customize the preparation of teacher candidates, reduce the number of persons employed under emergency authorizations, and help designated agencies recruit and employ nontraditional teacher candidates, while maintaining teacher preparation program standards, delivering high-quality educational services, and protecting the interests of students.

(2) Designated agencies are hereby authorized to implement one-year alternative teacher programs or two-year alternative teacher programs, which two-year programs were formerly known as teacher in residence programs, as follows:

(a) A one-year alternative teacher program shall be designed to be completed within one year. However, the employing school district, nonpublic school, charter school, or the institute may extend an alternative teacher's participation for one additional year based on unforeseen circumstances and the expectation that the alternative teacher will complete the program in the second year.

(b) An alternative teacher program shall include, but need not be limited to, supervision by mentor teachers, performance evaluations, and a program minimum of two hundred twenty-five clock hours of planned instruction and activities, which shall include training in dropout prevention. The total number of hours of planned instruction and activities may be modified by the alternative teacher support team, as described in section 22-60.5-206, for an alternative teacher based upon his or her qualifications, knowledge, and experience.

(c) A designated agency that chooses to implement an alternative teacher program may collaborate and contract with an institution of higher education that provides an approved educator preparation program. A contract entered into pursuant to this paragraph (c) shall include, but need not be limited to, the provision of educator preparation courses and subject matter courses as necessary to comply with the educator preparation program requirements established by the Colorado commission on higher education pursuant to section 23-1-121, C.R.S.

(d) (I) A person employed as an alternative teacher shall hold an alternative teacher license issued pursuant to section 22-60.5-201 (1)(a). Except as otherwise provided in subparagraph (II) of this paragraph (d) and section 22-60.5-207 (2), a person may be employed as an alternative teacher for a total of two years. A person employed as an alternative teacher shall meet the content-area education requirements specified by rule of the state board of education.

(II) A person may be employed as an alternative teacher for a total of three years for the purpose of receiving a special education teaching endorsement pursuant to section 22-60.5-106 (2).

(e) Upon completing an alternative teacher program, the alternative teacher shall obtain an initial teacher license pursuant to section 22-60.5-201 (1)(b)(I) in order to be employed by a school district as a teacher.

(f) An alternative teacher shall complete his or her induction program prior to receiving a professional license.

(g) (I) Within thirty days after employing a person as an alternative teacher, a school district, nonpublic school, or charter school shall notify the department of the alternative teacher's name, address, and any other information that may be necessary to assist the department in providing pertinent information under the requirements of subsection (2)(g)(II) of this section.

(II) The department shall provide information to each alternative teacher concerning the requirements for teacher licensure as specified in section 22-60.5-201 and by rule of the state board of education.

(h) An alternative teacher program shall meet the performance-based teacher licensure standards adopted by the state board of education pursuant to section 22-2-109 (3).

(i) An alternative teacher program must include course work that provides alternative teachers with an overview of Title II of the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., as amended, and its implementing regulations; section 504 of the federal "Rehabilitation Act of 1973", 29 U.S.C. sec. 701 et seq., as amended, and its implementing regulations; the "Individuals with Disabilities Education Act", 20 U.S.C. sec. 1400 et seq., as amended, and its implementing regulations; individualized education programs; and child find and that teaches effective special education classroom practices, including but not limited to inclusive learning environments.

(3) (a) A designated agency that chooses to implement an alternative teacher program pursuant to the provisions of subsection (2) of this section shall notify the department and submit a description of the alternative teacher program to the department. The department shall review the alternative teacher program to ensure that it meets the requirements specified in subsection (2) of this section and shall recommend to the state board of education approval or disapproval of the alternative teacher program. Within ninety days after the designated agency submits the alternative teacher program description to the department, the state board of education shall notify the implementing designated agency that it has either approved or disapproved the alternative teacher program.

(b) (I) The state board of education shall, at its discretion, approve an application by a designated agency seeking to provide an alternative teacher program. The application must meet the requirements of this section and any rules established by the state board of education. The state board of education is authorized to resolve any differences that may arise between school districts and accepted institutions of higher education regarding alternative teacher programs.

(II) Notwithstanding any law to the contrary, the state board of education is authorized, for good cause, to waive any requirements imposed by law regarding a designated agency's alternative teacher program if, in its discretion, it deems the waiver necessary to accomplish the purposes of this section.

(4) The department shall:

(a) Provide technical assistance upon request to all designated agencies as necessary to implement the provisions of this section; and

(b) Review and submit to the state board of education for approval all applications made by designated agencies to provide alternative teacher programs pursuant to subsection (3) of this section.

(5) Not more than every five years, the department shall perform an on-site evaluation of each alternative teacher program to ensure that it meets the requirements of this section. An alternative teacher program that does not meet the requirements of this section shall be subject to disapproval by the state board of education. An alternative teacher program that is disapproved by the state board of education shall be terminated by the implementing designated agency on completion of the academic year in which the alternative teacher program is disapproved; except that the designated agency may continue to operate the alternative teacher program if, prior to the end of said academic year, the designated agency redesigns the alternative teacher program to meet the requirements of this section and the state board of education approves the redesigned alternative teacher program.

(6) A designated agency that is not an institution of higher education may charge an alternative teacher in an alternative teacher program a fee in such amount as to generate sufficient revenue to offset the direct and indirect costs to the designated agency for the development and administration of the alternative teacher program. Any fees collected pursuant to the provisions of this subsection (6) shall be used for the purposes set forth in this section and shall not be expended for any other purpose.

(7) A designated agency that is an institution of higher education may establish program fees in accordance with its existing policies. A public institution of higher education shall establish program fees in accordance with existing state laws and rules established by the Colorado commission on higher education.

**Source: L. 91:** Entire article added, p. 487, § 1, effective June 6. **L. 2007:** (1) amended, p. 56, § 3, effective March 14. **L. 2009:** Entire section R&RE, (SB 09-160), ch. 292, p. 1451, § 6, effective May 21. **L. 2011:** (2)(c) amended, (SB 11-245), ch. 201, p. 849, § 11, effective August 10. **L. 2017:** (3)(b)(I) amended, (SB 17-052), ch. 5, p. 11, § 7, effective August 9. **L. 2018:** (2)(a) and (2)(g)(I) amended, (SB 18-160), ch. 97, p. 762, § 7, effective August 8. **L. 2020:** (2)(i) added, (HB 20-1128), ch. 86, p. 345, § 4, effective March 24.

**Cross references:** For the legislative declaration in the 2011 act amending subsection (2)(c), see section 1 of chapter 201, Session Laws of Colorado 2011. For the legislative declaration in HB 20-1128, see section 1 of chapter 86, Session Laws of Colorado 2020.

**22-60.5-206. Alternative teacher support teams - duties - advisory councils.** (1) The designated agency shall establish an alternative teacher support team for each holder of an alternative teacher license employed as an alternative teacher through an alternative teacher program. At a minimum, each alternative teacher support team must include an alternative teacher's mentor teacher and the principal and a representative of an accepted institution of higher education, if applicable.

(2) The alternative teacher support team shall:

(a) Establish the content of the required program of planned instruction and activities;

(b) Determine at what point in the program an alternative teacher may have responsibility for classroom instruction;

(c) Ensure that a significant portion of the teaching assignment of an alternative teacher is in the subject matter area or areas of the alternative teacher's endorsement;

(d) Evaluate the progress and effectiveness of an alternative teacher; and

(e) Make a recommendation to the school district that employs an alternative teacher concerning his or her eligibility to receive an initial teacher license or whether he or she is unable to complete the one-year alternative teacher program due to unforeseen circumstances, but should apply for an extension of the alternative teacher license with the expectation that he or she will complete his or her program within one additional year.

(3) As a member of an alternative teacher support team, the mentor teacher has primary responsibility for representing the faculty and parents in evaluating and making recommendations regarding the issuance of an initial teacher license to an alternative teacher or renewal of an alternative teacher license for one additional year. In recognition of the significant duties and responsibilities of mentor teachers, the designating school district shall make appropriate provisions as are necessary to ensure the proper discharge of the duties and responsibilities by the mentor teacher.

(4) In addition, for purposes of carrying out any alternative teacher program approved by the state board of education, any designated agency shall establish an advisory council that includes, at a minimum, representatives of each school district, including at least one mentor teacher and a representative of an accepted institution of higher education in the designated agency.

**Source: L. 91:** Entire article added, p. 488, § 1, effective June 6. **L. 2005:** (2)(e) and (3) amended, p. 181, § 15, effective April 7. **L. 2007:** (2)(e) and (3) amended, p. 56, § 4, effective March 14. **L. 2009:** Entire section amended, (SB 09-160), ch. 292, p. 1454, § 7, effective May 21. **L. 2017:** Entire section amended, (SB 17-052), ch. 5, p. 12, § 8, effective August 9.

**22-60.5-207. Alternative teacher contracts.** (1) Alternative teacher contracts may include terms and conditions that:

(a) Differ from any terms and conditions of contracts of the school district or charter school for first-year employees who are licensed other than as alternative teachers;

(b) Define those conditions unique to the responsibilities and duties of an alternative teacher and the alternative teacher program of the school district or charter school;

(c) Establish the right of the employing school district or charter school to terminate the alternative teacher contract at any time during the first three months of employment; however, the employing school district or charter school must only take such action after consideration of a recommendation of the alternative teacher support team for the alternative teacher and is not subject to appeal by the alternative teacher.

(2) The term of an alternative teacher contract shall be for one or two years; except that an employing school district, nonpublic school, or charter school may extend a one-year alternative teacher contract for only one additional year based on written evidence of unforeseen circumstances that prevent the alternative teacher from completing the one-year alternative teacher program in one year and the expectation of the alternative teacher's support team that he or she can complete the one-year alternative teacher program in one additional year.

(3) The provisions of this section do not apply to alternative teacher contracts entered into by nonpublic schools.

**Source: L. 91:** Entire article added, p. 489, § 1, effective June 6. **L. 2007:** (2) added, p. 57, § 5, effective March 14. **L. 2009:** (2) amended, (SB 09-160), ch. 292, p. 1455, § 8, effective May 21. **L. 2017:** (1) amended, (SB 17-052), ch. 5, p. 10, § 4, effective August 9. **L. 2018:** Entire section amended, (SB 18-160), ch. 97, p. 763, § 8, effective August 8. **L. 2019:** (3) added, (SB 19-069), ch. 37, p. 125, § 8, effective August 2.

**22-60.5-208. Minority alternative teachers - fellowship program - minority alternative teacher fund - created. (Repealed)**

**Source: L. 91:** Entire article added, p. 490, § 1, effective June 6. **L. 97:** Entire section repealed, p. 1665, § 28, effective June 5.

**22-60.5-208.5. Grow your own educator program - authorization - duties - rules - legislative declaration - definitions - repeal. (Repealed)**

**Source: L. 2018:** Entire section added, (HB 18-1309), ch. 269, p. 1655, § 1, effective August 8. **L. 2020:** Entire section repealed, (HB 20-1418), ch. 197, p. 944, § 13, effective June 30.

**Cross references:** For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

**22-60.5-208.7. Teacher of record program - rules - authorization - definition.** (1) As used in this section, unless the context otherwise requires, "local education provider" means a school district, a charter school authorized by a school district pursuant to part 1 of article 30.5 of this title 22, a charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title 22, or a board of cooperative services created and operating pursuant to article 5 of this title 22 that operates a public school.

(2) A local education provider is authorized to implement a one- or two-year teacher of record program and may only employ a teacher of record if the local education provider has determined that there is a critical teacher shortage and if there are no other qualified, licensed applicants for a vacant position. The state board of education shall establish rules and policies governing a teacher of record program established pursuant to this section.

(3) A student employed in a teacher of record program established pursuant to this section shall hold a teacher of record license issued pursuant to section 22-60.5-201 (1)(a.5).

(4) To assist the teacher of record in meeting the performance-based teacher licensure standards adopted by the state board of education pursuant to section 22-2-109 (3), a teacher of record program must include, at a minimum:

(a) Direct and regular supervision by mentor teachers;

(b) Performance evaluations; and

(c) The teacher preparation program or teacher support services to be provided to teachers of record as agreed upon by the local education provider and the institution of higher education.

(5) A local education provider must include the teacher of record in the local education provider's induction program and other supports provided by the local education provider. If the

teacher of record successfully completes an induction program, the teacher of record may apply completion of the induction program toward meeting the requirements for a professional teacher license.

(6) A local education provider shall treat a teacher of record as a first-year teacher for purposes of compensation and placement on a teacher salary schedule.

(7) (a) No later than September 30 each year, the department shall report to the education committees of the house of representatives and the senate, or any successor committees, information relating to teacher of record programs, which information must include, at a minimum:

(I) The number of students participating in a teacher of record program, including the local education providers with whom the students are employed;

(II) The institutions of higher education attended by the students;

(III) The percentage of students who complete a bachelor's degree within the two-year teacher of record license period; and

(IV) Demographic information relating to students who participate in a teacher of record program to gauge the success at recruiting demographically underrepresented groups to the education profession.

(b) Notwithstanding the provisions of section 24-1-136 (11)(a)(I), the department shall report the information described in subsection (7)(a) of this section in each year in which students are participating in teacher of record programs.

**Source: L. 2018:** Entire section added, (HB 18-1309), ch. 269, p. 1659, § 3, effective August 8.

**22-60.5-209. Department of education - report to general assembly. (Repealed)**

**Source: L. 91:** Entire article added, p. 490, § 1, effective June 6. **L. 96:** Entire section repealed, p. 1235, § 72, effective August 7.

**22-60.5-210. Types of special services licenses issued - term.** (1) The department of education is designated as the sole agency authorized to issue the following types of special services licenses to persons of good moral character:

(a) **Initial special services license.** (I) The department of education, in its discretion, may issue an initial special services license to any applicant who:

(A) Has been awarded an appropriate degree from an institution of higher education;

(B) Has met the standards of the state board of education concerning academic and professional preparation and experience and performance as appropriate for the subject matter area or areas for which such initial special services license is to be endorsed;

(C) Has demonstrated professional competencies in subject areas as specified by rule and regulation of the state board of education pursuant to section 22-60.5-212.

(II) An initial special services license shall be valid in any school districts or nonpublic schools that provide, or charter schools that provide or participate in, an approved induction program for special services providers or have obtained a waiver of the approved induction program requirement pursuant to section 22-60.5-114 (2). Any initial special services license issued pursuant to this subsection (1)(a) is valid for a period of three years after the date of

issuance and is renewable only once for an additional period of three years; except that, if an initial special services licensee is unable to complete an induction program for reasons other than incompetence, the state board of education may renew the licensee's initial special services license for one or more additional three-year periods upon the initial licensee's showing of good cause for inability to complete an approved induction program.

(III) For purposes of this paragraph (a), in establishing standards pursuant to sub-subparagraph (B) of subparagraph (I) of this paragraph (a) concerning academic and professional preparation and experience and performance with regard to school psychologists, school social workers, occupational therapists, physical therapists, and school nurses, the state board of education shall not require an applicant for an initial special services license who holds a valid Colorado license or registration or valid national certificate to take and achieve a passing score on an assessment of basic skills.

(b) **Professional special services license.** (I) Except as otherwise provided in subsection (1)(b)(I.5) of this section, the department of education may, in its discretion, issue a professional special services license to any applicant who:

(A) Holds a valid initial special services license; and

(B) Has completed an approved induction program for special services providers and has been recommended for licensure by the school district, charter school, the institute, or nonpublic school that provided such induction program; except that the applicant need not complete an approved induction program as an initial special services licensee if the applicant previously completed an induction program while employed under an emergency authorization or a temporary educator eligibility authorization or if the school district or charter school in which the applicant is employed has obtained a waiver of the induction program requirement pursuant to section 22-60.5-114 (2). If the applicant is employed by a school district, charter school, nonpublic school, or the institute that has obtained a waiver of the induction program requirement, the applicant shall demonstrate completion of any requirements specified in the school district's, charter school's, or nonpublic school's plan for support, assistance, and training of initially licensed educators.

(I.5) The department of education may issue a professional special services license to an applicant who meets the requirements specified in section 22-60.5-111 (4)(c)(II) or (5)(e)(II).

(II) (A) Except as otherwise provided in sub-subparagraph (B) of this subparagraph (II), any professional special services license issued pursuant to this paragraph (b) shall be valid for a period of five years after the date of issuance and is renewable as provided in section 22-60.5-110.

(B) Any professional special services license issued pursuant to this paragraph (b) which is held in conjunction with a master certificate pursuant to section 22-60.5-211 shall be valid for a period of seven years after the date of issuance and is renewable as provided in section 22-60.5-110.

(2) The state board of education is authorized to establish, by rule and regulation, such other requirements for licenses specified in subsection (1) of this section as it deems necessary to maintain and improve the quality of administration and supervision of education instructional programs; except that the state board of education may not require any person applying for a professional special services license to demonstrate professional competencies.

(3) (a) The department of education may, at its discretion, issue an initial special services license provided for in paragraph (a) of subsection (1) of this section to any applicant from

another state or country whose qualifications meet or exceed the standards of the state board of education for the issuance of an initial special services license.

(b) (I) The department of education may issue a professional special services license to any applicant from another state if:

(A) The applicant holds a license or certificate from that state that is comparable to a special services license in this state and the standards for the issuance of such license or certificate meet or exceed the standards of the state board of education for the issuance of a professional special services license; and

(B) The applicant has had at least three years of successful, evaluated experience within the previous seven years as a special services provider in an established elementary or secondary school and can provide documentation of such experience on forms provided by the department.

(II) An applicant for a professional special services license pursuant to this paragraph (b) need not have:

(A) Completed an approved induction program for special services providers;

(B) Held an initial special services license pursuant to paragraph (a) of subsection (1) of this section; or

(C) Demonstrated professional competencies in subject areas as specified by rule of the state board of education pursuant to section 22-60.5-212.

(III) Repealed.

(4) The state board of education is authorized to enter into interstate reciprocal agreements in which the department of education agrees to issue initial special services licenses to persons licensed as special services providers in another state.

(5) Repealed.

**Source: L. 91:** Entire article added, p. 492, § 1, effective June 6. **L. 96:** (1)(a)(III) added, p. 127, § 1, effective March 25. **L. 97:** (1)(a)(II), (1)(b)(I)(B), and (2) amended, pp. 1660, 1663, §§ 11, 16, effective June 5. **L. 98:** (1)(a)(III) amended, p. 159, § 1, effective April 6. **L. 2000:** (3) amended, p. 1104, § 2, effective August 2. **L. 2002:** IP(1)(b)(I) amended, p. 1021, § 34, effective June 1. **L. 2004:** (1)(b)(I) amended and (1)(b)(I.5) added, p. 1280, § 4, effective May 28. **L. 2005:** (1)(a), (1)(b)(I), (3)(a), (3)(b)(II)(B), and (4) amended, p. 181, § 16, effective April 7. **L. 2006:** (5) repealed, p. 638, § 52, effective August 7. **L. 2018:** (1)(a)(II), IP(1)(b)(I), and (1)(b)(I)(B) amended, (SB 18-160), ch. 97, p. 763, § 9, effective August 8; (3)(b)(I)(B) amended and (3)(b)(III) added, (HB 18-1095), ch. 47, p. 482, § 2, effective August 8; (3)(b)(I)(B) amended, (HB 18-1130), ch. 76, p. 659, § 2, effective August 8. **L. 2019:** (3)(b)(I)(B) amended and (3)(b)(III) repealed, (HB 19-1059), ch. 30, p. 97, § 3, effective March 11; (1)(a)(II) and (1)(b)(I)(B) amended, (SB 19-069), ch. 37, p. 125, § 9, effective August 2.

**Editor's note:** Amendments to subsection (3)(b)(I)(B) by HB 18-1095 and HB 18-1130 were harmonized.

**Cross references:** For the legislative declaration in HB 19-1059, see section 1 of chapter 30, Session Laws of Colorado 2019.

**22-60.5-211. Professional special services licensees - master certification.** The department of education may, in its discretion, issue a master certificate to any applicant who

holds a valid professional special services license and who meets the criteria for master certification as specified by rule and regulation of the state board of education. Master certification shall recognize those professional special services licensees who are involved in ongoing professional development and training and who have advanced competencies or expertise or who have demonstrated outstanding achievements. Any master certificate issued pursuant to this section shall be valid for the period of time for which the applicant's professional special services license is valid and is renewable at its expiration.

**Source: L. 91:** Entire article added, p. 493, § 1, effective June 6. **L. 2006:** Entire section amended, p. 638, § 53, effective August 7.

**22-60.5-212. Assessment of professional competencies.** (1) The state board of education shall, by rule and regulation, establish areas of knowledge in which initial special services licensees shall possess a satisfactory level of proficiency.

(2) The department of education shall develop and administer, pursuant to the rules and regulations of the state board of education, a system for the assessment of such professional competencies of applicants for initial special services licenses.

(3) The state board of education shall annually review the assessment program developed pursuant to subsection (2) of this section to assure the appropriateness of the assessments and the standards established to determine a satisfactory level of proficiency.

**Source: L. 91:** Entire article added, p. 494, § 1, effective June 6. **L. 97:** Entire section amended, p. 1663, § 17, effective June 5. **L. 98:** (3) added, p. 990, § 11, effective July 1. **L. 2005:** (1) and (2) amended, p. 183, § 17, effective April 7.

**22-60.5-213. Approved induction programs - initial special services licensees.** (1) Any approved induction program of a school district or districts, charter school, or nonpublic school for initial special services licensees may include, but shall not be limited to, supervision by mentor special services providers; ongoing professional development and training, including ethics; and performance evaluations. Such school district or districts, charter schools, the institute, or nonpublic schools may enter into agreements with accepted institutions of higher education in regard to the organization, management, and operation of an approved induction program, or any portion thereof. The school district's or districts' performance evaluations must be conducted in accordance with section 22-9-106; however, the state board of education may provide by rule for performance evaluations by mentor special services providers.

(2) The approved induction program of any initial special services licensee may be extended if deemed necessary by the school district or districts, charter school, or nonpublic school providing such program; however, such program shall not be extended so that such program exceeds three years.

(3) The state board of education shall, by rule and regulation, establish standards and criteria for the approval of proposed induction programs for initial special services licensees and for the review of approved induction programs for initial special services licensees. Such rules and regulations shall provide for such standards and criteria to be fully implemented on and after July 1, 1999, and shall provide for the gradual implementation of such standards and criteria over the five-year period prior to said date. Such standards and criteria shall, at a minimum,

provide multiple approaches and options in regard to the provision of approved induction programs which take into consideration factors which the state board of education deems appropriate. Such factors shall include, but shall not be limited to, the setting categories and geographical location of school districts, the costs of providing approved induction programs, and the availability of state moneys to fund, in whole or in part, approved induction programs.

**Source: L. 91:** Entire article added, p. 494, § 1, effective June 6. **L. 2005:** Entire section amended, p. 183, § 18, effective April 7. **L. 2018:** (1) and (2) amended, (SB 18-160), ch. 97, p. 764, § 10, effective August 8. **L. 2019:** (1) and (2) amended, (SB 19-069), ch. 37, p. 126, § 10, effective August 2.

**22-60.5-214. Teacher and special services professional standards board - creation - membership - repeal. (Repealed)**

**Source: L. 91:** Entire article added, p. 495, § 1, effective June 6.

**Editor's note:** Subsection (7) provided for the repeal of this section, effective July 1, 1999. (See L. 91, p. 495.)

**22-60.5-215. Powers and duties of the teacher and special services professional standards board - repeal. (Repealed)**

**Source: L. 91:** Entire article added, p. 496, § 1, effective June 6. **L. 97:** (3) repealed, p. 1665, § 25, effective June 5. **L. 99:** (1)(f) and (1)(g) repealed, p. 1191, § 6, effective June 1.

**Editor's note:** Subsection (4) provided for the repeal of this section, effective July 1, 1999. (See L. 91, p. 496.)

**22-60.5-216. Teacher and special services professional standards board - annual joint meeting - repeal. (Repealed)**

**Source: L. 91:** Entire article added, p. 498, § 1, effective June 6.

**Editor's note:** Subsection (2) provided for the repeal of this section, effective July 1, 1999. (See L. 91, p. 498.)

**22-60.5-217. Teacher and special services professional standards board - examination for basic competencies. (Repealed)**

**Source: L. 91:** Entire article added, p. 498, § 1, effective June 6. **L. 2005:** Entire section repealed, p. 184, § 19, effective April 7.

PART 3

PRINCIPALS AND ADMINISTRATORS

**22-60.5-301. Types of principal licenses issued - term.** (1) The department of education is designated as the sole agency authorized to issue the following principal licenses to persons of good moral character:

(a) **Initial principal license.** (I) The department of education, in its discretion, may issue an initial principal license to any applicant who:

(A) Holds an earned baccalaureate degree from an accepted institution of higher education;

(B) Has completed an approved program of preparation for principals;

(C) Has completed three or more years of successful experience working with students as a licensed or certificated professional in a public or nonpublic elementary or secondary school in this state or another state or has three or more years of experience working with students as a professional in a nonpublic school;

(D) Has demonstrated professional competencies in subject areas as specified by rule and regulation of the state board of education pursuant to section 22-60.5-303.

(II) An initial principal license is valid in any school districts or nonpublic schools that provide, or charter schools that provide or participate in, an approved induction program for principals or have obtained a waiver of the approved induction program requirement pursuant to section 22-60.5-114 (2). Any initial principal license issued pursuant to this subsection (1)(a) is valid for a period of three years after the date of issuance and is renewable only once for an additional period of three years; except that, if an initial principal licensee is unable to complete an induction program for reasons other than incompetence, the state board of education may renew the licensee's initial principal license for one or more additional three-year periods upon the initial licensee's showing of good cause for inability to complete an approved induction program.

(b) **Professional principal license.** (I) Except as otherwise provided in subsection (1)(b)(I.5) of this section, the department of education may, in its discretion, issue a professional principal license to any applicant who:

(A) Holds an earned master's degree from an accepted institution of higher education;

(B) Holds a valid initial principal license; and

(C) Has completed an approved induction program for principals and has been recommended for licensure by the school districts, charter school, the institute, or nonpublic school that provided such induction program; except that the applicant need not complete an approved induction program as an initial principal licensee if the applicant previously completed an induction program while employed under an emergency authorization or a principal authorization or if the school district or charter school in which the applicant is employed has obtained a waiver of the induction program requirement pursuant to section 22-60.5-114 (2). If the applicant is employed by a school district, charter school, or nonpublic school that has obtained a waiver of the induction program requirement, the applicant shall demonstrate completion of any requirements specified in the school district's, charter school's, the institute's, or nonpublic school's plan for support, assistance, and training of initially licensed educators.

(I.5) The department of education may issue a professional principal license to an applicant who meets the requirements specified in section 22-60.5-111 (4)(c)(II) or (14)(e)(II).

(II) (A) Except as otherwise provided in sub-subparagraph (B) of this subparagraph (II), any professional principal license issued pursuant to this paragraph (b) shall be valid for a period of five years after the date of issuance and is renewable as provided in section 22-60.5-110.

(B) Any professional principal license issued pursuant to this paragraph (b) which is held in conjunction with a master certificate pursuant to section 22-60.5-302 shall be valid for a period of seven years after the date of issuance and is renewable as provided in section 22-60.5-110.

(2) The state board of education is authorized to establish, by rule and regulation, such other requirements for licenses specified in subsection (1) of this section as it deems necessary to maintain and improve the quality of administration and supervision of education instructional programs in this state; except that the state board of education may not require any person applying for a professional principal license to demonstrate professional competencies.

(3) (a) The department of education may, at its discretion, issue an initial principal license provided for in paragraph (a) of subsection (1) of this section to any applicant from another state or country whose qualifications meet or exceed the standards of the state board of education for the issuance of an initial principal license.

(b) (I) The department of education may issue a professional principal license to any applicant from another state if:

(A) The applicant holds a license or certificate from that state that is comparable to a principal license in this state and the standards for the issuance of such license or certificate meet or exceed the standards of the state board of education for the issuance of a professional principal license; and

(B) The applicant has had at least three years of continuous, successful, evaluated experience as a principal in an established elementary or secondary school and can provide documentation of such experience on forms provided by the department.

(II) An applicant for a professional principal license pursuant to this paragraph (b) need not have:

(A) Completed an approved induction program for principals;

(B) Held an initial principal license pursuant to paragraph (a) of subsection (1) of this section; or

(C) Demonstrated professional competencies in subject areas as specified by rule of the state board of education pursuant to section 22-60.5-303.

(4) The state board of education is authorized to enter into interstate reciprocal agreements in which the department of education agrees to issue initial principal licenses to persons licensed as principals in other states.

(5) Repealed.

**Source: L. 91:** Entire article added, p. 498, § 1, effective June 6. **L. 97:** (1)(a)(I)(C), (1)(a)(II), (1)(b)(I)(C), and (2) amended, pp. 1661, 1663, 1664, §§ 12, 18, 23, effective June 5. **L. 2000:** (3) amended, p. 1105, § 3, effective August 2. **L. 2002:** IP(1)(b)(I) amended, p. 1021, § 35, effective June 1. **L. 2004:** (1)(b)(I) amended and (1)(b)(I.5) added, p.1280, § 5, effective May 28. **L. 2005:** IP(1)(a)(I), (1)(a)(II), (1)(b)(I), (3)(a), (3)(b)(II)(B), and (4) amended, p. 184, § 20, effective April 7. **L. 2006:** (5) repealed, p. 638, § 54, effective August 7. **L. 2018:** (1)(a)(II), IP(1)(b)(I), (1)(b)(I)(C) amended, (SB 18-160), ch. 97, p. 765, § 11, effective August 8. **L. 2019:** (1)(a)(I)(C), (1)(a)(II), and (1)(b)(I)(C) amended, (SB 19-069), ch. 37, p. 127, § 11, effective August 2.

**22-60.5-302. Professional principal licensees - master certification.** The department of education may, in its discretion, issue a master certificate to any applicant who holds a valid professional principal license and who meets the criteria for master certification as specified by rule and regulation of the state board of education. Master certification shall recognize those professional principal licensees who are involved in ongoing professional development and training and who have advanced competencies or expertise or who have demonstrated outstanding achievements. Any master certificate issued pursuant to this section shall be valid for the period of time for which the applicant's professional principal license is valid and is renewable at its expiration.

**Source: L. 91:** Entire article added, p. 500, § 1, effective June 6. **L. 2006:** Entire section amended, p. 638, § 55, effective August 7.

**22-60.5-303. Assessment of professional competencies.** (1) The state board of education shall, by rule and regulation, establish areas of knowledge in which initial principal licensees shall possess a satisfactory level of proficiency.

(2) The following list of areas of knowledge is a guideline to be used by the state board of education and shall not be construed as inclusive or prescriptive:

(a) Leadership;

(b) Communication and human relations, including the ability to respond to the needs of students and parents from culturally diverse backgrounds;

(c) Instruction, including curriculum, design, and assessment;

(d) Problem-solving and decision-making;

(e) Management, including planning, organization, and administration;

(f) Personnel administration, including staff development and evaluation;

(g) Child growth and development; and

(h) Knowledge and application of standards-based education pursuant to part 10 of article 7 of this title.

(3) The department of education shall develop and administer, pursuant to the rules and regulations of the state board of education, a system for the assessment of such professional competencies of applicants for initial principal licenses.

(4) The state board of education shall annually review the assessment program developed pursuant to subsection (3) of this section to assure the appropriateness of the assessments and the standards established to determine a satisfactory level of proficiency.

**Source: L. 91:** Entire article added, p. 500, § 1, effective June 6. **L. 93:** (2)(f) and (2)(g) amended and (2)(h) added, p. 1049, § 9, effective June 3. **L. 97:** (1) and (3) amended, p. 1663, § 19, effective June 5; (2)(h) amended, p. 462, § 11, effective August 6. **L. 98:** (4) added, p. 990, § 12, effective July 1. **L. 2005:** (1) and (3) amended, p. 185, § 21, effective April 7. **L. 2015:** (2)(h) amended, (HB 15-1323), ch. 204, p. 727, § 41, effective May 20.

**22-60.5-304. Approved induction programs - initial principal licensees.** (1) Any approved induction program of a school district or districts, charter school, the institute, or nonpublic school for initial principal licensees may include, but is not limited to, supervision by mentor principals; ongoing professional development and training, including ethics; and

performance evaluations. Such school district or districts, charter school, the institute, or nonpublic school may enter into agreements with accepted institutions of higher education in regard to the organization, management, and operation of an approved induction program, or any portion thereof. The school district's or districts' performance evaluations must be conducted in accordance with section 22-9-106; however, the state board of education may provide by rule for performance evaluations by mentor principals.

(2) The approved induction program of any individual initial principal licensee may be extended if deemed necessary by the school district or districts, charter school, the institute, or nonpublic school providing such program; however, such program shall not exceed a maximum of three years.

(3) (a) The state board of education shall, by rule and regulation, establish standards and criteria for the approval of proposed induction programs for initial principal licensees and for the review of approved induction programs for initial principal licensees. Such rules and regulations shall provide for such standards and criteria to be fully implemented on and after July 1, 1999, and shall provide for the gradual implementation of such standards and criteria over the five-year period prior to said date. Such standards and criteria shall, at a minimum, provide multiple approaches and options in regard to the provision of approved induction programs which take into consideration factors which the state board of education deems appropriate. Such factors shall include, but shall not be limited to, the setting categories and geographical location of school districts, the costs of providing approved induction programs, and the availability of state moneys to fund, in whole or in part, approved induction programs.

(b) Repealed.

**Source: L. 91:** Entire article added, p. 501, § 1, effective June 6. **L. 2005:** Entire section amended, p. 185, § 22, effective April 7. **L. 2008:** (3) amended, p. 1372, § 4, effective August 5. **L. 2014:** (3)(b) repealed, (SB 14-124), ch. 342, p. 1524, § 3, effective June 5. **L. 2018:** (1) and (2) amended, (SB 18-160), ch. 97, p. 765, § 12, effective August 8. **L. 2019:** (1) and (2) amended, (SB 19-069), ch. 37, p. 128, § 12, effective August 2.

**Cross references:** For the legislative declaration contained in the 2008 act amending subsection (3), see section 1 of chapter 310, Session Laws of Colorado 2008.

**22-60.5-305. Licensed principals - occasional teaching.** Any principal who holds a valid initial or professional principal license pursuant to this part 3 and who, on occasion, functions as a teacher shall not be required to hold a valid initial or professional teacher license pursuant to part 2 of this article. The state board of education shall establish, by rule and regulation, what constitutes occasional teaching for purposes of this section.

**Source: L. 91:** Entire article added, p. 502, § 1, effective June 6. **L. 2005:** Entire section amended, p. 186, § 23, effective April 7.

**22-60.5-305.5. Alternative principal preparation program - legislative declaration.** (1) The general assembly finds that there is a shortage of persons in the state who are licensed as principals and are available for employment by school districts. The general assembly further finds that persons who have achieved success in careers outside of education and who are

interested in employment as school principals may provide a new source of leadership talent for school districts as they seek to hire school principals. Therefore, the general assembly concludes that it is in the interest of the state to authorize school districts to design and implement individualized alternative principal programs to enable persons from outside the education community to develop the skills and experiences necessary to successfully lead a public school and to qualify ultimately for licensure as principals.

(2) A school district or charter school may employ as a principal or a vice-principal a person who holds a principal authorization issued pursuant to section 22-60.5-111 (14). A person who is employed by a school district under a principal authorization may perform the duties of a principal or a vice-principal in a school so long as the person is under the supervision of a professional principal licensee. A person who holds a principal authorization issued pursuant to section 22-60.5-111 (14) may participate in an individualized alternative principal program offered by a nonpublic school. The school district, charter school, nonpublic school, or the institute shall collaborate with the person in designing an individualized alternative principal program, which the person shall complete while employed under the authorization. The school district, charter school, nonpublic school, or the institute may work with a governmental, nonprofit, or for-profit entity in designing and implementing the individualized alternative principal program. The individualized alternative principal program is subject to approval by the state board of education as provided in section 22-60.5-111 (14) and in accordance with rules adopted by the state board of education.

(3) In designing an individualized alternative principal program, the school district, charter school, or nonpublic school shall, at a minimum, ensure that:

(a) The program will provide the information, experience, and training to enable the person who is employed under the principal authorization to develop the skills and obtain the experience and training that are comparable to those possessed by a person who qualifies for an initial principal license, as provided in section 22-60.5-301 (1)(a);

(a.5) The program provides information and training that includes an overview of Title II of the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12101 et seq., as amended, and its implementing regulations; section 504 of the federal "Rehabilitation Act of 1973", 29 U.S.C. sec. 701 et seq., as amended, and its implementing regulations; the "Individuals with Disabilities Education Act", 20 U.S.C. sec. 1400 et seq., as amended, and its implementing regulations; individualized education programs; and child find and that teaches effective special education classroom practices, including but not limited to inclusive learning environments.

(b) The person who is employed under the principal authorization is required to successfully demonstrate professional competencies in subject matter areas, as specified by rule of the state board pursuant to section 22-60.5-303;

(c) A person who is employed under the principal authorization is mentored and coached continuously by one or more principals and administrators;

(d) The person who is employed under the principal authorization is assessed at the beginning of the individualized alternative principal program to determine his or her strengths and weaknesses and that the program is designed to fit the person's individual education and training needs; and

(e) The individualized alternative principal program complements the school improvement plan, if one exists, of the school in which the person who holds a principal authorization would be employed.

(4) In designing an individualized alternative principal program, the school district, charter school, the institute, or nonpublic school shall assess the needs of the school to which the person employed under the principal authorization would be assigned and ensure that the person receives training that will equip the person to meet the specific needs of the school and the community in which it is located.

(5) A school district may employ a person who holds a principal authorization for three years. After that time, the school district may employ the person as a principal only if he or she receives an initial or professional principal license pursuant to section 22-60.5-301. The school district may choose to provide an induction program, as described in section 22-60.5-304, for the person while he or she is employed under a principal authorization. The induction program, if provided, shall be in addition to the individualized alternative principal program to be completed by the person while he or she is employed under a principal authorization.

**Source: L. 2009:** Entire section added, (SB 09-160), ch. 292, p. 1455, § 9, effective May 21. **L. 2018:** (2), IP(3), (3)(c), and (4) amended, (SB 18-160), ch. 97, p. 766, § 13, effective August 8. **L. 2019:** (2), IP(3), and (4) amended, (SB 19-069), ch. 37, p. 128, § 13, effective August 2. **L. 2020:** (3)(a.5) added, (HB 20-1128), ch. 86, p. 345, § 5, effective March 24.

**Editor's note:** This section is similar to former § 22-32-110.4 as it existed prior to 2009.

**Cross references:** For the legislative declaration in HB 20-1128, see section 1 of chapter 86, Session Laws of Colorado 2020.

**22-60.5-306. Types of administrator licenses issued - term.** (1) The department of education is designated as the sole agency authorized to issue the following types of administrator licenses to persons of good moral character:

(a) **Initial administrator license.** (I) The department of education, in its discretion, may issue an initial administrator license to any applicant who:

(A) Holds an earned baccalaureate degree from an accepted institution of higher education;

(B) Has completed an approved program of preparation for administrators;

(C) Has demonstrated professional competencies in subject areas as specified by rule and regulation of the state board of education pursuant to section 22-60.5-308.

(II) An initial administrator license shall be valid in any school districts or nonpublic schools that provide, or charter schools that provide or participate in, an approved induction program for administrators or have obtained a waiver of the approved induction program requirement pursuant to section 22-60.5-114 (2). Any initial administrator license issued pursuant to this subsection (1)(a) shall be valid for a period of three years after the date of issuance and is renewable only once for an additional period of three years; except that, if an initial administrator licensee is unable to complete an induction program for reasons other than incompetence, the state board of education may renew the licensee's initial administrator license for one or more additional three-year periods upon the initial licensee's showing of good cause for inability to complete an approved induction program.

(b) **Professional administrator license.** (I) Except as otherwise provided in subsection (1)(b)(I.5) of this section, the department of education may, in its discretion, issue a professional administrator license to any applicant who:

(A) Holds an earned master's degree from an institution of higher education;

(B) Holds a valid initial administrator license; and

(C) Has completed an approved induction program for administrators and has been recommended for licensure by the school districts, charter schools, the institute, or nonpublic school that provided such induction program; except that the applicant need not complete an approved induction program as an initial administrator licensee if the applicant previously completed an induction program while employed under an emergency authorization or a temporary educator eligibility authorization or if the school district or charter school in which the applicant is employed has obtained a waiver of the induction program requirement pursuant to section 22-60.5-114 (2). If the applicant is employed by a nonpublic school, or by a school district, a charter school, or the institute that has obtained a waiver of the induction program requirement, the applicant shall demonstrate completion of any requirements specified in the school district's or nonpublic school's plan for support, assistance, and training of initially licensed educators.

(I.5) The department of education may issue a professional administrator license to an applicant who meets the requirements specified in section 22-60.5-111 (4)(c)(II) or (5)(e)(II).

(II) (A) Except as otherwise provided in sub-subparagraph (B) of this subparagraph (II), any professional administrator license issued pursuant to this paragraph (b) shall be valid for a period of five years after the date of issuance and is renewable as provided in section 22-60.5-110.

(B) Any professional administrator license issued pursuant to this paragraph (b) which is held in conjunction with a master certificate pursuant to section 22-60.5-307 shall be valid for a period of seven years after the date of issuance and is renewable as provided in section 22-60.5-110.

(2) The state board of education is authorized to establish, by rule and regulation, such other requirements for licenses specified in subsection (1) of this section as it deems necessary to maintain and improve the quality of administration and supervision of education instructional programs; except that the state board of education may not require any person applying for a professional administrator license to demonstrate professional competencies.

(3) (a) The department of education may, at its discretion, issue an initial administrator license provided for in paragraph (a) of subsection (1) of this section to any applicant from another state or country whose qualifications meet or exceed the standards of the state board of education for the issuance of an initial administrator license.

(b) (I) The department of education may issue a professional administrator license to any applicant from another state if:

(A) The applicant holds a license or certificate from that state that is comparable to an administrator license in this state and the standards for the issuance of such license or certificate meet or exceed the standards of the state board of education for the issuance of a professional administrator license; and

(B) The applicant has had at least three years of continuous, successful, evaluated experience as an administrator in an established elementary or secondary school and can provide documentation of such experience on forms provided by the department.

(II) An applicant for a professional administrator license pursuant to this paragraph (b) need not have:

(A) Completed an approved induction program for administrators;

(B) Held an initial administrator license pursuant to paragraph (a) of subsection (1) of this section; or

(C) Demonstrated professional competencies in subject areas as specified by rule of the state board of education pursuant to section 22-60.5-308.

(4) The state board of education is authorized to enter into interstate reciprocal agreements in which the department of education agrees to issue initial administrator licenses to persons licensed as administrators in another state.

(5) Repealed.

**Source: L. 91:** Entire article added, p. 502, § 1, effective June 6. **L. 97:** (1)(a)(II), (1)(b)(I)(C), and (2) amended, pp. 1661, 1663, §§ 13, 20, effective June 5. **L. 2000:** (3) amended, p. 1106, § 4, effective August 2. **L. 2002:** IP(1)(b)(I) amended, p. 1021, § 36, effective June 1. **L. 2004:** (1)(b)(I) amended and (1)(b)(I.5) added, p. 1281, § 6, effective May 28. **L. 2005:** IP(1)(a)(I), (1)(a)(II), (1)(b)(I), (3)(a), (3)(b)(II)(B), and (4) amended, p. 186, § 24, effective April 7. **L. 2006:** (5) repealed, p. 639, § 56, effective August 7. **L. 2018:** (1)(a)(II), IP(1)(b)(I), and (1)(b)(I)(C) amended, (SB 18-160), ch. 97, p. 766, § 14, effective August 8. **L. 2019:** (1)(a)(II) and (1)(b)(I)(C) amended, (SB 19-069), ch. 37, p. 129, § 14, effective August 2.

**22-60.5-307. Professional administrator licensees - master certification.** The department of education may, in its discretion, issue a master certificate to any applicant who holds a valid professional administrator license and who meets the criteria for master certification as specified by rule and regulation of the state board of education. Master certification shall recognize those professional administrator licensees who are involved in ongoing professional development and training and who have advanced competencies or expertise or who have demonstrated outstanding achievements. Any master certificate issued pursuant to this section shall be valid for the period of time for which the applicant's professional administrator license is valid and is renewable at its expiration.

**Source: L. 91:** Entire article added, p. 503, § 1, effective June 6. **L. 2006:** Entire section amended, p. 639, § 57, effective August 7.

**22-60.5-308. Assessment of professional competencies.** (1) The state board of education shall, by rule and regulation, establish areas of knowledge in which initial administrator licensees shall possess a satisfactory level of proficiency.

(2) The following list of areas of knowledge is a guideline to be used by the state board of education and shall not be construed as inclusive or prescriptive:

(a) Basic management;

(b) Leadership;

(c) Decision-making and problem-solving;

(d) Communication and human relations, including the ability to respond to the needs of students and parents from culturally diverse backgrounds;

(e) Personnel administration;

(f) Resource utilization;

(g) Child growth and development; and

(h) Knowledge and application of standards-based education pursuant to part 10 of article 7 of this title.

(3) The department of education shall develop and administer, pursuant to the rules and regulations of the state board of education, a system for the assessment of such professional competencies of applicants for initial administrator licenses.

(4) The state board of education shall annually review the assessment program developed pursuant to subsection (3) of this section to assure the appropriateness of the assessments and the standards established to determine a satisfactory level of proficiency.

**Source: L. 91:** Entire article added, p. 504, § 1, effective June 6. **L. 93:** (2)(f) and (2)(g) amended and (2)(h) added, p. 1049, § 10, effective June 3. **L. 97:** (1) and (3) amended, p. 1664, § 21, effective June 5; (2)(h) amended, p. 462, § 12, effective August 6. **L. 98:** (4) added, p. 990, § 13, effective July 1. **L. 2005:** (1) and (3) amended, p. 187, § 25, effective April 7. **L. 2015:** (2)(h) amended, (HB 15-1323), ch. 204, p. 727, § 42, effective May 20.

**22-60.5-309. Approved induction programs - initial administrator licensees.** (1) Any approved induction program of a school district or districts, charter school, the institute, or nonpublic school for initial administrator licensees may include, but shall not be limited to, supervision by mentor administrators; ongoing professional development and training, including ethics; and performance evaluations. Such school district or districts, charter school, the institute, or nonpublic school may enter into agreements with accepted institutions of higher education in regard to the organization, management, and operation of an approved induction program, or any portion thereof. The school district's or districts' performance evaluations must be conducted in accordance with section 22-9-106; however, the state board of education may provide by rule for performance evaluations by mentor administrators.

(2) The approved induction program of any individual initial administrator licensee may be extended if deemed necessary by the school district or districts, charter school, the institute, or nonpublic school providing such program; however, such program shall not exceed a maximum of three years.

(3) The state board of education shall, by rule and regulation, establish standards and criteria for the approval of proposed induction programs for initial administrator licensees and for the review of approved induction programs for initial administrator licensees. Such rules and regulations shall provide for such standards and criteria to be fully implemented on and after July 1, 1999, and shall provide for the gradual implementation of such standards and criteria over the five-year period prior to said date. Such standards and criteria shall, at a minimum, provide multiple approaches and options in regard to the provision of approved induction programs which take into consideration factors which the state board of education deems appropriate. Such factors shall include, but shall not be limited to, the setting categories and geographical location of school districts, the costs of providing approved induction programs, and the availability of state moneys to fund, in whole or in part, approved induction programs.

**Source: L. 91:** Entire article added, p. 504, § 1, effective June 6. **L. 2005:** Entire section amended, p. 188, § 26, effective April 7. **L. 2018:** (1) and (2) amended, (SB 18-160), ch. 97, p.

767, § 15, effective August 8. **L. 2019:** (1) and (2) amended, (SB 19-069), ch. 37, p. 129, § 15, effective August 2.

**22-60.5-309.5. Licensed administrators - occasional teaching.** Any administrator who holds a valid initial or professional administrator's license pursuant to this part 3, who has completed three or more years of successful experience working with students as a licensed or certificated professional in a public or nonpublic elementary or secondary school in this state or another state, and who, on occasion, functions as a teacher shall not be required to hold a valid initial or professional teacher license pursuant to part 2 of this article. The state board of education shall establish by rule what constitutes occasional teaching for purposes of this section.

**Source: L. 95:** Entire section added, p. 269, § 3, effective July 1. **L. 97:** Entire section amended, p. 1664, § 24, effective June 5. **L. 2005:** Entire section amended, p. 188, § 27, effective April 7.

**22-60.5-310. Principal and administrator professional standards board - creation - membership - repeal. (Repealed)**

**Source: L. 91:** Entire article added, p. 505, § 1, effective June 6.

**Editor's note:** Subsection (7) provided for the repeal of this section, effective July 1, 1999. (See L. 91, p. 505.)

**22-60.5-311. Powers and duties of the principal and administrator professional standards board - repeal. (Repealed)**

**Source: L. 91:** Entire article added, p. 506, § 1, effective June 6. **L. 97:** (3) repealed, p. 1665, § 26, effective June 5.

**Editor's note:** Subsection (4) provided for the repeal of this section, effective July 1, 1999. (See L. 91, p. 506.)

**22-60.5-312. Principal and administrator professional standards board - annual joint meeting - repeal. (Repealed)**

**Source: L. 91:** Entire article added, p. 508, § 1, effective June 6.

**Editor's note:** Subsection (2) provided for the repeal of this section, effective July 1, 1999. (See L. 91, p. 508.)

**22-60.5-313. Principal and administrator professional standards board - examination for basic competencies. (Repealed)**

**Source: L. 91:** Entire article added, p. 508, § 1, effective June 6. **L. 2005:** Entire section repealed, p. 188, § 28, effective April 7.

PART 4

MISCELLANEOUS PROVISIONS

**22-60.5-401. Educator professional standards board - creation - membership. (Repealed)**

**Source: L. 91:** Entire article added, p. 508, § 1, effective June 6. **L. 2004:** Entire section repealed, p. 1282, § 7, effective May 28.

**22-60.5-402. Powers and duties of the educator professional standards board. (Repealed)**

**Source: L. 91:** Entire article added, p. 509, § 1, effective June 6. **L. 97:** (3) repealed, p. 1665, § 27, effective June 5. **L. 99:** (1)(f) and (1)(g) repealed, p. 1192, § 7, effective June 1. **L. 2004:** Entire section repealed, p. 1282, § 7, effective May 28.

**22-60.5-403. Use of term "certificated" - repeal. (Repealed)**

**Source: L. 91:** Entire article added, p. 511, § 1, effective June 6.

**Editor's note:** Subsection (2) provided for the repeal of this section, effective July 1, 1999. (See L. 91, p. 511.)

**22-60.5-404. Change of term - direction to revisor. (Repealed)**

**Source: L. 91:** Entire article added, p. 511, § 1, effective June 6. **L. 2006:** Entire section repealed, p. 639, § 58, effective August 7.

## ARTICLE 61

Teacher Employment

**22-61-101. Discrimination in employment prohibited.** (1) No person, agency, bureau, corporation, or association employed or maintained to obtain or aid in obtaining positions or teachers, principals, superintendents, clerks, or other employees in the public schools of the state of Colorado; no individuals conducting or employed by or interested directly or indirectly in such an agency, bureau, corporation, or association; and no board of education, trustee of a school district, superintendent, principal, or teacher of a public school, or other official or employee of a board of education, directly or indirectly, shall ask, indicate, or transmit orally, or in writing, the religion or religious affiliation of any person seeking employment in the public schools of the state of Colorado.

(2) Any person who or any agency, bureau, corporation, or association which violates any of the provisions of subsection (1) of this section, or aids or incites the violation of any of said provisions, is liable for each violation to a penalty of not less than one hundred dollars nor more than five hundred dollars, to be recovered by the person aggrieved thereby, in any court of competent jurisdiction in any county in which the plaintiff or defendant resides; and such person and the manager or owner of or each officer of such agency, bureau, corporation, or association, as the case may be, for every such offense, is also guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than fifty dollars, or by imprisonment in the county jail for not more than ninety days, or by both such fine and imprisonment.

**Source: L. 33:** p. 662, § 1. **CSA:** C. 146, § 234. **CRS 53:** § 123-17-12. **C.R.S. 1963:** § 123-17-4.

**Cross references:** For discriminatory and unfair employment practices generally, see § 24-34-402.

**22-61-102. No group membership.** No contract or other employment arrangement executed or made by and between any school district and teacher shall require by inference or otherwise that said teacher become a member of or belong to any group or organization.

**Source: L. 51:** p. 761, § 1. **CSA:** C. 146, § 234(1). **CRS 53:** § 123-17-13. **C.R.S. 1963:** § 123-17-5.

**22-61-103. Teacher's oath, affirmation, or pledge.** (1) A person now holding a license to teach in the public schools in the state of Colorado or who shall hereafter be issued a license to teach in such public schools within the state of Colorado, except a person employed to teach in a temporary capacity who is a citizen of a nation other than the United States, shall take or sign the following oath, affirmation, or written pledge:

I solemnly (swear) (affirm) (pledge) that I will uphold the constitution of the United States and the constitution of the state of Colorado, and I will faithfully perform the duties of the position upon which I am about to enter.

(2) A person authorized to administer oaths in the state of Colorado shall administer the oath or affirmation, or the teacher must sign the pledge.

**Source: L. 21:** p. 719, § 1. **C.L.** § 8441. **CSA:** C. 146, § 235. **CRS 53:** § 123-17-14. **L. 61:** p. 665, § 1. **C.R.S. 1963:** § 123-17-6. **L. 69:** p. 1024, § 1. **L. 2004:** (1) amended, p. 1286, § 22, effective May 28. **L. 2017:** Entire section amended, (SB 17-296), ch. 313, p. 1687, § 6, effective June 2.

**22-61-104. Oath, affirmation, or pledge - professors, instructors, and teachers in state institutions of higher education.** (1) Every person employed to teach in a state university, college, local district college, community college, or technical college in the state of Colorado, before entering upon or continuing the discharge of his or her duties, shall take or sign the following oath, affirmation, or written pledge; except that a person employed to teach in a

temporary capacity who is a citizen of a nation other than the United States is not required to take such oath or affirmation or sign such pledge:

I solemnly (swear) (affirm) (pledge) that I will uphold the constitution of the United States and the constitution of the state of Colorado, and I will faithfully perform the duties of the position upon which I am about to enter.

(2) A person authorized to administer oaths in the state of Colorado shall administer the oath or affirmation, or the professor, instructor, or teacher must sign the pledge.

**Source: L. 21:** p. 720, § 2. **C.L.** § 8442. **CSA:** C. 146, § 236. **CRS 53:** § 123-17-15. **L. 61:** p. 666, § 2. **C.R.S. 1963:** § 123-17-7. **L. 69:** p. 1024, § 2. **L. 2017:** Entire section amended, (SB 17-296), ch. 313, p. 1688, § 7, effective June 2.

**22-61-105. Penalty.** A person who, being in charge of a public school, state university, college, local district college, community college, or technical college within the state of Colorado, allows or permits a teacher to enter upon the discharge of his or her duties or give instruction therein, unless such teacher shall have taken the oath or affirmation or signed the pledge as provided in sections 22-61-103 and 22-61-104, is guilty of a misdemeanor and, upon conviction thereof, must be punished by a fine of not more than one hundred dollars, or by imprisonment in the county jail for not more than six months, or by both such fine and imprisonment.

**Source: L. 21:** p. 720, § 3. **C.L.** § 8443. **CSA:** C. 146, § 237. **CRS 53:** § 123-17-16. **C.R.S. 1963:** § 123-17-8. **L. 69:** p. 1025, § 3. **L. 2017:** Entire section amended, (SB 17-296), ch. 313, p. 1688, § 8, effective June 2.

## ARTICLE 61.5

Colorado Teacher of the Year

**22-61.5-101. Short title.** This article shall be known and may be cited as the "Colorado Teacher of the Year Act".

**Source: L. 2009:** Entire article added, (HB 09-1240), ch. 236, p. 1076, § 1, effective August 5.

**22-61.5-102. Legislative declaration.** (1) The general assembly hereby finds that:

(a) An effective teacher providing quality instruction is the single, greatest factor influencing student achievement, having a greater impact than the characteristics of a child, including poverty, race, or family history. Further, quality instruction in the classroom is the most direct way to provide equal opportunities in education, especially for at-risk students. A review of the world's top school systems suggests that three things matter most in education: Recruiting the right people to become teachers; developing these people into effective instructors; and ensuring that the educational system is able to deliver the best possible instruction for every child.

(b) The state's long-term success in achieving many of the educational goals Colorado has identified for its students will require a fundamental transformation of the teaching profession. Making a long-term commitment to reshaping the way in which Colorado attracts, trains, supports, and retains teachers is the best way to tackle problems in education, including the achievement gap, high dropout rates, and low graduation rates. This commitment will require new partnerships between the government and the private sector and among the department of education, the department of higher education, school districts, and educational membership associations, as well as a variety of other stakeholders, including, but not limited to, elected officials, business leaders, and community leaders throughout the state.

(2) The general assembly therefore declares that Colorado is committed to honoring the nobility of the teaching profession. One of the simplest and yet most profound ways to show the state's commitment to teaching is for Colorado to join other states that have elevated both the recognition and the role of the teacher named teacher of the year and to establish the Colorado teacher of the year program.

**Source: L. 2009:** Entire article added, (HB 09-1240), ch. 236, p. 1076, § 1, effective August 5.

**22-61.5-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Award recipient" means the teacher named Colorado teacher of the year.

(2) "Colorado teacher of the year" means the Colorado teacher named teacher of the year in the state program administered by the department and coordinated through the national teacher of the year program.

(3) "Department" means the department of education created in section 24-1-115, C.R.S.

(4) "Program" means the Colorado teacher of the year program described in this article.

(5) "State board" means the state board of education created pursuant to section 1 of article IX of the state constitution.

**Source: L. 2009:** Entire article added, (HB 09-1240), ch. 236, p. 1077, § 1, effective August 5.

**22-61.5-104. Colorado teacher of the year program - created - administration - rules.** (1) There is hereby created in the department the Colorado teacher of the year program to honor and reward the teacher named annually as the Colorado teacher of the year. The department shall administer the program.

(2) The state board shall adopt rules necessary for the creation and implementation of the program. Elements of the program may include, but need not be limited to, the following:

(a) The program may reward the award recipient with gifts, services, and opportunities that may include, but need not be limited to:

(I) A sabbatical from teaching responsibilities that includes moneys awarded to the award recipient's employer for the purpose of hiring a substitute teacher during the award recipient's sabbatical;

(II) A cash gift;

(III) Travel and lodging expenses;

(IV) A computer;

(V) Supplies and equipment for the award recipient's classroom or school; and

(VI) The opportunity to receive additional training or education.

(b) During his or her tenure as Colorado teacher of the year, the award recipient may participate in activities that may include, but need not be limited to:

(I) Participating in local, regional, and national events related to the award recipient's designation as Colorado teacher of the year;

(II) Promoting the teaching profession;

(III) Teaching best practices to other teachers;

(IV) Teaching temporarily in other public schools or school districts;

(V) Mentoring students in educator preparation programs and supporting newer teachers in Colorado;

(VI) Collaborating with institutions of higher education in scholarly research and teaching; and

(VII) Participating in special projects relating to education that are important to the award recipient.

(3) The department may collaborate with a private entity in implementing the program and may accept services and in-kind donations from the private entity.

**Source: L. 2009:** Entire article added, (HB 09-1240), ch. 236, p. 1077, § 1, effective August 5. **L. 2011:** (2)(b)(V) amended, (SB 11-245), ch. 201, p. 850, § 12, effective August 10.

**Cross references:** For the legislative declaration in the 2011 act amending subsection (2)(b)(V), see section 1 of chapter 201, Session Laws of Colorado 2011.

**22-61.5-105. Colorado teacher of the year fund - created - legislative declaration - repeal.** (1) (a) The department is authorized to seek and accept gifts, grants, or donations for the purposes of this article; except that the department may not accept a gift, grant, or donation that is subject to conditions that are inconsistent with this article or any other law of the state. The department shall transmit all moneys received through gifts, grants, or donations to the state treasurer, who shall credit the same to the Colorado teacher of the year fund, which fund is hereby created and referred to in this section as the "fund". The moneys in the fund are continuously appropriated to the department for the direct and indirect costs associated with the implementation of the program.

(a.5) In addition to any moneys credited to the fund pursuant to paragraph (a) of this subsection (1), beginning in the 2014-15 budget year and in each budget year thereafter, the state treasurer shall annually transfer from the state education fund created in section 17 (4) of article IX of the state constitution to the fund twenty-four thousand eight hundred dollars.

(b) Any moneys in the fund not expended for the purpose of this article may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund.

(c) Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

(2) The department may expend up to ten percent of the moneys annually credited to the fund to offset the costs incurred in implementing the program.

(3) The general assembly hereby declares that, for purposes of section 17 of article IX of the state constitution, the Colorado teacher of the year program is an important element in providing performance incentives for teachers and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

(4) (a) Notwithstanding any provision of this section to the contrary, on July 1, 2020, the state treasurer shall transfer eleven thousand eight hundred thirty one dollars from the fund to the state education fund created in section 17 (4) of article IX of the state constitution.

(b) This subsection (4) is repealed, effective July 1, 2021.

**Source: L. 2009:** Entire article added, (HB 09-1240), ch. 236, p. 1078, § 1, effective August 5. **L. 2014:** (1)(a.5) and (3) added, (HB 14-1298), ch. 244, p. 925, § 12, effective May 21. **L. 2020:** (4) added, (HB 20-1418), ch. 197, p. 945, § 20, effective June 30.

**Cross references:** For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

## ARTICLE 62

Cooperative Teacher Education Act

**22-62-101. Short title.** This article shall be known and may be cited as the "Cooperative Teacher Education Act of 1973".

**Source: L. 73:** p. 1317, § 1. **C.R.S. 1963:** § 123-45-1.

**22-62-102. Legislative declaration.** The general assembly hereby declares that the purpose of this article is to implement cooperative ventures in teacher education between public and private schools and institutions of higher education, to establish the legal status of student teachers, and to enable the release of public moneys to finance such ventures.

**Source: L. 73:** p. 1317, § 1. **C.R.S. 1963:** § 123-45-2. **L. 75:** Entire section amended, p. 728, § 1, effective May 22.

**22-62-103. Authority to enter into agreements.** (1) The board of education of each school district is authorized to enter into written, contractual agreements or arrangements with any college or university for the purpose of providing field experiences in teacher education. Field experiences shall include all activities incurred within the district by a regularly enrolled student in any phase of the teacher education program of the institution, regardless of the title of his position. A student teacher is a student engaged in a major field experience with increasing responsibility for teaching, supervision, and direction of an identified group of learners. The student teaching field experience is normally the terminal field experience in the professional exposure to public schools leading to certification.

(2) Each such agreement or arrangement shall set out the rights and responsibilities of the cooperating school districts, teacher preparation institutions, students, and other participating personnel.

**Source: L. 73:** p. 1317, § 1. **C.R.S. 1963:** § 123-45-3. **L. 75:** (1) amended, p. 728, § 2, effective May 22.

**22-62-103.5. Criminal history record checks - definition.** (1) A school district or charter school that requires a fingerprint-based criminal history record check or a name-based criminal history record check for a student enrolled in an educator preparation program who applies for field experiences within the school district or charter school must accept the results of a fingerprint-based criminal history record check or a name-based criminal history record check performed pursuant to section 22-2-119.3 as satisfaction of the requirement.

(2) For the purpose of this section, "charter school" means a charter school authorized by a school district pursuant to part 1 of article 30.5 of this title 22 or a charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title 22.

**Source: L. 2018:** Entire section added, (SB 18-229), ch. 232, p. 1452, § 5, effective August 8.

**22-62-104. Payment of cost from public funds.** (1) The respective governing boards of state colleges and universities are authorized to pay the contracting boards of education for the services of teachers who supervise student teachers and, if an agreement has been entered into pursuant to subsection (2) of this section, to student teachers in an amount determined by the respective governing boards.

(2) Each school district may, by mutual consent of the parties to the agreement, provide compensation to student teachers.

(3) All moneys authorized for the payment of services under this section shall be paid directly to teachers and, if an agreement has been entered into pursuant to subsection (2) of this section, to student teachers. No such moneys shall be utilized for the payment of administrative costs.

**Source: L. 73:** p. 1317, § 1. **C.R.S. 1963:** § 123-45-4. **L. 75:** (2) amended, p. 729, § 3, effective May 22. **L. 95:** Entire section amended, p. 571, § 1, effective May 22.

**22-62-105. Authority and status of student teachers.** (1) Any student teacher, during the time that such student is assigned to a field experience within a public school, shall be deemed to be a public employee of the school district within the meaning of the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S. The duties and responsibilities of the student teacher shall be determined by mutual agreement between the school district and the authorized representative of the college.

(2) The student teacher, during his practice teaching in a school, shall be deemed an employee of the school district for the purpose of workers' compensation and liability insurance as provided for other school employees.

**Source: L. 73:** p. 1318, § 1. **C.R.S. 1963:** § 123-45-5. **L. 75:** Entire section amended, p. 729, § 4, effective May 22. **L. 81:** (2) amended, p. 462, § 3, effective July 1. **L. 90:** (2) amended, p. 566, § 41, effective July 1.

## ARTICLE 62.5

Exceptional Learning Program

**22-62.5-101 to 22-62.5-108. (Repealed)**

**Editor's note:** (1) This article was added in 1992. For amendments to this article prior to its repeal in 1997, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 22-62.5-108 provided for the repeal of this article, effective July 1, 1997. (See L. 92, p. 527.)

## ARTICLE 63

Teacher Employment,
Compensation, and Dismissal

**Editor's note:** This article was numbered as article 18 of chapter 123, C.R.S. 1963. This article was repealed and reenacted in 1990, resulting in the addition, relocation, and elimination of sections as well as subject matter. For amendments to this article prior to 1990, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume. Former C.R.S. section numbers are shown in editor's notes following those sections that were relocated.

**Law reviews:** For article, "Overview of General Liability, Workers' Compensation, and Employment Law Issues in K-12 Educational Institutions", see 44 Colo. Law. 25 (Oct. 2015); for article, "Academic Freedom and Discharge From Public Employment: The Unsettled Debate", see 44 Colo. Law. 57 (Oct. 2015).

PART 1

GENERAL PROVISIONS

**22-63-101. Short title.** This article shall be known and may be cited as the "Teacher Employment, Compensation, and Dismissal Act of 1990".

**Source: L. 90:** Entire article R&RE, p. 1117, § 1, effective July 1.

**Editor's note:** This section is similar to former § 22-63-101 as it existed prior to 1990.

**22-63-102. Legislative declaration.** The general assembly hereby finds and declares that this article is enacted to ensure that the educational system of the state of Colorado is being

served by the best teachers available while at the same time allowing such teachers the academic freedom necessary to provide the best education possible to the children of this state.

**Source: L. 90:** Entire article R&RE, p. 1117, § 1, effective July 1.

**22-63-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Academic year" means that portion of the school year during which the public schools of a school district are in regular session, beginning about the first week in September and ending about the first week in June next following.

(1.5) "Administrator" means any person who administers, directs, or supervises the education instructional program, or a portion thereof, in any school or school district in the state and who is not the chief executive officer or an assistant chief executive officer of such school.

(2) "Alternative year program" means an academic year meeting the minimum hours required in section 22-32-109 (1)(n) and which is in session for a period of time other than the standard academic year.

(3) "Board" means the board of education of a school district.

(4) "Dismissal" means the involuntary termination of employment of a teacher for any reason other than a justifiable decrease in teaching positions.

(5) "Nonrenewal" means the involuntary termination of employment of a probationary teacher by a board at the expiration of a specific contractual period.

(6) "Part-time teacher" means a teacher who normally performs services as an employee of a school in an amount of time less than four hours during each regular school day.

(7) "Probationary teacher" means a teacher who has not completed three consecutive years of demonstrated effectiveness or a nonprobationary teacher who has had two consecutive years of demonstrated ineffectiveness, as defined by rule adopted by the general assembly pursuant to section 22-9-105.5.

(8) "School district" means a school district organized and existing pursuant to law.

(9) "School year" means July 1 through June 30 next following.

(10) "Substitute teacher" means a teacher who normally performs services as an employee of a school district for four hours or more during each regular school day, but works on one continuous assignment for a total of less than ninety regular school days, or for less than one semester or equivalent time as determined by the annual school year calendar of the district in which the teacher is employed during an academic year. "Substitute teacher" also means an itinerant teacher who, as an employee of a school district, normally performs services on a day-to-day or similar short-term basis during an academic year as a replacement teacher for a nonprobationary teacher employed pursuant to section 22-63-202, a probationary teacher employed pursuant to section 22-63-203, or a part-time teacher while the nonprobationary, probationary, or part-time teacher is absent or otherwise unavailable. "Substitute teacher" does not include any nonprobationary or probationary teacher who is assigned as a permanent substitute teacher within a school district.

(11) "Teacher" means any person who holds a teacher's license issued pursuant to the provisions of article 60.5 of this title and who is employed to instruct, direct, or supervise the instructional program. "Teacher" does not include those persons holding authorizations and the chief administrative officer of any school district.

**Source: L. 90:** Entire article R&RE, p. 1117, § 1, effective July 1. **L. 98:** (10) amended, p. 15, § 1, effective March 16. **L. 2000:** (1.5) added, p.1062, § 1, effective May 26; (11) amended, p.1860, § 67, effective August 2. **L. 2010:** (7) amended, (SB 10-191), ch. 241, p. 1070, § 10, effective May 20.

**Editor's note:** This section is similar to former § 22-63-102 as it existed prior to 1990.

**22-63-104. Teacher employment and compensation committee - creation - issues to be studied. (Repealed)**

**Source: L. 90:** Entire article R&RE, p. 1118, § 1, effective July 1.

**Editor's note:** Subsection (6) provided for the repeal of this section, effective January 1, 1991. (See L. 90, p. 1118.)

PART 2

EMPLOYMENT

**22-63-201. Employment - license required - exception.** (1) Except as otherwise provided in subsection (2) of this section, the board of a school district shall not enter into an employment contract with any person as a teacher, except in a local college district or in an adult education program, unless such person holds an initial or a professional teacher's license or authorization issued pursuant to the provisions of article 60.5 of this title.

(2) (a) The general assembly hereby recognizes that many persons with valuable professional expertise in areas other than teaching provide a great benefit to students through their experience and functional knowledge when hired by a school district. To facilitate the employment of these persons and comply with the requirements of federal law, the general assembly has statutory provisions to create an alternative teacher license and alternative teacher programs to enable school districts to employ persons with expertise in professions other than teaching. These provisions enable a school district to employ a person with professional expertise in a particular subject area, while ensuring that the person receives the necessary training and develops the necessary skills to be a highly qualified teacher. The general assembly strongly encourages each school district to hire persons who hold alternative teacher licenses to provide a wide range of experience in teaching and functional subject matter knowledge for the benefit of the students enrolled in the school district.

(b) A school district may hire a person who holds an alternative teacher license to teach as an alternative teacher pursuant to an alternative teacher contract as described in section 22-60.5-207.

(3) The board of a school district may enter into an employment contract with any person to serve as an administrator based upon qualifications set by the board of the school district. Nothing in this article shall be construed to require that an administrator, as a condition of employment, possess any type of license or authorization issued pursuant to article 60.5 of this title.

**Source: L. 90:** Entire article R&RE, p. 1120, § 1, effective July 1. **L. 99:** Entire section amended, p. 1196, § 12, effective June 1. **L. 2000:** (3) added, p.1062, § 2, effective May 26. **L. 2005:** (1) and (2) amended, pp. 189, 190, §§ 32, 36, effective April 7. **L. 2009:** (2) amended, (SB 09-160), ch. 292, p. 1456, § 10, effective May 21.

**Editor's note:** This section is similar to former § 22-63-103 as it existed prior to 1990.

**22-63-202. Employment contracts - contracts to be in writing - duration - damage provision - repeal.** (1) Except for a part-time or substitute teacher, every employment contract entered into by any teacher or chief administrative officer for the performance of services for a school district shall be in writing.

(2) (a) A teacher or chief administrative officer and the board may mutually agree to terminate the teacher's or chief administrative officer's employment contract at any time.

(b) Each employment contract executed pursuant to this section shall contain a provision stating that a teacher or chief administrative officer shall not terminate his or her employment contract with the board without the agreement of the board unless:

(I) If the teacher or chief administrative officer intends to terminate his or her employment contract for the succeeding academic year, the teacher or chief administrative officer gives written notice to the board of his or her intent no later than thirty days prior to the commencement of the succeeding academic year or, if a school district operates an alternative year program, not less than thirty days before the commencement of services under the employment contract; or

(II) If the teacher or chief administrative officer intends to terminate his or her employment contract for the current academic year after the beginning of the academic year, the teacher or chief administrative officer shall give written notice to the board of his or her intent at least thirty days prior to the date that the teacher or chief administrative officer intends to stop performing the services required by the employment contract.

(b.5) Each employment contract executed pursuant to this section shall contain a provision stating that a teacher or chief administrative officer shall accept the terms of the employment contract for the succeeding academic year within thirty days of receipt of the contract, unless the teacher or chief administrative officer and the district have reached an alternative agreement. If a teacher or chief administrative officer does not accept the terms of the employment contract within thirty days of receipt, the district shall be authorized to open the position to additional candidates.

(c) Each employment contract executed pursuant to this section shall contain a damages provision whereby a teacher or chief administrative officer who violates the provision required by paragraph (b) of this subsection (2) without good cause shall agree to pay damages to the school district, and the board thereof shall be authorized to collect or withhold damages from compensation due or payable to the teacher or chief administrative officer, in an amount equal to the lessor of:

(I) The ordinary and necessary expenses of a board to secure the services of a suitable replacement teacher or chief administrative officer; or

(II) One-twelfth of the annual salary specified in the employment contract.

(c.5) (I) The general assembly finds that, for the fair evaluation of a principal based on the demonstrated effectiveness of his or her teachers, the principal needs the ability to select

teachers who have demonstrated effectiveness and have demonstrated qualifications and teaching experience that support the instructional practices of his or her school. Therefore, each employment contract executed pursuant to this section shall contain a provision stating that a teacher may be assigned to a particular school only with the consent of the hiring principal and with input from at least two teachers employed at the school and chosen by the faculty of teachers at the school to represent them in the hiring process, and after a review of the teacher's demonstrated effectiveness and qualifications, which review demonstrates that the teacher's qualifications and teaching experience support the instructional practices of his or her school.

(II) Repealed.

(III) (A) Any active nonprobationary teacher who was deemed effective during the prior school year and has not secured a mutual consent placement shall be a member of a priority hiring pool, which priority hiring pool shall ensure the nonprobationary teacher a first opportunity to interview for a reasonable number of available positions for which he or she is qualified in the school district.

(B) When a determination is made that a nonprobationary teacher's services are no longer required for the reasons set forth in subparagraph (VII) of this paragraph (c.5), the nonprobationary teacher shall be notified of his or her removal from the school. In making decisions pursuant to this paragraph (c.5), a school district shall work with its local teachers association to develop policies for the local school board to adopt. If no teacher association exists in the school district, the school district shall create an eight-person committee consisting of four school district members and four teachers, which committee shall develop such policies. Upon notice to the nonprobationary teacher, the school district shall immediately provide the nonprobationary teacher with a list of all vacant positions for which he or she is qualified, as well as a list of vacancies in any area identified by the school district to be an area of critical need. An application for a vacancy shall be made to the principal of a listed school, with a copy of the application provided by the nonprobationary teacher to the school district. When a principal recommends appointment of a nonprobationary teacher applicant to a vacant position, the nonprobationary teacher shall be transferred to that position.

(C) This subparagraph (III) shall take effect at such time as the performance evaluation system based on quality standards established pursuant to this section and the rules promulgated by the state board pursuant to section 22-9-105.5 has completed the initial phase of implementation and has been implemented statewide. The commissioner shall provide notice of such implementation to the revisor of statutes on or before July 1, 2014, and each July 1 thereafter until statewide implementation occurs.

(IV) If a nonprobationary teacher is unable to secure a mutual consent assignment at a school of the school district after twelve months or two hiring cycles, whichever period is longer, the school district shall place the teacher on unpaid leave until such time as the teacher is able to secure an assignment. If the teacher secures an assignment at a school of the school district while placed on unpaid leave, the school district shall reinstate the teacher's salary and benefits at the level they would have been if the teacher had not been placed on unpaid leave.

(V) Nothing in this section shall limit the ability of a school district to place a teacher in a twelve-month assignment or other limited-term assignments, including, but not limited to, a teaching assignment, substitute assignment, or instructional support role during the period in which the teacher is attempting to secure an assignment through school-based hiring. Such an assignment shall not constitute an assignment through school-based hiring and shall not be

deemed to interrupt the period in which the teacher is required to secure an assignment through school-based hiring before the district shall place the teacher on unpaid leave.

(VI) The provisions of this paragraph (c.5) may be waived in whole or in part for a renewable four-year period by the state board of education pursuant to section 22-2-117, provided that the local school board applying for the waiver, in conjunction with the superintendent and teachers association in a district that has an operating master employment contract, if applicable, demonstrates that the waiver is in the best interest of students enrolled in the school district, supports the equitable distribution of effective teachers, and will not result in placement other than by mutual consent of the teacher in a school district or public school that is required to implement a priority improvement plan or turnaround plan pursuant to article 11 of this title. Notwithstanding the provisions of this paragraph (c.5), a waiver shall not be granted for a request that extends the time for securing an assignment through school-based hiring for more than two years.

(VII) This paragraph (c.5) shall apply to any teacher who is displaced as a result of drop in enrollment; turnaround; phase-out; reduction in program; or reduction in building, including closure, consolidation, or reconstitution.

(d) The department of education may suspend the license, endorsement, or authorization of a teacher or chief administrative officer who fails to provide the notice required by paragraph (b) of this subsection (2) and who abandons, fails, or refuses to perform required services pursuant to an employment contract, without good cause.

(3) A teacher may be suspended temporarily during the contractual period until the date of dismissal as ordered by the board pursuant to section 22-63-302 or may have his or her employment contract cancelled during the contractual period when there is a justifiable decrease in the number of teaching positions. The manner in which employment contracts will be cancelled when there is a justifiable decrease in the number of teaching positions shall be included in any contract between the board of education of the school district and school district employees or in an established policy of the board, which contract or policy shall include the criteria described in section 22-9-106 as significant factors in determining which employment contracts to cancel as a result of the decrease in teaching positions. Effective February 15, 2012, the contract or policy shall include consideration of probationary and nonprobationary status and the number of years a teacher has been teaching in the school district; except that these criteria may be considered only after the consideration of the criteria described in section 22-9-106 and only if the contract or policy is in the best interest of the students enrolled in the school district.

(4) (a) Notwithstanding the provisions of section 24-72-204 (3)(a), C.R.S., upon a request from a school district or a school concerning a person applying for a position as a teacher, a school district may disclose to the requesting school district or school the reason or reasons why a teacher left employment with the original school district. Upon the specific request of a school district at which a teacher has applied for employment, a school district may disclose any pertinent performance record or disciplinary record of a teacher that specifically relates to any negligent action of the teacher that was found to have endangered the safety and security of a student or any disciplinary record that relates to behavior by the teacher that was found to have contributed to a student's violation of the school district's conduct and discipline code. The information disclosed pursuant to this paragraph (a) shall only be disclosed to personnel authorized to review the personnel file in the school district or school and to the person applying for a position as a teacher.

(b) No employment contract executed pursuant to this section shall contain a provision that restricts or prohibits a school district from disclosing to another school district or school the reason or reasons why a teacher left employment with the original school district or from disclosing to another school district any of the teacher's disciplinary or performance records pursuant to paragraph (a) of this subsection (4).

**Source: L. 90:** Entire article R&RE, p. 1120, § 1, effective July 1. **L. 93:** (3) amended, p. 894, § 25, effective May 6; (2)(a) amended, p. 900, § 1, effective July 2. **L. 97:** (2)(a) amended, p. 398, § 1, effective August 15. **L. 99:** (4) added, p. 1104, § 8, effective July 1. **L. 2000:** (4) amended, p. 1965, § 10, effective June 2; (2)(b) amended, p. 1860, § 68, effective August 2. **L. 2006:** (2) R&RE, p. 924, § 4, effective July 1. **L. 2009:** (2)(b.5) added, (SB 09-256), ch. 294, p. 1553, § 7, effective May 21. **L. 2010:** (2)(c.5) added and (3) amended, (SB 10-191), ch. 241, pp. 1070, 1073, §§ 11, 12, effective May 20.

**Editor's note:** (1) This section is similar to former § 22-63-107 as it existed prior to 1990.

(2) (a) The revisor of statutes received the notice referred to in former subsection (2)(c.5)(II) that caused the repeal of that provision, effective June 27, 2013.

(b) The revisor of statutes received the notice referred to in subsection (2)(c.5)(III) that allowed that provision to become effective June 27, 2013.

**22-63-203. Probationary teachers - renewal and nonrenewal of employment contract - repeal.**

(1) (a) Repealed.

(b) For any school district that has implemented the performance evaluation system based on quality standards pursuant to section 22-9-106 and the rules adopted by the state board pursuant to section 22-9-105.5, the provisions of this section shall apply only to probationary teachers and shall no longer apply when the teacher has been granted nonprobationary status as a result of three consecutive years of demonstrated effectiveness, as determined through his or her performance evaluations and continuous employment.

(2) (a) During the first three school years that a teacher is employed on a full-time continuous basis by a school district, such teacher shall be considered to be a probationary teacher whose employment contract may be subject to nonrenewal in accordance with subsection (4) of this section. A school district may also consider a teacher employed on a part-time continuous basis by such district and by a board of cooperative services to be a probationary teacher whose contract may be subject to nonrenewal in accordance with subsection (4) of this section. An employment contract with a probationary teacher shall not exceed one school year.

(b) For purposes of paragraph (a) of this subsection (2):

(I) A probationary teacher who is employed as a teacher in an alternative year program is deemed to be employed on a full-time basis during a school year if he performs services for at least the minimum period during which a pupil must be enrolled in any twelve-month period. The employment of any such probationary teacher as a teacher in such an alternative year program for such minimum period in successive twelve-month periods shall be deemed continuous.

(II) A probationary teacher who is employed after the first day of the academic year is deemed to be employed for a full school year if the period of continuous and uninterrupted employment during that year includes the last one hundred twenty school days of the academic year.

(III) The three consecutive school years of demonstrated effectiveness and continuous employment required for the probationary period shall not be deemed to be interrupted by the temporary illness of a probationary teacher. A leave of absence approved by the board of a school district or a military leave of absence pursuant to article 3 of title 28, C.R.S., shall not be considered to be an interruption of the consecutive years of demonstrated effectiveness and continuous employment required for the probationary period, but the time of such leaves of absence shall not be included in computing the required probationary period.

(IV) The three consecutive school years of demonstrated effectiveness and continuous employment required for the probationary period shall not be deemed to be interrupted by the acceptance by a probationary teacher of the position of chief administrative officer in said school district, but the period of time during which such teacher serves in such capacity shall not be included in computing said probationary period.

(3) A probationary teacher employed by a school district on a full-time basis shall be deemed to be reemployed for the succeeding academic year at the salary that the probationary teacher would be entitled to receive under the general salary schedule, the teacher salary policy, or the combination schedule and policy, whichever is appropriate, unless the board causes written notice to the contrary to be given to said teacher on or before June 1 of the academic year during which said teacher is employed. Such teacher shall be presumed to have accepted such employment for the succeeding academic year unless said teacher causes written notice to the contrary to be given to the board no later than thirty days prior to the commencement of the succeeding academic year.

(3.5) (a) Notwithstanding the provisions of this section to the contrary, the June 1 deadline for written notice of contract nonrenewal set forth in subsection (3) of this section is extended to June 26, 2020, for probationary teachers employed by a school district on a full-time basis during the 2019-20 school year, so long as the recommendation for contract nonrenewal made pursuant to subsection (4) of this section is for reasons relating to budgetary shortfalls. The June 1 deadline for written notice set forth in subsection (3) of this section is still applicable to any nonrenewal of probationary staff that is not directly related to budgetary shortfalls. For purposes of this subsection (3.5), a budgetary shortfall refers to a reduction in state education funding that was not anticipated before March 30, 2020.

(b) This subsection (3.5) is repealed, effective July 1, 2021.

(4) (a) The chief administrative officer of the employing school district may recommend that the board not renew the employment contract of a probationary teacher for any reason he deems sufficient. If the board, based upon such recommendation, does not renew the employment contract of a probationary teacher, such teacher shall be given a written notice of contract nonrenewal.

(a.5) Repealed.

(b) (I) A probationary teacher who is given a written notice of contract nonrenewal may request, and, if requested, shall receive, the reasons for nonrenewal from the chief administrative officer of the employing school district.

(II) It is the intent of the general assembly that the provision to a probationary teacher of the reasons for contract nonrenewal not create any property right or contract right, express or implied. However, a board may, but shall not be required to, agree by contract or school district policy to make the reasons for nonrenewal a grievable action. If a state appellate court or a federal court determines that such a property right has been created and the time for all appeals has passed, this paragraph (b) shall be repealed. The court making such a determination shall be required to transmit a copy of the court's decision to the revisor of statutes. The effective date of the repeal of this paragraph (b) shall be the date the revisor of statutes receives notice from the court that such decision has been made and that the time for all appeals has passed.

(5) A probationary teacher may be suspended temporarily during the contractual period until the date of dismissal as ordered by the board pursuant to section 22-63-302.

(6) (a) Notwithstanding the provisions of section 24-72-204 (3)(a), C.R.S., upon a request from a school district or a school concerning a person applying for a position as a teacher, a school district may disclose to the requesting school district or school the reason or reasons why a teacher left employment with the original school district. The information disclosed pursuant to this paragraph (a) shall only be disclosed to personnel authorized to review the personnel file in the school district or school and to the person applying for a position as a teacher.

(b) No employment contract executed pursuant to this section shall contain a provision that restricts or prohibits a school district from disclosing to another school district or school the reason or reasons why a teacher left employment with the original school district.

**Source: L. 90:** Entire article R&RE, p. 1121, § 1, effective July 1. **L. 92:** (2)(a) amended, p. 475, § 8, effective April 29. **L. 93:** (3) amended, p. 901, § 2, effective May 11. **L. 95:** (3) amended, p. 884, § 6, effective July 1. **L. 97:** (3) amended, p. 399, § 2, effective August 15. **L. 99:** (2)(b)(II) amended, p. 139, § 1, effective July 1; (6) added, p. 1104, § 9, effective July 1. **L. 2010:** (1), (2)(b)(III), and (2)(b)(IV) amended and (4)(a.5) added, (SB 10-191), ch. 241, pp. 1073, 1074, §§ 13, 14, effective May 20. **L. 2020:** (3.5) added, (HB 20-1418), ch. 197, p. 958, § 48, effective June 30.

**Editor's note:** (1) This section is similar to former § 22-63-110 as it existed prior to 1990.

(2) Subsection (4)(a.5)(I) provided for the repeal of subsection (4)(a.5) upon the implementation of the performance evaluation system in subsection (4)(a.5). The revisor of statutes received notice of the implementation of the performance evaluation system on October 17, 2013.

(3) As of the date of publication, the revisor of statutes has not received the notice referred to in subsection (4)(b)(II), the receipt of which notice will cause the repeal of subsection (4)(b).

(4) Subsection (1)(a) provided for the repeal of subsection (1)(a), effective July 1, 2014. (See L. 2010, p. 1073.)

**Cross references:** For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

**22-63-203.5. Nonprobationary portability.** Beginning with the 2014-15 school year, a nonprobationary teacher, except for a nonprobationary teacher who has had two consecutive performance evaluations with an ineffective rating, who is employed by a school district and is subsequently hired by a different school district may provide to the hiring school district evidence of his or her student academic growth data and performance evaluations for the prior two years for the purposes of retaining nonprobationary status. If, upon providing such data, the nonprobationary teacher can show two consecutive performance evaluations with effectiveness ratings in good standing, he or she shall be granted nonprobationary status in the hiring school district.

**Source: L. 2010:** Entire section added, (SB 10-191), ch. 241, p. 1075, § 15, effective May 20.

**22-63-204. Interest prohibited.** (1) It is unlawful for any teacher of a school district to take or receive any part or portion of moneys from the sale, proceeds, profit, or items in lieu thereof of any book, musical instrument, school supplies, school apparatus, or other materials, including custodial, office, and athletic supplies, sold to a minor, or the parent or guardian of any such minor, enrolled in the school where such teacher is performing services, or which may be sold to said school district; but it shall not be unlawful for a teacher to receive a part or portion of moneys from the sale, proceeds, profit, or items in lieu thereof if such teacher first obtains the written consent of the employing board.

(2) Any teacher who violates the provisions of subsection (1) of this section is, upon determination thereof, subject to the revocation of the teacher's license or authorization as provided in section 22-60.5-108.

**Source: L. 90:** Entire article R&RE, p. 1122, § 1, effective July 1. **L. 2000:** (2) amended, p. 1860, § 69, effective August 2.

**Editor's note:** This section is similar to former § 22-63-108 as it existed prior to 1990.

**22-63-205. Exchange of teachers - exchange educator interim authorization.** (1) The board of a school district has authority to provide for the exchange of teachers with a school district in this state or in another state or with a foreign government or agency thereof. The department of education and boards are authorized and urged to effect such exchanges to achieve the goal of equal educational opportunity within Colorado, and they are further authorized to cooperate with appropriate federal agencies involved in such exchange programs. The department of education shall create an exchange educator interim authorization for qualified exchange educators pursuant to section 22-60.5-111.

(2) The salary of the teacher exchanged may be paid by the school district which authorized the exchange and, if so, said teacher shall be paid at not less than the rate to which he would otherwise be entitled had he performed services in said school district. A teacher exchanged pursuant to this section shall be deemed, during the period of exchange, to be in the employ of the school district which authorized the exchange, and such teacher shall be subject to the provisions and benefits of retirement, insurance, and workers' compensation as if performing services within said school district.

**Source: L. 90:** Entire article R&RE, p. 1122, § 1, effective July 1. **L. 2008:** (1) amended, p. 1365, § 3, effective May 27.

**Editor's note:** (1) This section is similar to former § 22-63-109 as it existed prior to 1990.

(2) Subsection (2) was originally numbered as section 22-63-109 (2), and the amendments to it in House Bill 90-1160 were harmonized with subsection (2) as it appears in this section when the entire article was repealed and reenacted in House Bill 90-1159.

**22-63-206. Transfer - compensation - definitions.** (1) (a) A teacher may be transferred upon the recommendation of the chief administrative officer of a school district from one school, position, or grade level to another within the school district, if the transfer does not result in the assignment of the teacher to a position of employment for which the teacher is not qualified by virtue of academic preparation and certification and if, during the then current school year, the amount of salary of the teacher is not reduced except as otherwise provided in subsections (2) and (3) of this section. There shall be no discrimination shown toward any teacher in the assignment or transfer of that teacher to a school, position, or grade because of sex, sexual orientation, marital status, race, creed, color, religion, national origin, ancestry, or membership or nonmembership in any group or organization.

(b) As used in this subsection (1):

(I) "Protective hairstyle" includes such hairstyles as braids, locs, twists, tight coils or curls, cornrows, Bantu knots, Afros, and headwraps.

(II) "Race" includes hair texture, hair type, or a protective hairstyle that is commonly or historically associated with race.

(2) Notwithstanding the provisions of subsection (1) of this section, a teacher who has been occupying an administrative position may be assigned to another position for which he or she is qualified if a vacancy exists in such position, and, if so assigned, with a salary corresponding to the position. If the school district has adopted a general salary schedule or a combination salary schedule and policy, the board may consider the years of service accumulated while the teacher was occupying the administrative position when the board determines where to place the teacher on the schedule for the assigned position.

(3) Notwithstanding the provisions of subsection (1) of this section, the salary of a teacher who has received additional compensation for the performance of additional duties may be reduced if said teacher has been relieved of such additional duties.

(4) A teacher may enter into an agreement for an economic work-learn program leave of absence with a board of education that shall not affect the teacher's employment status, position on the salary schedule if the school district has adopted a general salary schedule or combination salary schedule and policy, or insurance and retirement benefits.

(5) Nothing in this section shall be construed as requiring a receiving school to involuntarily accept the transfer of a teacher. All transfers to positions at other schools of the school district shall require the consent of the receiving school.

**Source: L. 90:** Entire article R&RE, p. 1123, § 1, effective July 1. **L. 95:** (2) and (4) amended, p. 884, § 7, effective July 1. **L. 2004:** (2) amended, p. 56, § 1, effective August 4. **L. 2008:** (1) amended, p. 1602, § 26, effective May 29. **L. 2010:** (5) added, (SB 10-191), ch. 241, p.

1075, § 17, effective May 20. **L. 2020:** (1) amended, (HB 20-1048), ch. 8, p. 19, § 9, effective September 14.

**Editor's note:** (1) This section is similar to former § 22-63-114 as it existed prior to 1990.

(2) Section 13(2) of chapter 8 (HB 20-1048), Session Laws of Colorado 2020, provides that the act changing this section applies to conduct occurring on or after September 14, 2020.

**Cross references:** (1) For the legislative declaration contained in the 2008 act amending subsection (1), see section 1 of chapter 341, Session Laws of Colorado 2008.

(2) For the short title ("Creating a Respectful and Open World for Natural Hair Act of 2020" or the "CROWN Act of 2020") and the legislative declaration in HB 20-1048, see sections 1 and 2 of chapter 8, Session Laws of Colorado 2020.

PART 3

DISMISSAL

**22-63-301. Grounds for dismissal.** A teacher may be dismissed for physical or mental disability, incompetency, neglect of duty, immorality, unsatisfactory performance, insubordination, the conviction of a felony or the acceptance of a guilty plea, a plea of nolo contendere, or a deferred sentence for a felony, or other good and just cause. No teacher shall be dismissed for temporary illness, leave of absence previously approved by the board, or military leave of absence pursuant to article 3 of title 28, C.R.S.

**Source: L. 90:** Entire article R&RE, p. 1123, § 1, effective July 1; entire section amended, p. 1032, § 22, effective July 1.

**Editor's note:** This section is similar to former § 22-63-116 as it existed prior to 1990.

**22-63-302. Procedure for dismissal - judicial review.** (1) Except as otherwise provided in subsection (11) of this section, a teacher shall be dismissed in the manner prescribed by subsections (2) to (10) of this section.

(2) The chief administrative officer of the employing school district may recommend that the board dismiss a teacher based upon one or more of the grounds stated in section 22-63-301. If such a recommendation is made to the board, the chief administrative officer, within three days after the board meeting at which the recommendation is made, shall mail a written notice of intent to dismiss to the teacher. The notice of intent to dismiss shall include a copy of the reasons for dismissal, a copy of this article, and all exhibits which the chief administrative officer intends to submit in support of his or her prima facie case against the teacher including a list of witnesses to be called by the chief administrative officer, addresses and telephone numbers of the witnesses, and all pertinent documentation in the possession of the chief administrative officer relative to the circumstances surrounding the charges. Additional witnesses and exhibits in support of the chief administrative officer's prima facie case may be added as provided in subsection (6) of this section. The notice and copy of the charges shall be

sent by certified mail to said teacher at his or her address last known to the secretary of the board. The notice shall advise the teacher of his or her rights and the procedures under this section.

(3) If a teacher objects to the grounds given for the dismissal, the teacher may file with the chief administrative officer a written notice of objection and a request for a hearing. Such written notice shall be filed within five working days after receipt by the teacher of the notice of dismissal. If the teacher fails to file the written notice within said time, such failure shall be deemed to be a waiver of the right to a hearing and the dismissal shall be final; except that the board of education may grant a hearing upon a determination that the failure to file written notice for a hearing was due to good cause. If the teacher files a written notice of objection, the teacher shall continue to receive regular compensation from the time the board received the dismissal recommendation from the chief administrative officer pursuant to subsection (2) of this section until the board acts on the hearing officer's recommendation pursuant to subsection (9) of this section, but in no event beyond one hundred days; except that the teacher shall not receive regular compensation upon being charged criminally with an offense for which a license, certificate, endorsement, or authorization is required to be denied, annulled, suspended, or revoked due to a conviction, pursuant to section 22-60.5-107 (2.5) or (2.6). If the final disposition of the case does not result in a conviction and the teacher has not been dismissed pursuant to the provisions of this section, the board shall reinstate the teacher, effective as of the date of the final disposition of the case. Within ten days after the reinstatement, the board shall provide the teacher with back pay and lost benefits and shall restore lost service credit.

(4) (a) If the teacher requests a hearing, it shall be conducted before an impartial hearing officer selected jointly by the teacher and the chief administrative officer. The hearing officer shall be selected no later than five working days following the receipt by the chief administrative officer of the teacher's written notice of objection. If the teacher and the chief administrative officer fail to agree on the selection of a hearing officer, they shall request assignment of an administrative law judge by the department of personnel to act as the hearing officer.

(b) Hearing officers shall be impartial individuals with experience in the conducting of hearings and with experience in labor or employment matters.

(c) Expenses of the hearing officer shall be paid from funds of the school district.

(5) (a) Within three working days after selection, the hearing officer shall set the date of the prehearing conference and the date of the hearing, which shall commence within the following thirty days. The hearing officer shall give the teacher and the chief administrative officer written notice of the dates for the prehearing conference and for the hearing including the time and the place therefor.

(b) One of the purposes of the prehearing conference shall be to limit, to the extent possible, the amount of evidence to be presented at the hearing.

(c) The parties and their counsel shall be required to attend the prehearing conference with the hearing officer.

(6) (a) Within ten days after selection of the hearing officer, the teacher shall provide to the chief administrative officer a copy of all exhibits to be presented at the hearing and a list of all witnesses to be called, including the addresses and telephone numbers of the witnesses. Within seven days after the teacher submits his or her exhibits and witness list, the chief administrative officer and the teacher may supplement their exhibits and witness lists. After

completion of the seven-day period, additional witnesses and exhibits may not be added except upon a showing of good cause.

(b) Neither party shall be allowed to take depositions of the other party's witnesses or to submit interrogatories to the other party. The affidavit of a witness may be introduced into evidence if such witness is unavailable at the time of the hearing.

(7) (a) Hearings held pursuant to this section shall be open to the public unless either the teacher or the chief administrative officer requests a private hearing before the hearing officer, but no findings of fact or recommendations shall be adopted by the hearing officer in any private hearing. The procedures for the conduct of the hearing shall be informal, and rules of evidence shall not be strictly applied except as necessitated in the opinion of the hearing officer; except that the hearing officer shall comply with the Colorado rules of evidence in excluding hearsay testimony.

(b) The hearing officer may receive or reject evidence and testimony, administer oaths, and, if necessary, subpoena witnesses.

(c) At any hearing, the teacher has the right to appear in person with or without counsel, to be heard and to present testimony of witnesses and all evidence bearing upon his proposed dismissal, and to cross-examine witnesses. By entering an appearance on behalf of the teacher or the chief administrative officer, counsel agrees to be prepared to commence the hearing within the time limitations of this section and to proceed expeditiously once the hearing has begun. All school district records pertaining to the teacher shall be made available for the use of the hearing officer or the teacher.

(d) An audiotaped record shall be made of the hearing, and, if the teacher files an action for review pursuant to the provisions of subsection (10) of this section, the teacher and the school district shall share equally in the cost of transcribing the record; except that, if a party is awarded attorney fees and costs pursuant to paragraph (e) of subsection (10) of this section, that party shall be reimbursed for that party's share of the transcript costs by the party against whom attorney fees and costs were awarded.

(e) Any hearing held pursuant to the provisions of this section shall be completed within six working days after commencement, unless extended by the hearing officer on a showing of good cause, and neither party shall have more than three days to present its case in chief. Neither party may present more than ten witnesses at the hearing, except upon a showing of good cause.

(8) The chief administrative officer shall have the burden of proving that the recommendation for the dismissal of the teacher was for the reasons given in the notice of dismissal and that the dismissal was made in accordance with the provisions of this article. Where unsatisfactory performance is a ground for dismissal, the chief administrative officer shall establish that the teacher had been evaluated pursuant to the written system to evaluate licensed personnel adopted by the school district pursuant to section 22-9-106. The hearing officer shall review the evidence and testimony and make written findings of fact thereon. The hearing officer shall make only one of the two following recommendations: The teacher be dismissed or the teacher be retained. A recommendation to retain a teacher shall not include any conditions on retention. The findings of fact and the recommendation shall be issued by the hearing officer not later than twenty days after the conclusion of the hearing and shall be forwarded to said teacher and to the board.

(9) The board shall review the hearing officer's findings of fact and recommendation, and it shall enter its written order within twenty days after the date of the hearing officer's

findings and recommendation. The board shall take one of the three following actions: The teacher be dismissed; the teacher be retained; or the teacher be placed on a one-year probation; but, if the board dismisses the teacher over the hearing officer's recommendation of retention, the board shall make a conclusion, giving its reasons therefor, which must be supported by the hearing officer's findings of fact, and such conclusion and reasons shall be included in its written order. The secretary of the board shall cause a copy of said order to be given immediately to the teacher and a copy to be entered into the teacher's local file.

(10) (a) If the board dismisses the teacher pursuant to the provisions of subsection (9) of this section, the teacher may file an action for review in the court of appeals in accordance with the provisions of this subsection (10), in which action the board shall be made the party defendant. Such action for review shall be heard in an expedited manner and shall be given precedence over all other civil cases, except cases arising under the "Workers' Compensation Act of Colorado", articles 40 to 47 of title 8, C.R.S., and cases arising under the "Colorado Employment Security Act", articles 70 to 82 of title 8, C.R.S.

(b) An action for review shall be commenced by the service of a copy of the petition upon the board of the school district and filing the same with the court of appeals within twenty-one days after the written order of dismissal made by the board. The petition shall state the grounds upon which the review is sought. After the filing of the action for review in the court of appeals, such action shall be conducted in the manner prescribed by rule 3.1 of the Colorado appellate rules.

(c) The action for review shall be based upon the record before the hearing officer. The court of appeals shall review such record to determine whether the action of the board was arbitrary or capricious or was legally impermissible.

(d) In the action for review, if the court of appeals finds a substantial irregularity or error made during the hearing before the hearing officer, the court may remand the case for further hearing.

(e) Upon request of the teacher, if the teacher is ordered reinstated by the court of appeals, or upon request of the board, if the board's decision to dismiss the teacher is affirmed by the court of appeals, the court of appeals shall determine whether the nonprevailing party's appeal or defense on appeal lacked substantial justification. If the court of appeals determines that the nonprevailing party's appeal or defense on appeal lacked substantial justification, the court of appeals shall determine the amount of and enter a judgment against the nonprevailing party for reasonable attorney fees and costs incurred on appeal to the court of appeals. Any judgment entered pursuant to this paragraph (e) may be subject to stay as provided in rule 41 of the Colorado appellate rules.

(f) Further appeal to the supreme court from a determination of the court of appeals may be made only upon a writ of certiorari issued in the discretion of the supreme court. Upon request of the teacher, if the teacher is ordered reinstated by the supreme court, or upon motion of the board, if the board's decision to dismiss is affirmed by the supreme court, the supreme court shall determine whether the nonprevailing party's appeal or defense on appeal to the supreme court lacked substantial justification. If the supreme court determines that the nonprevailing party's appeal or defense on appeal to the supreme court lacked substantial justification, the court shall determine the amount of and enter a judgment against the nonprevailing party for reasonable attorney fees and costs incurred on appeal to the supreme

court. Any judgment entered pursuant to this paragraph (f) may be subject to stay as provided in rule 41 of the Colorado appellate rules.

(11) (a) The board of a school district may take immediate action to dismiss a teacher, without a hearing, notwithstanding subsections (2) to (10) of this section, pending the final outcome of judicial review or when the time for seeking review has elapsed, when the teacher is convicted, pleads nolo contendere, or receives a deferred sentence for:

(I) A violation of any law of this state or any counterpart municipal law of this state involving unlawful behavior pursuant to any of the following statutory provisions: Sections 18-3-305, 18-6-302, and 18-6-701, C.R.S., or section 18-6-301, C.R.S., or part 4 of article 3, part 4 of article 6, and part 4 of article 7 of title 18, C.R.S.; or

(II) A violation of any law of this state, any municipality of this state, or the United States involving the illegal sale of controlled substances, as defined in section 18-18-102 (5), C.R.S.

(b) A certified copy of the judgment of a court of competent jurisdiction of a conviction, the acceptance of a guilty plea, a plea of nolo contendere, or a deferred sentence shall be conclusive evidence for the purposes of this subsection (11).

**Source: L. 90:** Entire article R&RE, p. 1123, § 1, effective July 1; IP(11)(a), (11)(a)(I), and (11)(b) amended, p. 1032, § 23, effective July 1. **L. 98:** (2), (3), (4)(a), (5), (6)(a), (7)(a), (7)(d), (7)(e), (8), (9), and (10) amended, p. 297, § 1, effective July 1. **L. 2000:** (8) amended, p. 1860, § 70, effective August 2. **L. 2003:** (11)(a)(I) amended, p. 2521, § 10, effective June 5. **L. 2004:** (3) amended, p. 433, § 1, effective April 13. **L. 2011:** (3) amended, (HB 11-1121), ch. 242, p. 1060, § 8, effective August 10. **L. 2012:** (11)(a)(II) amended, (HB 12-1311), ch. 281, p. 1626, § 67, effective July 1. **L. 2013:** (10)(b) amended, (HB 13-1126), ch. 58, p. 192, § 4, effective July 1. **L. 2016:** (10)(e) and (10)(f) amended, (SB 16-189), ch. 210, p. 763, § 40, effective June 6.

**Editor's note:** This section is similar to former § 22-63-117 as it existed prior to 1990.

**Cross references:** In 2011, subsection (3) was amended by the "Safer Schools Act of 2011". For the short title, see section 1 of chapter 242, Session Laws of Colorado 2011.

## PART 4

## COMPENSATION

**22-63-401. Salary schedule - adoption - changes.** (1) The board of a school district shall adopt by resolution a salary schedule that may be by job description and job definition, a teacher salary policy based on the level of performance demonstrated by each teacher, or a combination of the salary schedule and salary policy. Such salary schedule, salary policy, or combination schedule and policy shall be adopted in conjunction with or prior to the adoption of the budget for the following fiscal year. The schedule, policy, or combination schedule and policy shall remain in effect until changed or modified by the board. All teachers employed by the district shall be subject to such salary schedule, policy, or combination schedule and policy.

(2) If a district chooses to adopt a salary schedule, the board shall place each teacher in the school district on the salary schedule at a level at least commensurate with, but not limited to, each teacher's education, prior experience, and experience in the district as provided in the salary schedule.

(3) The adopted salary schedule, policy, or combination schedule and policy shall not be changed or modified during the school year in a manner so as to reduce the salary of a teacher for such school year; but the reassignment of a teacher with a reduction in salary pursuant to section 22-63-206 (2) or (3) shall not be included within the limitations of this subsection (3).

(4) The salary or compensation of any teacher may be changed for any succeeding school year in accordance with the salary schedule, policy, or combination schedule and policy adopted by the employing board. There shall be no reduction in the salary of any classroom teacher unless there is a general reduction in the salaries of all teachers in the district according to the adopted salary schedule, policy, or combination schedule and policy.

(5) The trustee or trustees of a trust for the benefit of a teacher compensation system in a school district coterminous with a city and county shall manage and invest the funds and assets held in trust pursuant to the standards and other provisions for trustees set forth in the "Colorado Uniform Prudent Investor Act", article 1.1 of title 15, C.R.S.

**Source: L. 90:** Entire article R&RE, p. 1127, § 1, effective July 1; (1) amended, p. 1084, § 44, effective July 1. **L. 95:** Entire section amended, p. 882, § 1, effective July 1. **L. 2006:** (5) added, p. 551, § 1, effective August 7.

**Editor's note:** This section is similar to former § 22-63-105 as it existed prior to 1990.

**22-63-402. Services - disbursements.** No order or warrant for the disbursement of school district moneys shall be drawn in favor of any person for services as a teacher, except for services performed for a local college district or in an adult education program, unless the person holds a valid teacher's license or authorization from the department of education. Such license or authorization shall be duly registered in the administrative office of the school district wherein the services are to be rendered. A teacher shall hold a valid license or authorization during all periods of employment by a school district. A person who performs services as a teacher without possessing a valid teacher's license or authorization shall forfeit all claim to compensation out of school district moneys for the time during which services are performed without the license or authorization.

**Source: L. 90:** Entire article R&RE, p. 1127, § 1, effective July 1. **L. 99:** Entire section amended, p. 1196, § 13, effective June 1. **L. 2009:** Entire section amended, (SB 09-160), ch. 292, p. 1457, § 11, effective May 21.

**Editor's note:** This section is similar to former § 22-63-104 as it existed prior to 1990.

**22-63-403. Payment of salaries.** Upon the termination of employment of a teacher prior to the end of the employment contract and prior to receiving all salary installments, said teacher is entitled to a pro rata share of the salary installments due and payable pursuant to said contract

for the period during which no services are required to be performed, except as provided in section 22-63-202 (2).

**Source: L. 90:** Entire article R&RE, p. 1128, § 1, effective July 1.

**Editor's note:** This section is similar to former § 22-63-106 as it existed prior to 1990.

## ARTICLE 64

Retirement Systems

**22-64-101 to 22-64-221. (Repealed)**

**Source: L. 2009:** Entire article repealed, (SB 09-282), ch. 288, p.1399, § 65, effective January 1, 2010.

**Editor's note:** This article was numbered as article 19 of chapter 123 in C.R.S. 1963. For amendments to this article prior to its repeal in 2010, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

## ARTICLE 65

Professional Practices Commission

**22-65-101 to 22-65-107. (Repealed)**

**Source: L. 91:** Entire article repealed, p. 883, § 1, effective June 5.

**Editor's note:** This article was numbered as article 37 of chapter 123 in C.R.S. 1963. For amendments to this article prior to its repeal in 1991, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

## ARTICLE 66

Alternative Salary Policies - Pilot Programs

**22-66-101 to 22-66-105. (Repealed)**

**Source: L. 95:** Entire article repealed, p. 883, § 2, effective July 1.

**Editor's note:** This article was added in 1984. For amendments to this article prior to its repeal in 1995, consult the Colorado statutory research explanatory note and the table itemizing

the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

## ARTICLE 67

Teacher Salary Policy Planning Grants

**22-67-101 to 22-67-106. (Repealed)**

**Editor's note:** (1) This article was added in 1995. For amendments to this article prior to its repeal in 2001, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

(2) Section 22-67-106 provided for the repeal of this article, effective July 1, 2001. (See L. 95, p. 995.)

## ARTICLE 68

Quality Teachers Commission

**22-68-101 to 22-68-106. (Repealed)**

**Editor's note:** (1) This article was added in 2007. For amendments to this article prior to its repeal in 2012, consult the 2011 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 22-68-106 provided for the repeal of this article, effective July 1, 2012. (See L. 2009, p. 1401.)

## ARTICLE 68.5

Educator Identifier System

**22-68.5-101 to 22-68.5-104. (Repealed)**

**Editor's note:** (1) This article was added in 2009. For amendments to this article prior to its repeal in 2012, consult the 2011 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 22-68.5-104 provided for the repeal of this article, effective July 1, 2012. (See L. 2009, p. 1405.)

## ARTICLE 69

Alternative Teacher Compensation Plan Act

**Cross references:** For the legislative declaration contained in the 2008 act enacting this article, see section 1 of chapter 286, Session Laws of Colorado 2008.

**22-69-101. Short title.** This article shall be known and may be cited as the "Alternative Teacher Compensation Plan Act".

**Source: L. 2008:** Entire article added, p. 1219, § 34, effective May 22.

**22-69-102. Legislative declaration.** (1) The general assembly hereby finds that:

(a) Teachers are a key component in the academic success of children;

(b) To support teachers, school districts should encourage innovative, creative, and high-quality teaching practices, and teachers who follow these practices and who promote excellent student performance should be rewarded;

(c) Promoting student performance and achieving teaching excellence is particularly difficult when dealing with the issues related to at-risk students;

(d) Consistent with the findings of the P-20 council, the state does not fully fund state mandates nor adequately meet the needs of school districts to attract, retain, and support the high-quality teachers needed to reach Colorado's educational goals;

(e) Alternative teacher compensation plans can serve as a mechanism for rewarding teaching excellence and encouraging creative and innovative approaches to helping Colorado improve the academic performance of all students and meet its education goals that include, but are not limited to, decreasing the dropout rate, closing the achievement gap, and increasing the number of postsecondary degrees and certificates awarded to Colorado students; and

(f) Consistent with the recommendations of the P-20 council, the ultimate success of alternative compensation systems will require both significant increases in base pay and sustained, stable, and sufficient financial resources to ensure that meaningful, differentiated pay schedules can be supported over the long term.

(2) The general assembly therefore declares that providing seed money through a competitive grant program to school districts that seek to develop alternative teacher compensation plans is a concrete way in which the state can further the goals of teaching excellence and high student achievement in the participating school districts.

(3) The general assembly further finds and declares that, for purposes of section 17 of article IX of the state constitution, providing funding for the design and development of alternative teacher compensation plans is specifically included as an authorized use of moneys in the state education fund created in section 17 (4) of article IX of the state constitution. Therefore, this article may be implemented with appropriations from the state education fund.

**Source: L. 2008:** Entire article added, p. 1219, § 34, effective May 22.

**22-69-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Department" means the department of education, created and existing pursuant to section 24-1-115, C.R.S.

(2) "Grant program" means the alternative teacher compensation plan grant program created pursuant to section 22-69-104.

(3) "P-20 council" means the governor's P-20 education coordinating council created by the governor under executive order B 003 07.

(4) "School district" means any school district organized and existing pursuant to law but does not include a local college district.

(5) "State board" means the state board of education, created and existing pursuant to section 1 of article IX of the state constitution.

(6) "Teacher" means a person employed to instruct students in a public school in the state.

**Source: L. 2008:** Entire article added, p. 1220, § 34, effective May 22.

**22-69-104. Alternative teacher compensation plan grant program - created - applications.** (1) There is hereby created in the department the alternative teacher compensation plan grant program to provide funding to school districts to support the design and development of an alternative teacher compensation plan that is tailored to the particular school district.

(2) (a) The department shall administer the grant program as provided in this article and pursuant to the rules established by the state board.

(b) A school district may apply to the department, in accordance with procedures and time frames established by the state board, to receive grant moneys for the design and development of an alternative teacher compensation plan.

(c) The criteria for awarding grants, at a minimum, shall require that:

(I) The final alternative teacher compensation plan be designed and developed collaboratively with teachers through the school district-adopted procedures for setting compensation, administrators, parents, and the school district board of education;

(II) The final alternative teacher compensation plan be open to all teachers who meet the established performance criteria without regard to grade level, subject area, or assignment; and

(III) The school district seek a stable, sufficient, and sustainable source of new revenue to fund the alternative teacher compensation plan on an ongoing basis.

(d) The state board shall utilize the research and resources of the P-20 council in establishing any additional criteria for school districts seeking grant moneys.

(3) Moneys awarded to a school district pursuant to the grant program shall be used by the school district to support the creation of the school district's alternative teacher compensation plan. Support may include, but need not be limited to:

(a) Identifying overall goals and objectives for the school district's alternative teacher compensation plan;

(b) Identifying various methods of assessing student achievement and teacher effectiveness;

(c) Creating data systems needed for an alternative teacher compensation system;

(d) Forecasting the future costs of the alternative teacher compensation system to ensure sustainability;

(e) Linking the alternative teacher compensation plan with the overall school district instructional improvement strategy and the state's educational goals;

(f) Aligning the school district's human resources, curriculum, and professional development structures with the pay structure specified in the alternative teacher compensation plan;

(g) Establishing outreach and on-going communications within the school district and to the community regarding the alternative teacher compensation plan;

(h) Strategies for recruiting and supporting highly effective teachers in struggling schools; and

(i) Strategies for recruiting and retaining high-quality teachers in subject areas that are difficult to staff.

(4) A school district's final plan for an alternative teacher compensation system shall:

(a) Provide compensation in addition to existing pay schedules;

(b) Be transparent with respect to how a teacher qualifies for additional compensation and how much additional compensation a qualifying teacher may receive;

(c) Contain broad, multi-dimensional criteria for assessing performance within the system;

(d) Include all of the additional compensation in a teacher's retirement or pension calculations;

(e) Include a procedure for challenging adverse decisions under the system to ensure fairness; and

(f) Contain a process for continual evaluation of the system that shall, at a minimum, address the following:

(I) How the alternative teacher compensation system will demonstrate measurable effectiveness;

(II) How the alternative teacher compensation system will measure and demonstrate a decrease in the school district's dropout rate;

(III) How the alternative teacher compensation system will help to close the achievement gap; and

(IV) How the alternative teacher compensation system will help to increase students' attainment of postsecondary degrees and certificates.

(5) The department shall make available to each school district that receives a grant pursuant to the grant program the research and other materials concerning alternative teacher compensation plans collected by the P-20 council.

(6) Each school district that receives a grant shall submit a copy of its final alternative teacher compensation plan to the department, along with a summary of the key components of the plan and the mechanism for funding the plan.

(7) Nothing in this article shall be construed to require a school district to participate in the grant program or to modify the terms of an existing teacher compensation plan or contract.

**Source: L. 2008:** Entire article added, p. 1220, § 34, effective May 22.

**22-69-105. Alternative teacher compensation plan grant program - rules - awarding grants.** (1) The state board shall promulgate rules in accordance with the "State Administrative Procedure Act", article 4 of title 24, C.R.S., for implementation of the grant program. At a minimum, the rules shall specify the procedures and time frames for applying for the grant, the form of the grant application, the information to be provided by the school district applicant, and any additional criteria for awarding grants.

(2) The department shall review each grant application received from a school district pursuant to section 22-69-104 and shall make recommendations to the state board concerning

whether a grant should be awarded to a school district and the amount of the grant to be awarded. If the department determines that an application is missing any information required by rule of the state board to be included with the application, the department may contact the school district to obtain the missing information.

(3) Subject to available appropriations, beginning in the 2008-09 fiscal year, the state board shall annually award grants under the grant program to applying school districts, taking into account the department's recommendations.

(4) The department is authorized to seek and accept gifts, grants, and donations from private and public sources for the implementation of the grant program pursuant to this article.

(5) The department may annually expend no more than two percent of the moneys annually appropriated for the grant program to offset the direct and indirect costs incurred in implementing the grant program pursuant to this article.

(6) The general assembly may annually determine the amount to appropriate from the state education fund or from any other source to the department to fund grants to school districts for the purposes of this article.

**Source: L. 2008:** Entire article added, p. 1222, § 34, effective May 22. **L. 2009:** (6) amended, (SB 09-213), ch. 4, p. 8, § 1, effective February 26.

**Cross references:** For the state education fund, see § 17 of article IX of the state constitution.

**22-69-106. Alternative teacher compensation plan grant program - report.** (1) Notwithstanding section 24-1-136 (11)(a)(I), on or before January 15, 2010, and on or before January 15 each year thereafter, so long as grant money was awarded to at least one school district pursuant to the grant program during the preceding calendar year, the department shall report to the education committees of the house of representatives and the senate, or any successor committees, and to the governor the following information from the preceding calendar year:

(a) A general description of how the grant program was implemented, including the criteria used to award the grants to school districts;

(b) The number of grants awarded, the name of each school district receiving a grant, and the amount of each grant awarded;

(c) A summary of the goals of each school district awarded a grant with respect to the design and development of its alternative teacher compensation plan; and

(d) A summary of the key components of each final alternative teacher compensation plan submitted to the department pursuant to section 22-69-104 (6).

(2) Each school district participating in the grant program shall provide any data or other information requested by the department for the purpose of meeting the reporting requirements of subsection (1) of this section.

**Source: L. 2008:** Entire article added, p. 1223, § 34, effective May 22. **L. 2017:** IP(1) amended, (HB 17-1267), ch. 242, p. 998, § 19, effective August 9.

## JUNIOR COLLEGES

## ARTICLE 70

Junior Colleges - Organization

**22-70-101 to 22-70-132. (Repealed)**

**Source: L. 75:** Entire article repealed, p. 788, § 13, effective July 1.

**Editor's note:** This article was numbered as article 23 of chapter 123 in C.R.S. 1963. For amendments to this article prior to its repeal in 1975, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

**Cross references:** For current provisions concerning junior colleges, see article 71 of title 23.

## ARTICLE 71

Junior Colleges - Revenue Securities Law

**22-71-101 to 22-71-113. (Repealed)**

**Source: L. 75:** Entire article repealed, p. 788, § 13, effective July 1.

**Editor's note:** This article was numbered as article 23 of chapter 123 in C.R.S. 1963. For amendments to this article prior to its repeal in 1975, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

**Cross references:** For current provisions entitled the "Junior College Revenue Securities Law", see part 7 of article 71 of title 23.

## ARTICLE 72

Grand Junction and Trinidad Junior Colleges

**22-72-101 to 22-72-104. (Repealed)**

**Source: L. 75:** Entire article repealed, p. 788, § 13, effective July 1.

**Editor's note:** This article was numbered as article 24 of chapter 123 in C.R.S. 1963. For amendments to this article prior to its repeal in 1975, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

## ARTICLE 73

Morgan County Junior College District

**22-73-101 and 22-73-102. (Repealed)**

**Source: L. 75:** Entire article repealed, p. 788, § 13, effective July 1.

**Editor's note:** This article was numbered as article 35 of chapter 123 in C.R.S. 1963. For amendments to this article prior to its repeal in 1975, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

## MISCELLANEOUS

## ARTICLE 80

School for the Deaf and the Blind

**Editor's note:** The substantive provisions of this article were previously located in article 35 of title 27.

**Cross references:** For the constitutional provision authorizing the establishment and support of the school for the deaf and the blind by the state, see § 1 of article VIII of the state constitution.

**22-80-101. School located at Colorado Springs - repeal. (Repealed)**

**Source: L. 77:** Entire article added, p. 1090, § 2, effective July 1. **L. 2003:** (2) added by revision, pp. 1577, 1586, §§ 1, 20.

**Editor's note:** Subsection (2) provided for the repeal of this section, effective July 1, 2004. (See L. 2003, pp. 1577, 1586.)

**22-80-101.5. Definitions.** For purposes of this article, unless the context otherwise requires:

(1) "Board of trustees" means the governing board of the Colorado school for the deaf and the blind established in section 22-80-103.

(2) "School" means the Colorado school for the deaf and the blind described in section 22-80-102.

**Source: L. 2003:** Entire section added, p. 1577, § 2, effective July 1, 2004.

**22-80-102. Educational institution.** (1) (a) There shall be permanently maintained in the city of Colorado Springs, in the county of El Paso, an institution for the support and

education of deaf and blind children residing within the state of Colorado, to be known as the Colorado school for the deaf and the blind. The school shall be a body corporate. The school shall include such other facilities and programs located within the state as may be established and maintained pursuant to law.

(b) The school, the main campus of which shall be located in the city of Colorado Springs, in the county of El Paso, is declared to be one of the educational institutions of the state of Colorado and has for its object the education of the children of the state who, by reason of the impairment of their sense of hearing or of sight, cannot be advantageously educated in the other schools or educational institutions of the state. Said school shall not be regarded or classed as a reformatory or charitable institution.

(2) In addition to including a long-term residential school, the school shall be a resource to school districts, state institutions, and other approved education programs. Resource services shall include, but shall not be limited to, the following:

(a) Assessment and identification of educational needs;

(b) Special curricula;

(c) Equipment and materials;

(d) Supplemental related services;

(e) Special short-term programs;

(f) Program planning and staff development;

(g) Programs for parents, families, and the public;

(h) Research and development to promote improved educational programs and services.

(3) (a) For purposes of federal law, the school shall be a local educational agency, deemed to be a public authority legally constituted within the state for either administrative control or direction of, or to perform a service function for, public elementary schools or secondary schools in the state.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (3) to the contrary, the school shall not be a local educational agency for the purposes of the federal "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq., or the federal "Child Nutrition Act of 1966", 42 U.S.C. sec. 1771 et seq.

(4) (a) The school may, in the discretion of the board of trustees, provide additional educational services on a local or regional basis in the state. In providing the services, the school shall seek to employ innovative delivery systems, which may include delivery of services through:

(I) Intergovernmental agreements with school districts or other local governmental entities;

(II) Partnerships with boards of cooperative services created pursuant to article 5 of this title; or

(III) Charter schools chartered by the board of trustees pursuant to paragraph (b) of this subsection (4).

(b) The board of trustees is authorized to grant charters to applicants that propose a charter school that is designed to provide educational services solely to students who would qualify for admission to the Colorado school for the deaf and the blind. The board of trustees shall promulgate rules governing the contents of, procedures for, approval of, and appeals pertaining to, a charter application submitted pursuant to this paragraph (b) and renewal of a

charter. The rules shall reflect the unique needs of and responsibilities of educating children with hearing or sight impairment.

(5) The school may enter into contracts and receive federal matching funds for moneys spent in providing student health services as provided in section 25.5-5-301 (6) or 25.5-5-318, C.R.S.

**Source: L. 77:** Entire article added, p. 1090, § 2, effective July 1. **L. 91:** Entire section amended, p. 524, § 1, effective April 17. **L. 2003:** (1) and IP(2) amended and (3), (4), and (5) added, p. 1577, § 3, effective July 1, 2004. **L. 2006:** (5) amended, p. 2006, § 65, effective July 1.

**22-80-103. Board of trustees - appointments - powers - duties - fund created.** (1) (a) There is hereby created by a **type 1** transfer in the department of education a board of trustees for the Colorado school for the deaf and the blind. The board of trustees shall consist of seven members who are residents of Colorado, appointed by the governor with the consent of the senate. Of these seven members, at least one appointee shall be a blind person and at least one appointee shall be a deaf person. Beginning with the first appointment made on or after August 5, 2009, the governor shall ensure that, of the seven members of the board of trustees, at least one appointee is the parent of a child who is deaf or blind or both.

(b) In making appointments pursuant to paragraph (a) of this subsection (1), the governor shall give due consideration to establishing and maintaining a geographical and urban and rural balance among the board members. No more than four of the seven members shall be members of the same political party. The commissioner of education or his or her designee shall serve as an ex officio nonvoting member of the board of trustees. The terms of office of the board of trustees shall be four years; except that, of the members initially appointed, four members shall serve four-year terms and three members shall serve two-year terms, as designated by the governor. The governor may remove any member for misconduct, incompetence, or neglect of duty and shall fill all vacancies that occur.

(c) Repealed.

(2) The board of trustees shall elect a chair annually from among its members. Members of the board shall receive no compensation but are entitled to be reimbursed for necessary travel expenses incurred in the exercise of their official duties at the rate authorized for state employees. In addition, a member with sensory impairment is entitled to be reimbursed for reasonable expenses incurred in obtaining necessary assistance to fulfill his or her duties as a member of the board of trustees.

(3) The board of trustees is authorized to promulgate rules pursuant to section 24-1-115 (8), C.R.S., to implement provisions of law relating to operation of the school.

(4) In addition to any other powers granted by law to the board of trustees, the board shall have the following powers:

(a) To have and use a corporate seal;

(b) To sue and be sued in its own name;

(c) To incur debts, liabilities, and obligations, subject to any limitations imposed thereon pursuant to law;

(d) To cooperate and contract with the state or federal government or an agency or instrumentality thereof and to apply for and receive grants or financial assistance from any of such entities;

(e) To act on behalf of the state of Colorado pursuant to a statutory authorization;

(f) To acquire, hold, lease, sell, or otherwise dispose of real or personal property or a commodity or service;

(g) To do or perform an act authorized by this article by means of an agent or by contract with a person, firm, or corporation;

(h) To provide for the necessary expenses of the board of trustees in the exercise of its powers and the performance of its duties and reimburse a board member for expenses as provided in subsection (2) of this section;

(i) To determine eligibility of students and procedures for admission to the school;

(j) To provide for the students of the school necessary bedding, food, and medical services and such other things as may be proper for the health and comfort of the students without cost to their parents;

(k) To provide for the proper keeping of accounts and records and for budgeting of funds;

(l) To act as a public entity for purposes of the "Colorado Governmental Immunity Act", article 10 of title 24, C.R.S.;

(m) To set tuition and other fees for nonresidents of the state and to enter into contracts for the admission of nonresident students into the school; and

(n) To exercise any other powers that are essential to carrying out the provisions of this article.

(5) (a) The board of trustees is authorized to receive gifts, grants, and donations from private or public sources in accordance with conditions prescribed by the donor; but no gift, grant, or donation shall be accepted if the conditions attached thereto require the use or expenditure thereof in a manner contrary to law. Gifts, grants, and donations received by the board of trustees may be transmitted to the state treasurer who shall credit the same to the Colorado school for the deaf and the blind trust fund created in paragraph (b) of this subsection (5) or may be transferred to a nonprofit entity described in section 24-1-107.5 (2)(a)(II)(F), C.R.S. The board of trustees may sell or convey by bill of sale, deed, or other legal instrument any property, real or personal, received as a gift, donation, or bequest, upon such terms and conditions as the board of trustees deems to be in the best interest of the school and its students.

(b) The Colorado school for the deaf and the blind trust fund is hereby created, and referred to in this subsection (5) as the "trust fund". The trust fund shall consist of moneys acquired from private sources and any moneys received by the school and deposited with the state treasurer prior to July 1, 2004, and any interest earned thereon. All income derived from the deposit and investment of moneys in the trust fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the trust fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.

(c) The board of trustees is hereby authorized to expend such amounts from the trust fund as the board of trustees deems to be in the best interest of the school and its students.

(6) Title to any gift, donation, or bequest received by the board of trustees on behalf of the school shall vest in the board of trustees. Title to all other property and other assets of the school shall vest in the state board of education, but the board of trustees shall have complete jurisdiction over the management of the school.

(7) Notwithstanding section 24-1-136 (11)(a)(I), the board of trustees shall transmit, on or before January 1, 2005, and on or before January 1 of each year thereafter, a report to the education committees of the senate and house of representatives that contains the following:

(a) All school performance report data for the school, as specified by the department of education;

(b) All training, mentoring, and professional development activities arranged for the school's teachers; and

(c) Any parental education and parental involvement components in the school's program.

**Source: L. 77:** Entire article added, p. 1091, § 2, effective July 1. **L. 97:** Entire section amended, p. 1139, § 8, effective May 28. **L. 2003:** Entire section R&RE, p. 1579, § 4, effective July 1, 2004. **L. 2009:** (7)(a) amended, (SB 09-163), ch. 293, p. 1546, § 54, effective May 21; (1)(a) amended, (SB 09-090), ch. 291, p. 1441, § 8, effective August 5. **L. 2017:** IP(7) amended, (HB 17-1267), ch. 242, p. 998, § 20, effective August 9.

**Editor's note:** (1) Subsection (1)(c)(II) provided for the repeal of subsection (1)(c), effective January 1, 2005. (See L. 2003, p. 1579.)

(2) For a **type 1** transfer referenced in subsection (1), see § 24-1-105.

**22-80-104. Advisory board created - terms - compensation - repeal. (Repealed)**

**Source: L. 77:** Entire article added, p. 1091, § 2, effective July 1. **L. 86:** (3) added, p. 412, § 19, effective March 26. **L. 87:** (2) amended, p. 906, § 12, effective June 15. **L. 91:** Entire section amended, p. 525, § 2, effective April 17; (3) repealed, p. 694, § 7, effective April 20. **L. 2003:** (1) and (2) amended and (4) added, p. 1581, § 5, effective July 1, 2004.

**Editor's note:** Subsection (4) provided for the repeal of this section, effective January 1, 2005. (See L. 2003, p. 1581.)

**22-80-105. Superintendent and officers - appointment - compensation.** (1) The board of trustees shall have charge of the general interests of the school and, pursuant to section 13 of article XII of the state constitution, shall set appropriate qualifications for a superintendent and shall appoint and fix the compensation of the superintendent.

(2) The superintendent and all teaching employees described in subsection (1) of this section shall be persons who are:

(a) Competent educators of deaf children, blind children, or children with multiple disabilities or sensory impairments; and

(b) Acquainted with school management and class instruction of deaf children, blind children, or children with multiple disabilities or sensory impairments.

(3) As part of the interview process for the superintendent, the board of trustees may involve deaf individuals and blind individuals to assist in the assessment of superintendent candidates.

**Source: L. 77:** Entire article added, p. 1091, § 2, effective July 1. **L. 91:** Entire section amended, p. 525, § 3, effective April 17. **L. 96:** Entire section amended, p. 1800, § 26, effective June 4. **L. 2003:** Entire section R&RE, p. 1582, § 6, effective July 1, 2004.

**22-80-106. Duties of superintendent - publications.** (1) (a) The superintendent shall be the principal executive officer of the school. The superintendent shall be the purchasing agent for the board of trustees and, under such rules as the board of trustees may prescribe, shall have charge of the premises, property, and students. With the approval of the board of trustees, pursuant to section 13 of article XII of the state constitution, the superintendent shall appoint all other officers and employees in the school and fix the compensation for all nonteaching employees. All officers and employees, in the discharge of their duties, shall be wholly subordinate to the superintendent, and all orders to them shall come from or through the superintendent or by his or her authority. The superintendent shall see that all officers, agents, and employees of the school faithfully discharge their duties, and the superintendent shall be held directly responsible to the board of trustees for the economy, efficiency, and success of the school's internal management.

(b) (Deleted by amendment, L. 2003, p. 1582, § 7, effective July 1, 2004.)

(2) Repealed.

(3) Publications of the school circulated in quantity outside of the executive branch shall be issued in accordance with the provisions of section 24-1-136, C.R.S.

**Source: L. 77:** Entire article added, p. 1091, § 2, effective July 1. **L. 79:** (1)(b) amended, p. 1636, § 32, effective July 19. **L. 83:** (3) amended, p. 833, § 35, effective July 1. **L. 96:** (1)(a) amended, p. 1801, § 27, effective June 4; (2) repealed, p. 1235, § 74, effective August 7. **L. 2003:** (1) amended, p. 1582, § 7, effective July 1, 2004.

**Cross references:** For the legislative declaration contained in the 1996 act repealing subsection (2), see section 1 of chapter 237, Session Laws of Colorado 1996.

**22-80-106.5. Compensation of teachers.** (1) (a) Except as otherwise provided in subsection (3) of this section, beginning with the budget year 1996-97 and for budget years thereafter through the 2014-15 budget year, the teachers employed by the school shall be compensated in accordance with the provisions of the salary schedule, salary policy, or combination salary schedule and salary policy adopted pursuant to section 22-63-401, as of January 1 of the previous fiscal year, by resolution of the board of education of the school district within the boundaries of which the main campus of the school is located.

(b) Beginning with the 2015-16 budget year and for budget years thereafter, the teachers that the school employs shall be compensated in accordance with the salary schedule adopted pursuant to section 22-63-401 as of January 1 of the preceding fiscal year by resolution of the board of education of the school district within which the main campus of the school is located and with the salary policies that the board of trustees adopts to implement the salary schedule. If the school district does not have a salary schedule as of January 1 of the preceding fiscal year, the school shall use the salary schedule most recently adopted before that date.

(c) Funding for the compensation of teachers employed by the school shall be included in the line item appropriation to the school in the general appropriation bill and shall not affect

the amount of state funds distributed to the school district within the boundaries of which the main campus of the school is located.

(2) For purposes of this section, "teacher" includes any employee licensed as a teacher pursuant to section 22-60.5-201, as a special services provider pursuant to section 22-60.5-210, or as a principal pursuant to section 22-60.5-301.

(3) Notwithstanding the provisions of subsection (1) of this section, any teacher who, when compensated in accordance with the provisions of the salary schedule, salary policy, or combination salary schedule and salary policy, would receive less compensation than he or she received from the Colorado school for the deaf and the blind in the budget year 1995-96 shall continue receiving the amount he or she received in the budget year 1995-96 until compensation of that teacher in accordance with the provisions of the salary schedule, salary policy, or combination salary schedule and salary policy would result in an increase in compensation over the amount received in the budget year 1995-96.

(4) (Deleted by amendment, L. 2003, p. 1583, § 8, effective July 1, 2004.)

**Source: L. 96:** Entire section added, p. 1801, § 28, effective June 4. **L. 2003:** (1) and (4) amended, p. 1583, § 8, effective July 1, 2004. **L. 2014:** (1) amended, (SB 14-168), ch. 193, p. 714, § 1, effective August 6.

**22-80-107. Bond of superintendent - repeal. (Repealed)**

**Source: L. 77:** Entire article added, p. 1092, § 2, effective July 1. **L. 2003:** (2) added by revision, pp. 1583, 1586, §§ 9, 20.

**Editor's note:** Subsection (2) provided for the repeal of this section, effective July 1, 2004. (See L. 2003, pp. 1583, 1586.)

**22-80-108. Interest in contracts - penalty.** Neither the board of trustees nor any treasurer, superintendent, or other officer or agent of the school shall be directly or indirectly interested in any contract or other agreement for building, repairing, furnishing, or supplying the school, and no drawbacks or secret discounts whatever shall be given to or received by any such person on account of any articles or materials furnished to or labor done for the school. Any person violating the provisions of this section commits a class 6 felony and shall be punished as provided in section 18-1.3-401, C.R.S.

**Source: L. 77:** Entire article added, p. 1092, § 2, effective July 1. **L. 79:** Entire section amended, p. 702, § 74, effective July 1; entire section amended, p. 1636, § 33, effective July 19. **L. 89:** Entire section amended, p. 843, § 108, effective July 1. **L. 2002:** Entire section amended, p. 1529, § 236, effective October 1. **L. 2003:** Entire section amended, p. 1583, § 10, effective July 1, 2004.

**Cross references:** (1) For other illegal conduct by public servants, see parts 3 and 4 of article 8 of title 18.

(2) For the legislative declaration contained in the 2002 act amending this section, see section 1 of chapter 318, Session Laws of Colorado 2002.

**22-80-109. Who may be admitted.** (1) Every blind and every deaf citizen of the state of Colorado under twenty-one years of age is eligible to receive an education in the school, unless such person has a physical or mental condition which would render his or her instruction impractical, if such person meets enrollment criteria established by the board of trustees. Qualified applicants, who meet the enrollment criteria, shall be admitted at the request of either the applicant's school district of residence, parent, or guardian.

(2) All applicants above the age of twenty-one years may be admitted at the option of the board of trustees. For purposes of federal law, persons may be admitted pursuant to this section and qualify for federal educational assistance. The school may provide adult educational services and receive such federal moneys as are allowed under federal law.

**Source: L. 77:** Entire article added, p. 1092, § 2, effective July 1. **L. 91:** Entire section amended, p. 526, § 4, effective April 17. **L. 2003:** Entire section amended, p. 1584, § 11, effective July 1, 2004.

**22-80-110. Nonresident students - admission.** Applicants for admission to the school from other states, if within the ages prescribed by section 22-80-109, may be admitted upon payment to the superintendent of such a sum quarterly as the board of trustees determines, to be not less than the total cost per capita of the students for the year immediately preceding the year in which the application is made. A failure on the part of the person so admitted or of his or her parents, guardian, or friends to make such payments to the superintendent shall be just cause for immediate dismissal of the student. No resident of another state or a territory shall be received or retained to the exclusion of any resident of the state of Colorado. The superintendent shall account for all moneys that may come into his or her hands by virtue of his or her office at each regular meeting of the board of trustees in an itemized statement, duly crediting the amounts to the persons from whom they are received.

**Source: L. 77:** Entire article added, p. 1092, § 2, effective July 1. **L. 2003:** Entire section amended, p. 1584, § 12, effective July 1, 2004.

**22-80-111. Counties to pay expense - repeal. (Repealed)**

**Source: L. 77:** Entire article added, p. 1092, § 2, effective July 1. **L. 2003:** (2) added by revision, pp. 1584, 1586, §§ 13, 20.

**Editor's note:** Subsection (2) provided for the repeal of this section, effective July 1, 2004. (See L. 2003, pp. 1584, 1586.)

**22-80-112. Pupils subject to rules.** All pupils of the school are required to conform to all applicable rules of the board of trustees and the regulations and policies of the school, and any failure to comply with the same will subject the offender, at the option of the board of trustees, to a loss of the privileges of the school.

**Source: L. 77:** Entire article added, p. 1093, § 2, effective July 1. **L. 2003:** Entire section amended, p. 1585, § 14, effective July 1, 2004.

**22-80-113. Educational training - expenditures.** (1) The superintendent of the Colorado school for the deaf and the blind is authorized to expend any moneys necessary, out of the appropriation for the support of the Colorado school for the deaf and the blind, to provide for the educational training of eligible deaf-blind students or students who have a multiple physical disability of hearing, sight, and speech who are residents of the state of Colorado in institutions located outside of the state of Colorado which are equipped to provide for the educational training of such students or by the employment of a skilled person, as a home teacher, trained in the work of teaching deaf-blind students or students who have a multiple physical disability of hearing, sight, and speech; except that the compensation of any such skilled person as a home teacher shall not be greater, in any one instance, than the expense of the education of any such deaf-blind pupil or pupil who has a multiple physical disability of hearing, sight, and speech if resident in any named institution located outside of the state of Colorado.

(2) In each instance, the institution selected or the skilled person employed for the educational training of such deaf-blind student or student who has a multiple physical disability of hearing, sight, and speech shall be approved by the board of trustees.

(3) Such deaf-blind students or students who have a multiple physical disability of hearing, sight, and speech who are unable to receive instruction in a special class in a public school may be provided an education in a special class at the Colorado school for the deaf and the blind if there are a sufficient number of such students to warrant the establishment of a class.

(4) No later than October 5 each year, the Colorado school for the deaf and the blind shall notify the department of education of the pupils' placement at the Colorado school for the deaf and the blind. The Colorado school for the deaf and the blind is entitled to receive, from the department of education, an amount equal to the state average per pupil revenues, as defined in section 22-54-103 (12), for the current fiscal year for those students in attendance. The Colorado school for the deaf and the blind shall bill the department of education for the applicable portion of such amount at the conclusion of each month during which such pupils continue to be placed at the Colorado school for the deaf and the blind.

**Source: L. 77:** Entire article added, p. 1093, § 2, effective July 1. **L. 88:** (4) amended, p. 820, § 28, effective May 24. **L. 90:** (4) amended, p. 1084, § 45, effective May 31. **L. 93:** (1) to (3) amended, p. 1652, § 52, effective July 1. **L. 94:** (4) amended, p. 821, § 46, effective April 27. **L. 2003:** (2) amended, p. 1585, § 15, effective July 1, 2004. **L. 2010:** (4) amended, (HB 10-1013), ch. 399, p. 1915, § 44, effective June 10.

**22-80-114. Expenditures, how made.** Any moneys expended under authority of section 22-80-113 shall be expended under the direction and control of the superintendent, and the state treasurer is authorized, upon presentation of vouchers of the superintendent duly issued and certified as provided by law, to draw warrants in payment thereof.

**Source: L. 77:** Entire article added, p. 1093, § 2, effective July 1. **L. 2003:** Entire section amended, p. 1585, § 16, effective July 1, 2004.

**22-80-115. Readers for blind - expenses of deaf students. (Repealed)**

**Source: L. 77:** Entire article added, p. 1094, § 2, effective July 1. **L. 91:** Entire section repealed, p. 526, § 5, effective April 17.

**22-80-116. Programs for parents.** In furtherance of the objectives of the school, the board of trustees, with the aid of the superintendent, may make such bylaws as are necessary to provide a program of instruction in understanding the needs, problems, and education of the deaf and the blind for parents of deaf and blind children who may attend any of the schools in Colorado. In addition to other provisions, the board of trustees may provide for the cooperation of the school with other interested state agencies in carrying out this program.

**Source: L. 77:** Entire article added, p. 1094, § 2, effective July 1. **L. 2003:** Entire section amended, p. 1585, § 17, effective July 1, 2004.

**22-80-117. Study group - creation - appointments - duties - report. (Repealed)**

**Source: L. 91:** Entire section added, p. 526, § 6, effective April 17; entire section repealed, p. 526, § 6, effective January 1, 1992.

**22-80-118. Provide assistance - public education - American sign language.** (1) The school may, upon request, provide assistance, advice, and guidance to:

(a) The Colorado commission on higher education regarding the adoption of the policies and procedures involving American sign language described in section 23-1-128 (3), C.R.S.;

(b) Higher education institutions regarding the development, establishment, and teaching of American sign language courses; and

(c) (Deleted by amendment, L. 2005, p. 767, § 33, effective June 1, 2005.)

(d) School district boards of education in implementing American sign language policies described in section 22-32-133.

**Source: L. 2004:** Entire section added, p. 256, § 3, effective August 4. **L. 2005:** (1)(b) and (1)(c) amended, p. 767, § 33, effective June 1.

**22-80-119. Standardized immunization policy required.** On or before July 1, 2011, the school shall annually provide to the parent or legal guardian of each student enrolled in the school the standardized immunization document developed and updated by the department of public health and environment pursuant to section 25-4-902 (4), C.R.S. For the purposes of this section, the school shall have the discretion to determine the method of distribution of the standardized immunization document, including but not limited to providing a copy to parents and legal guardians, providing the standardized immunization document in a newsletter or handbook, or providing to parents and legal guardians an electronic copy of the standardized immunization document. For purposes of this section, solely posting a copy of the standardized immunization document on a website or in a central area of the school is not sufficient to satisfy the notice requirements of this section; however, the school is encouraged to post the standardized immunization document on its website.

**Source: L. 2010:** Entire section added, (SB 10-056), ch. 50, p. 192, § 4, effective August 11; entire section amended, (HB 10-1422), ch. 419, p. 2128, § 191, effective August 11.

## ARTICLE 81

Pre-K-16 Mathematics, Science,
and Technology Improvement

PART 1

PRE-K-16 MATHEMATICS, SCIENCE, AND
TECHNOLOGY EDUCATION STRATEGIC PLAN

**22-81-101. Short title.** This part 1 shall be known and may be cited as the "Pre-K-16 Mathematics, Science, and Technology Improvement Act of 1990".

**Source: L. 90:** Entire article added, p. 1133, § 1, effective May 23. **L. 91:** Entire section amended, p. 517, § 2, effective June 5. **L. 2001:** Entire section amended, p. 1082, § 3, effective June 5.

**Cross references:** For the legislative declaration contained in the 2001 act amending this section, see section 1 of chapter 287, Session Laws of Colorado 2001.

**22-81-102. Legislative declaration.** The Colorado general assembly declares that, as a result of several years of active investigation and studies by groups such as the Colorado alliance for science, the Colorado teachers of mathematics, and industry-based groups, the general assembly recognizes that there exist in the state of Colorado unmet educational needs in the areas of mathematics, science, and the use of technology. The state of Colorado has the responsibility to provide equal opportunity in mathematics, science, and the use of technology to all Pre-K-16 students. The state has the responsibility to provide assistance to school districts that either have insufficient faculty resources to offer a full complement of mathematics, science courses, and the use of technology, including opportunities for advanced study, or have insufficient numbers of students to offer such courses. The state has the responsibility to assure that Pre-K-16 students are provided a curriculum of mathematics, science, and the use of technology that is consistent with contemporary standards. The state also has the responsibility to improve teacher training in mathematics, science, and technology. The general assembly further finds that increasing the mathematics, science, and technology educational opportunities for Pre-K-16 students and teachers fosters an educational system whereby the students and teachers of our state can acquire the needed problem-solving skills and the critical and creative thinking skills necessary for productive participation in an increasingly technological age. In order to meet the responsibilities described in this section, the general assembly hereby finds that improved access to and use of telecommunications facilities is necessary.

**Source: L. 90:** Entire article added, p. 1133, § 1, effective May 23. **L. 91:** Entire section amended, p. 517, § 3, effective June 5. **L. 2016:** Entire section amended, (SB 16-189), ch. 210, p. 764, § 41, effective June 6.

**22-81-103. Definitions.** As used in this part 1, unless the context otherwise requires:

(1) "Community resources" means the educational resources that can be found outside of the classroom, including but not limited to local industries, government agencies, museums, public telecommunications stations, institutions of higher education, and professional societies.

(2) "Course materials" means all materials associated with a course including, but not limited to, textbooks, software, and visual aids.

(3) "Distance learning" means the delivery of live instruction to students who are physically located at a distance from the instructor, as well as the taped delivery of instruction at a remote site, such as delayed tape or computer software.

(4) "Instructional design" means the systematic design, development, and validation of instruction.

(5) "Teacher training" means in-service, recertification, and graduate course or degree program training.

(6) "Technology" means the design or use of such things as computers, telecommunications devices and networks, or multimedia techniques for teaching or use in student's later careers.

**Source: L. 90:** Entire article added, p. 1134, § 1, effective May 23. **L. 2001:** IP amended, p. 1082, § 4, effective June 5.

**Cross references:** For the legislative declaration contained in the 2001 act amending the introductory portion to this section, see section 1 of chapter 287, Session Laws of Colorado 2001.

**22-81-104. Pre-K-16 mathematics, science, and technology education strategic plan.** (1) The department of education and the Colorado commission on higher education, in cooperation and consultation with the business, industry, and professionals in the fields of mathematics, science, technology, and engineering, shall develop a plan for improving Pre-K-16 mathematics, science, and technology education in the state of Colorado through the use of telecommunications networks and facilities. The department of education and the Colorado commission on higher education shall use existing resources and personnel to develop the plan and may collaborate with interested parties, including, but not limited to, those described in this subsection (1).

(2) At a minimum, the plan shall provide direction for program development including:

(a) Identification of curricular goals, which goals reflect the systemic change in the mathematics, science, and technology education curriculum so as to be consistent with the contemporary understanding and emerging patterns of content and pedagogy. Such goals shall also reflect current guidelines and standards, such as those defined by the national council of teachers of mathematics, the American association for the advancement of science, and the national science teachers association.

(b) Identification of essential teacher characteristics;

(c) A statement of desired levels of mathematics, science, and technology achievement by students;

(d) A description of recommended courses of action to improve educational programs, practices, and service;

(e) The improvement of access and availability of mathematics, science, and technology courses, especially for rural school districts and particularly to those groups which are traditionally underrepresented. The plan shall include goals for using telecommunications facilities.

(f) Pre-K-16 teacher training in mathematics, science, and technology; and

(g) Cost estimates.

(3) The plan should provide a framework that enables the teachers, school districts, and institutions of higher education to solve the stated problems as they deem appropriate. The plan should provide mechanisms and incentives to:

(a) Course providers and receivers at the Pre-K-16 and postsecondary levels to design and implement new curricula and to develop new course materials;

(b) Course providers and receivers for leveraging distance learning technologies and applying distance learning instructional design techniques;

(c) Pre-K-16 teachers for taking graduate mathematics, science, and technology courses and degree programs. Such incentives may include a tuition matching program.

(d) Involve appropriate Colorado state agencies, federal agencies, professional organizations, public television stations, and business and industry in the development of the strategic plan; and

(e) Business, industry, and individuals for volunteering their time and community resources.

(4) The plan shall provide a mechanism for incorporating the cost for accomplishing these goals into the ongoing operating budget beginning in 1991.

**Source: L. 90:** Entire article added, p. 1134, § 1, effective May 23. **L. 91:** (1), (2)(e), (2)(f), (3)(a), (3)(c), and (3)(d) amended, p. 518, § 4, effective June 5. **L. 2016:** (1), (2)(e), and (3)(b) amended, (SB 16-189), ch. 210, p. 764, § 42, effective June 6.

## PART 2

## SCIENCE AND TECHNOLOGY EDUCATION CENTERS

**Cross references:** For the legislative declaration contained in the 2001 act enacting this part 2, see section 1 of chapter 287, Session Laws of Colorado 2001.

**22-81-201. Legislative declaration.** The general assembly hereby finds that one of the greatest challenges facing schools and teachers is determining how to stimulate and engage students so that they actively seek learning experiences, especially in the areas of math and science and technology. The general assembly finds that too few students are interested in pursuing careers in math and science and technology and that this lack of interest has the potential for creating a shortage of persons who are interested in or capable of discovering the answers to the questions of increasing population, decreasing availability of resources,

increasing loss of natural habitats, and decreasing effectiveness of antibiotics and other issues that challenge society's future. The general assembly further recognizes the inherent excitement of space exploration and the opportunity it provides for integrating math and science skills and the use of technology into real-life applications and stimulating students' natural curiosity and desire to learn. The general assembly therefore finds that facilitating the creation of opportunities for students to participate in science and technology education activities that center on simulated space exploration activities promotes the best interests of both students and the state.

**Source: L. 2001:** Entire part added, p. 1077, § 2, effective June 5.

**22-81-202. Definitions.** As used in this part 2, unless the context otherwise requires:

(1) Repealed.

(2) "Department" means the state department of education created in section 24-1-115, C.R.S.

(3) "Grant program" means the science and technology education center grant program created in section 22-81-203.

(4) "Science and technology education" means educational activities that integrate and stimulate learning, particularly in the areas of math and science, through space flight simulations or through other simulations related to astronomy or space exploration.

(5) "Science and technology education center" means a nonprofit center operated by any person or entity or group of persons or entities, including but not limited to any nonprofit corporation that promotes aviation and aerospace education, that provides science and technology education activities, materials, and educational workshops for students and their teachers.

(6) "State board" means the state board of education created in section 1 of article IX of the state constitution.

**Source: L. 2001:** Entire part added, p. 1078, § 2, effective June 5. **L. 2011:** (1) repealed, (SB 11-106), ch. 45, p. 116, § 3, effective March 21.

**22-81-203. Science and technology education center grant program - created - applications - awards.** (1) There is hereby created the science and technology education center grant program to provide development and operating moneys in the form of matching funds for existing or proposed nonprofit science and technology education centers. At a minimum, each science and technology education center that receives a grant shall provide science and technology education activities to students enrolled in public schools in the state and materials and educational workshops to teachers employed by school districts. Any science and technology education center that receives a grant may also provide science and technology education activities, materials, and educational workshops to other persons within the state.

(2) (a) Beginning on or before January 2, 2002, the state board shall, subject to available appropriations, annually award one or more science and technology education center grants for the development and operation of science and technology education centers.

(b) An existing science and technology education center or a person or entity or group of persons or entities proposing the establishment of a science and technology education center may

apply for a science and technology education center grant pursuant to procedures and time lines specified by rule of the state board. At a minimum, the application shall include:

(I) The actual or proposed location of the science and technology education center;

(II) Evidence that establishment and ongoing operation of the science and technology education center has the support of the education providers and businesses within the community in which the science and technology education center is or will be located;

(III) Evidence that the proposed or operating science and technology education center has the endorsement of a national science and technology education program that has been in operation in the United States for at least five years;

(IV) Evidence that the proposed or operating science and technology education center has secured the use of a facility;

(V) A description of the equipment and technology that is or will be provided and the activities and range of programs that are or will be offered by the science and technology education center;

(VI) Evidence of the receipt of, or a commitment for, the matching funds necessary to obtain moneys through the grant program under the applicant's plan to obtain such matching funds;

(VII) Any other information specified by rule of the state board.

(3) (a) The state board, in selecting one or more science and technology education centers for receipt of a grant, shall consider:

(I) Whether the science and technology education center is or will be located in an area of the state that is easily accessible to a large number of students; and

(II) The facility, equipment, and technology that are or will be provided and the activities and range of programs that are or will be offered by the science and technology education center.

(b) The state board may not award a science and technology education center grant to any applicant that fails to provide the information specified in subparagraphs (II) and (III) of paragraph (b) of subsection (2) of this section.

(4) (a) A science and technology education center grant shall be payable from moneys appropriated to the science and technology education fund created in section 22-81-206.

(b) The state board shall specify the amount to be awarded to each science and technology education center that is selected to receive a grant. The amount awarded to a new science and technology education center for start-up costs shall not exceed five hundred thousand dollars for one fiscal year and may not be renewed. The amount awarded to an operating science and technology education center for operating costs shall not exceed two hundred thousand dollars for one fiscal year.

(c) Each science and technology education center that receives a grant pursuant to the grant program shall demonstrate, prior to receiving any actual moneys, that the center has received, or has a written commitment for, matching funds from other public or private sources in the amount of a dollar-for-dollar match with the amount of the grant.

**Source: L. 2001:** Entire part added, p. 1078, § 2, effective June 5. **L. 2011:** (2)(a), (3)(b), and (4)(b) amended, (SB 11-106), ch. 45, p. 116, § 4, effective March 21.

**22-81-204. Science and technology education center grants advisory board - created - duties - repeal. (Repealed)**

**Source: L. 2001:** Entire part added, p. 1080, § 2, effective June 5. **L. 2007:** (2) amended, p. 180, § 11, effective March 22. **L. 2011:** Entire section repealed, (SB 11-106), ch. 45, p. 116, § 1, effective March 21.

**22-81-205. State board - rules - donations.** (1) The state board, pursuant to article 4 of title 24, C.R.S., shall promulgate such rules as are required in this part 2 and such additional rules as may be required for implementation of the grant program.

(2) The department shall solicit such public and private gifts, grants, and donations as may be available to fund the grant program. Any moneys so received shall be credited to the science and technology education fund created in section 22-81-206.

**Source: L. 2001:** Entire part added, p. 1081, § 2, effective June 5.

**22-81-206. Science and technology education fund - creation.** There is hereby created in the state treasury the science and technology education fund, referred to in this section as the "fund", for payment of science and technology education center grants awarded pursuant to section 22-81-203. The fund shall consist of such moneys as may be appropriated thereto by the general assembly and such moneys as may be credited thereto pursuant to section 22-81-205 (2). Moneys in the fund shall be subject to annual appropriation by the general assembly for the purposes specified in this part 2. The department may expend up to two percent of the moneys annually appropriated to the fund to offset the costs incurred in implementing the grant program. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund.

**Source: L. 2001:** Entire part added, p. 1081, § 2, effective June 5. **L. 2003:** Entire section amended, p. 521, § 12, effective March 5. **L. 2011:** Entire section amended, (SB 11-218), ch. 151, p. 526, § 5, effective May 5. **L. 2015:** Entire section amended, (SB 15-264), ch. 259, p. 956, § 55, effective August 5.

## ARTICLE 81.5

Colorado Information Technology
Education Grant Program

**22-81.5-101. Short title.** This article shall be known and may be cited as the "Colorado Information Technology Education Act".

**Source: L. 2001:** Entire article added, p. 834, § 1, effective June 1.

**22-81.5-102. Legislative declaration.** (1) The general assembly hereby finds, determines, and declares that:

(a) The use of information technology and digital electronics has achieved such a high level of pervasiveness in society that any person who is unfamiliar with or lacks knowledge in the use of technological or digital equipment or systems is at a distinct disadvantage both economically and in terms of available career opportunities;

(b) There is a growing likelihood of the creation of a "digital divide", separating children whose socioeconomic situation limits their access to technological or digital equipment or systems from those children who use such equipment or systems on a regular basis;

(c) Creation of a digital divide may result in further suppressing the ability of children who are economically disadvantaged to improve their status and position in society, compounding and perpetuating the existing cycle of poverty experienced by some persons;

(d) Greater integration of information technology education into the public school curriculum will help combat the growing digital divide and provide technological and digital access for students who do not have access to such technology in their homes;

(e) Greater integration of information technology education into the public school curriculum will work to the benefit of all students, regardless of whether they anticipate going on to postsecondary studies after graduation or immediately embarking on a career;

(f) The field of high technology design, creation, maintenance, and application is one of the fastest growing industries in the United States;

(g) Colorado, due to the high concentration of information technology industry in the state, has experienced and continues to experience a shortage of well-educated, well-prepared persons in the information technology field;

(h) It is therefore appropriate and in the best interests of the students and businesses in Colorado to provide financial incentives to assist public schools in achieving a greater integration of information technology education in the ninth-grade through twelfth-grade curriculum.

(2) It is the intent of the general assembly that, for purposes of this article, any school that provides educational services to students who are placed in an eligible facility or state-operated program and receives a portion of the state average per pupil revenues shall be considered eligible under this article.

**Source: L. 2001:** Entire article added, p. 834, § 1, effective June 1. **L. 2010:** (2) amended, (HB 10-1013), ch. 399, p. 1915, § 45, effective June 10.

**22-81.5-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Department" means the department of education created in section 24-1-115, C.R.S.

(2) "Facility school" means an approved facility school as defined in section 22-2-402 (1).

(3) "Grant program" means the Colorado information technology education grant program created in section 22-81.5-104.

(4) "Information technology education" means education in the development, design, use, maintenance, repair, and application of information technology systems or equipment, including but not limited to computers, the internet, telecommunications devices and networks, and multimedia techniques.

(5) "State board" means the state board of education created pursuant to section 1 of article IX of the state constitution.

**Source: L. 2001:** Entire article added, p. 835, § 1, effective June 1. **L. 2008:** (2) amended, p. 1406, § 54, effective May 27.

**22-81.5-104. Colorado information technology education grant program - created - rules.** (1) There is hereby created the Colorado information technology education grant program to provide moneys to school districts, charter schools, and facility schools to use in integrating information technology education into the public school curriculum for grades nine through twelve. The department shall administer the grant program through the acceptance, review, and recommendation of applications submitted pursuant to section 22-81.5-105. The state board shall select the grant recipients based on the department's recommendations.

(2) Grants awarded through the grant program shall continue for two fiscal years and may be renewed as provided by rule of the state board. Grants awarded through the grant program shall be paid out of any moneys appropriated or credited to the information technology education fund created in section 22-81.5-107. A school district, charter school, or facility school shall use any moneys obtained through the grant program to integrate information technology education into the ninth-grade through twelfth-grade curriculum. In the case of a school district, such integration shall be accomplished in one or more public schools in the district. It is the intent of the general assembly to allow flexibility to school districts, charter schools, and facility schools in determining how to integrate information technology into the curriculum and the degree of integration. The school district, charter school, or facility school may contract with one or more private entities for assistance in integrating information technology education into the curriculum. In addition, school districts, charter schools, and facility schools are encouraged to partner with businesses for assistance in integrating information technology education into the curriculum.

(3) The state board shall adopt rules for the administration and implementation of the grant program as provided in this article. The first grants shall be awarded through the grant program for the 2002-03 academic year, so long as moneys are appropriated to the information technology education fund for implementation of the grant program. Grants shall be awarded annually thereafter, based on available appropriations.

**Source: L. 2001:** Entire article added, p. 836, § 1, effective June 1.

**22-81.5-105. Information technology education grants - applications - criteria for awards.** (1) Any school district, charter school, or facility school that seeks to participate in the grant program shall submit an application to the department in the form and according to deadlines established by rule of the state board. The application shall include the following information:

(a) If the applicant is a school district, the names of the schools that will receive the benefits of the grant;

(b) The current level of information technology education integration at the charter school, facility school, or recipient schools;

(c) The school district's, charter school's, or facility school's plan for integrating information technology education into the ninth-grade through twelfth-grade curriculum, including any specific method or program to be used, and any entities with whom the school

district, charter school, or facility school plans to contract or cooperate in achieving the integration;

(d) The specific, measurable goals to be achieved through the integration of information technology education into the curriculum, a deadline for achieving those goals, and a proposed method of measuring whether the goals were achieved;

(e) Any businesses with which the school district, the charter school, the facility school, or the recipient school has partnered to improve the availability and integration of information technology education within the curriculum;

(f) Any other information that may be specified by rule of the state board.

(2) In recommending and awarding grants through the program, the department and the state board shall consider the following criteria:

(a) The degree to which information technology education is already integrated into the curriculum of the applying school district, charter school, or facility school to ensure that those school districts, charter schools, and facility schools with the least degree of integration receive the grants first;

(b) The degree to which the applying school district's, charter school's, or facility school's proposed plan for using the grant moneys will result in integration of information technology education into the curriculum and the scope of the information technology education to be integrated;

(c) Any other financial resources available to the applying school district, charter school, or facility school for integrating information technology education into the curriculum;

(d) The degree to which the applying school district, charter school, facility school, or proposed recipient school is cooperating or partnering with businesses to improve the availability and integration of information technology education in the curriculum. The department and the state board shall apply this criteria with the goal of encouraging such partnerships.

(e) The validity, clarity, and measurability of the goals established by the applying school district, charter school, or facility school and the validity of the proposed methods for measuring achievement of the goals;

(f) Any other criteria established by rule of the state board to ensure that grants are awarded to school districts, charter schools, and facility schools that demonstrate the greatest need and the most valid, effective plan for integrating information technology education into the curriculum.

(3) In awarding grants through the grant program, the state board shall ensure, to the extent possible, that the grants are awarded to school districts, charter schools, and facility schools in all areas of the state.

(4) If a facility school receives one or more grants pursuant to this section and the facility school subsequently ceases operations, any hardware or software purchased using the grant moneys received shall revert to the school district in which the facility school was located.

(5) Nothing in this article shall be construed to limit or otherwise affect any school district's ability to enter into an agreement with or receive funds from any private entity.

**Source: L. 2001:** Entire article added, p. 836, § 1, effective June 1.

**22-81.5-106. Reports.** (1) Each school district, charter school, and facility school that receives a grant through the grant program shall, by the close of each academic year for which the grant was awarded, submit to the department a report specifying the following information:

(a) The manner in which the grant moneys were used;

(b) The progress made toward achieving the goals specified in the grant recipient's application;

(c) Any additional entities and businesses with whom the grant recipient has contracted or partnered with the goal of achieving greater integration of information technology education in the ninth-grade through twelfth-grade curriculum;

(d) The recipient school district's, charter school's, or facility school's plan for continuing the integration of information technology education into the curriculum, regardless of whether the grant is renewed;

(e) Any other information specified by rule of the state board.

(2) Repealed.

(3) Notwithstanding the provisions of subsection (2) of this section, the department need not submit a report for any academic year in which no grants are made through the grant program.

**Source: L. 2001:** Entire article added, p. 838, § 1, effective June 1. **L. 2004:** (2) repealed, p. 583, § 1, effective August 4.

**22-81.5-107. Information technology education fund - created.** (1) There is hereby created in the state treasury the information technology education fund, referred to in this section as the "fund", for the purpose of funding information technology education grants through the grant program. The fund shall consist of all moneys appropriated to the fund by the general assembly and any gifts, grants, donations, and other moneys received by the department for implementation of the grant program. The moneys in the fund shall be subject to annual appropriation. Any unexpended and unencumbered moneys remaining in the fund at the end of any fiscal year shall remain in the fund and shall not revert or be credited or transferred to the general fund nor be transferred to any other fund. Any interest derived from the deposit and investment of moneys in the fund shall remain in the fund and shall not be credited to the general fund.

(2) The department shall seek and apply for any available grant moneys for implementation of the grant program. Any moneys so obtained shall be credited to the fund for use in implementing the grant program. The department may retain up to one percent of the moneys annually appropriated to the fund to offset the actual administrative costs incurred in administering the grant program.

**Source: L. 2001:** Entire article added, p. 839, § 1, effective June 1.

## ARTICLE 82

Public School Medical Assistance Pilot Program

**22-82-101 to 22-82-103. (Repealed)**

**Source: L. 97:** Entire article repealed, p. 1139, § 9, effective May 28.

**Editor's note:** This article was added in 1990. For amendments to this article prior to its repeal in 1997, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

## ARTICLE 82.3

Healthy Choices Dropout Prevention
Pilot Program

**22-82.3-101 to 22-82.3-110. (Repealed)**

**Editor's note:** (1) This article was added in 2009. For amendments to this article prior to its repeal in 2019, consult the 2018 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 22-82.3-110 provided for the repeal of this article, effective July 1, 2019. (See L. 2009, p. 1329.)

(3) HB 19-1172 amended section 22-82.3-101 IP and (11), effective October 1, 2019, but those amendments did not take effect due to the repeal of this article, effective July 1, 2019.

## ARTICLE 82.5

Fresh Fruits and Vegetables Pilot Program

**22-82.5-101 to 22-82.5-108. (Repealed)**

**Editor's note:** (1) This article was added in 2006 and was not amended prior to its repeal in 2009. For the text of this article prior to 2009, consult the 2008 Colorado Revised Statutes.

(2) Section 22-82.5-108 provided for the repeal of this article, effective January 1, 2009. (See L. 2006, p. 1113.)

## ARTICLE 82.6

Farm-to-School Healthy Kids Act

**22-82.6-101 to 22-82.6-104. (Repealed)**

**Source: L. 2019:** Entire article repealed, (HB 19-1202), ch. 403, p. 3574, § 6, effective May 31.

**Editor's note:** This article was added in 2010. For amendments to this article prior to its repeal in 2019, consult the 2018 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

## ARTICLE 82.7

Start Smart Nutrition Program

**Cross references:** For the legislative declaration contained in the 2007 act enacting this article, see section 1 of chapter 229, Session Laws of Colorado 2007.

**22-82.7-101. Short title.** This article shall be known and may be cited as the "Start Smart Nutrition Program Act".

**Source: L. 2007:** Entire article added, p. 901, § 2, effective May 15.

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

(1) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(1.5) "Facility school" means an approved facility school as defined in section 22-2-402 (1).

(2) "Fund" means the start smart nutrition program fund created in section 22-82.7-105.

(3) "Program" means the start smart nutrition program created in section 22-82.7-103.

(4) "School breakfast program" means the federal school breakfast program created in 42 U.S.C. sec. 1773.

(5) "School food authority" means:

(a) A school district or the state charter school institute;

(a.3) A charter school collaborative formed pursuant to section 22-30.5-603;

(a.5) A board of cooperative services created pursuant to article 5 of this title that elects to operate as a school food authority pursuant to section 22-5-120; or

(b) A district charter school or an institute charter school that:

(I) The commissioner of education or his or her designee provisionally authorizes as a school food authority pursuant to section 22-32-120 (6); or

(II) The department of education authorizes as a school food authority pursuant to section 22-32-120 (5).

**Source: L. 2007:** Entire article added, p. 901, § 2, effective May 15. **L. 2008:** (1.5) added, p. 1406, § 55, effective May 27. **L. 2009:** (5) added, (SB 09-230), ch. 227, p. 1036, § 9, effective May 4. **L. 2010:** (5)(a) amended and (5)(a.5) added, (HB 10-1335), ch. 326, p. 1514, § 8, effective August 11; (5)(b)(I) amended, (HB 10-1422), ch. 419, p. 2079, § 51, effective August 11. **L. 2011:** (5)(a.3) added, (HB 11-1277), ch. 306, p. 1506, § 40, effective August 10.

**22-82.7-103. Start smart nutrition program - creation - administration - objectives.** (1) There is hereby created the start smart nutrition program to ensure that each student in

Colorado public schools and facility schools has an opportunity to begin each day with a nutritious breakfast.

(2) The department shall administer the program in accordance with the procedures developed by the department pursuant to section 22-82.7-106.

(3) The objectives of the program are to:

(a) Appropriate moneys from the state budget to eliminate the reduced price paid by Colorado students participating in the school breakfast program and to offset the costs incurred by facility schools in providing the school breakfast program to students who are receiving educational services from the facility schools;

(b) Increase the number of Colorado students who consume a nutritious breakfast each day;

(c) Decrease statewide health care costs by improving the health of school-age children;

(d) Lessen students' risk of obesity by providing nutritious breakfast options;

(e) Encourage charter schools, school districts, and facility schools to participate in the school breakfast program;

(f) Increase students' consumption of whole grains, fruits and vegetables, vitamins A and C, calcium, protein, fiber, and iron; and

(g) Make breakfast more accessible to underprivileged students.

**Source: L. 2007:** Entire article added, p. 901, § 2, effective May 15. **L. 2008:** (1), (3)(a), and (3)(e) amended, p. 1406, § 56, effective May 27.

**22-82.7-104. Program funding - appropriation.** (1) The general assembly shall annually appropriate by separate line item in the annual general appropriation bill an amount of not less than seven hundred thousand dollars and not more than one million five hundred thousand dollars to the fund created in section 22-82.7-105 to allow school food authorities to provide free breakfasts to children participating in the school breakfast program who would otherwise be required to pay a reduced price for breakfast and to offset the costs incurred by facility schools in providing breakfasts to students who are placed in the facility and are eligible to participate in the school breakfast program. The appropriation to the fund shall be in addition to any appropriation made by the general assembly pursuant to section 22-54-123 or 22-54-123.5 (1).

(2) The department may seek and accept gifts, grants, and donations from public and private sources to fund the program, but receipt of gifts, grants, and donations shall not be a prerequisite to the implementation of the program. All private and public funds received through gifts, grants, and donations shall be transmitted to the state treasurer, who shall credit the same to the fund.

(3) To the extent permitted by law, the department may, at its discretion, direct other moneys to fund the program.

**Source: L. 2007:** Entire article added, p. 902, § 2, effective May 15. **L. 2008:** (1) amended, p. 1406, § 57, effective May 27. **L. 2009:** (1) amended, (SB 09-230), ch. 227, p. 1036, § 10, effective May 4.

**22-82.7-105. Start smart nutrition program fund - creation - administrative costs.** (1) There is hereby created in the state treasury the start smart nutrition program fund. The fund shall consist of:

(a) Such moneys as are appropriated to the fund by the general assembly pursuant to section 22-82.7-104 (1);

(b) Any gifts, grants, or donations received by the department for the fund pursuant to section 22-82.7-104 (2); and

(c) Any other moneys directed to the fund by the department.

(2) The moneys in the fund shall be subject to annual appropriation by the general assembly for the direct and indirect costs associated with the implementation of the program pursuant to the provisions of this article. The department may expend not more than one percent of the moneys annually appropriated from the fund to offset the direct and indirect costs incurred by the department in implementing the program pursuant to this article.

(3) Any moneys in the fund not expended for the purpose of this article may be invested by the state treasurer as provided by law. All interest and income derived from the investment and deposit of moneys in the fund shall be credited to the fund. Any unexpended and unencumbered moneys remaining in the fund at the end of a fiscal year shall remain in the fund and shall not be credited or transferred to the general fund or another fund.

**Source: L. 2007:** Entire article added, p. 902, § 2, effective May 15.

**22-82.7-106. Program - procedures.** The department shall develop procedures to allocate and disburse the moneys in the fund among participating school food authorities and facility schools each year, in an equitable manner and in compliance with the requirements of the federal "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq.

**Source: L. 2007:** Entire article added, p. 903, § 2, effective May 15. **L. 2008:** Entire section amended, p. 1407, § 58, effective May 27. **L. 2009:** Entire section amended, (SB 09-230), ch. 227, p. 1037, § 11, effective May 4.

**22-82.7-107. No individual entitlement.** (1) Nothing in this article shall be interpreted to create a legal entitlement in any participant to assistance provided pursuant to the program.

(2) The department in administering the program and a school food authority or a facility school in implementing the program may not create and shall not be deemed to create a legal entitlement in any participant to assistance provided pursuant to the program.

**Source: L. 2007:** Entire article added, p. 903, § 2, effective May 15. **L. 2008:** (2) amended, p. 1407, § 59, effective May 27. **L. 2009:** (2) amended, (SB 09-230), ch. 227, p. 1037, § 12, effective May 4.

## ARTICLE 82.8

Breakfast After the Bell Nutrition Program

**22-82.8-101. Short title.** This article shall be known and may be cited as the "Breakfast After the Bell Nutrition Program".

**Source: L. 2013:** Entire article added, (HB 13-1006), ch. 223, p. 1044, § 1, effective August 7.

**22-82.8-102. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(2) "Program" means the breakfast after the bell nutrition program created in section 22-82.8-103.

(3) "Public school" means a public school or charter school as defined in section 22-1-101 or an approved facility school as defined in section 22-2-402 (1).

(4) "School breakfast program" means the federal "School Breakfast Program" created in 42 U.S.C. sec. 1773.

(5) "School food authority" means:

(a) A school district or the state charter school institute;

(b) A charter school collaborative formed pursuant to section 22-30.5-603;

(c) A board of cooperative services created pursuant to article 5 of this title that elects to operate as a school food authority pursuant to section 22-5-120; or

(d) A district charter school or an institute charter school that:

(I) The commissioner of education or his or her designee provisionally authorizes as a school food authority pursuant to section 22-32-120 (6); or

(II) The department authorizes as a school food authority pursuant to section 22-32-120 (5).

(6) "School lunch program" means the federal "Richard B. Russell National School Lunch Act" created in 42 U.S.C. sec. 1751.

**Source: L. 2013:** Entire article added, (HB 13-1006), ch. 223, p. 1044, § 1, effective August 7.

**22-82.8-103. Breakfast after the bell nutrition program - creation - objectives - requirements - administration.** (1) There is hereby created the breakfast after the bell nutrition program. The purpose of the program is to offer a free breakfast to each student enrolled in a public school that has seventy percent or more students who are eligible for free or reduced-cost lunch under the school lunch program.

(2) The objectives of the program are to:

(a) Increase the total number of children eating breakfast on school days;

(b) Increase the consumption of high-nutrition foods, making breakfast programs more effective;

(c) Improve academic performance by preparing children to learn;

(d) Improve the overall health of the children of Colorado; and

(e) Generate additional revenue for school nutrition programs through federal and state reimbursements.

(3) (a) Beginning in the 2014-2015 school year, except as provided for in paragraph (d) of this subsection (3) and subsection (4) of this section, each public school in the state that has eighty percent or more students who are eligible for free or reduced-cost lunch under the school lunch program in the prior school year shall offer a free breakfast to each student in the school. If a public school falls below the eighty percent threshold for two consecutive years, it has the option to continue participating in the program but is not required to do so. A public or charter school that does not participate in the school lunch program is not required to participate.

(b) Beginning in the 2015-2016 school year, and each year thereafter, except as provided for in this subsection (3) and subsection (4) of this section, each public school in the state that has seventy percent or more students who are eligible for free or reduced-cost lunch under the school lunch program in the prior school year shall offer a free breakfast to each student in the school. If a public school falls below the seventy percent threshold for two consecutive years, it has the option to continue participating in the program but is not required to do so. A public school or charter school that does not participate in the school lunch program is not required to participate.

(c) Each public school, school district, or board of cooperative services may determine the breakfast serving model that best suits its students. Serving models may include, but need not be limited to, breakfast in the classroom, grab and go breakfast, or a breakfast after first period. The breakfast shall be served at a time to be determined by the public school or school district, so long as it occurs after the first bell. A school that has seventy percent or more students receiving free or reduced lunch under the school lunch program and that can demonstrate that at least ninety percent of its students take bus transportation to school may opt to offer its breakfast program on the bus rather than on school grounds. Such a school is required to offer breakfast after the bell to any student who arrives late or arrives by another mode of transportation.

(d) Small rural school districts, as defined by the department, that have a student population of fewer than one thousand are exempt from the program but may participate if otherwise eligible.

(4) In the event that federal per-meal reimbursements for free or reduced school breakfasts are decreased below the 2013 levels or eliminated by congress under the "Child Nutrition Act", 42 U.S.C. 1773(b) or the school lunch program, schools that are otherwise required to offer breakfast pursuant to this section are exempt from the program.

(5) A school that has seventy percent or more students receiving free or reduced lunch under the school lunch program and that has a state-licensed before-school care program may opt to offer its breakfast program during the before-school care program to those students enrolled in such program rather than after the bell. The school must offer breakfast after the bell to any student who does not participate in the before-school care program.

(6) All breakfasts served in a program required by this article must comply with federal meal patterns and nutrition standards for school breakfast programs that are set forth in the federal "Healthy, Hunger-Free Kids Act of 2010", Pub.L. 111-296, and any regulations or rules interpreting that act.

**Source: L. 2013:** Entire article added, (HB 13-1006), ch. 223, p. 1045, § 1, effective August 7.

**22-82.8-104. Procedures - technical assistance.** (1) (a) On or before May 1, 2014, the department shall develop and distribute procedures for the implementation and enforcement of this article. Such procedures must be in compliance with the school breakfast program and school lunch program.

(b) The department shall offer technical assistance to public schools and school districts related to submitting claims for reimbursement to the school breakfast program.

(2) The department shall develop procedures to allocate and disburse federal moneys to participating school food authorities and public schools in compliance with the requirements of the school breakfast program and school lunch program.

(3) Any federal or state moneys received by any school or school district as reimbursement for breakfasts served pursuant to this article must only be used for the food and operations associated with the school's or school district's food service program.

**Source: L. 2013:** Entire article added, (HB 13-1006), ch. 223, p. 1047, § 1, effective August 7.

## ARTICLE 82.9

Child Nutrition School Lunch Protection Program

**Cross references:** For the legislative declaration contained in the 2008 act enacting this article, see section 1 of chapter 350, Session Laws of Colorado 2008.

**22-82.9-101. Short title.** This article shall be known and may be cited as the "Child Nutrition School Lunch Protection Program Act".

**Source: L. 2008:** Entire article added, p. 1640, § 2, effective August 5.

**22-82.9-102. Legislative declaration.** (1) The general assembly hereby finds and declares that, for purposes of section 17 of article IX of the state constitution:

(a) Good nutrition is an essential component to student learning and promotes success for students in today's fast-paced environment;

(b) By increasing the number of students who can receive a free, nutritious lunch, the school lunch program is an important component of an accountable program to meet state academic standards, and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 2008:** Entire article added, p. 1640, § 2, effective August 5.

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

(1) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(2) "Program" means the child nutrition school lunch protection program created pursuant to section 22-82.9-104.

(2.5) "School food authority" means:

(a) A school district or the state charter school institute;

(a.3) A charter school collaborative formed pursuant to section 22-30.5-603;

(a.5) A board of cooperative services created pursuant to article 5 of this title that elects to operate as a school food authority pursuant to section 22-5-120; or

(b) A district charter school or an institute charter school that:

(I) The commissioner of education or his or her designee provisionally authorizes as a school food authority pursuant to section 22-32-120 (6); or

(II) The department of education authorizes as a school food authority pursuant to section 22-32-120 (5).

(3) "School lunch program" means the federal "Richard B. Russell National School Lunch Act" created in 42 U.S.C. sec. 1751 et seq.

**Source: L. 2008:** Entire article added, p. 1640, § 2, effective August 5. **L. 2009:** (2.5) added, (SB 09-230), ch. 227, p. 1037, § 13, effective May 4. **L. 2010:** (2.5)(a) amended and (2.5)(a.5) added, (HB 10-1335), ch. 326, p. 1514, § 9, effective August 11; (2.5)(b)(I) amended, (HB 10-1422), ch. 419, p. 2080, § 52, effective August 11. **L. 2011:** (2.5)(a.3) added, (HB 11-1277), ch. 306, p. 1506, § 41, effective August 10.

**22-82.9-104. Child nutrition school lunch protection program - creation - administration - objectives.** (1) There is hereby created the child nutrition school lunch protection program to ensure that each student in a Colorado public school has access to a healthy lunch at school to help the student participate fully in the learning process.

(2) The department shall administer the program in accordance with the procedures developed pursuant to section 22-82.9-106.

(3) The department shall approve a multi-district online school operating in learning centers, as defined in section 22-30.7-102 (4), to participate in the program and in the school lunch program so long as the multi-district online school complies with the federal requirements for participating in the school lunch program, including but not limited to completing and submitting the required federal application form for each student who chooses to participate in the school lunch program.

(4) The objectives of the program are to:

(a) Eliminate the reduced price paid by Colorado students who are enrolled in state-subsidized early childhood education programs administered by public schools or in kindergarten through twelfth grade and who are participating in the school lunch program;

(b) Increase the number of Colorado students who consume a healthy lunch each day;

(c) Decrease statewide health care costs by improving the health of school-age children;

(d) Lessen students' risk of obesity and type 2 diabetes by providing healthy school lunch options;

(e) Encourage charter schools and school districts to participate in the school lunch program;

(f) Increase students' consumption of whole grains, fruits and vegetables, vitamins, calcium, protein, fiber, and iron; and reduce the consumption of sodium, cholesterol, sugar, and calories;

(g) Make lunch more accessible to underprivileged students;

(h) Lessen the stigma associated with children who receive reduced-cost lunches;

(i) Reduce child hunger in Colorado; and
(j) Continue to strengthen and support child nutrition programs.

**Source: L. 2008:** Entire article added, p. 1640, § 2, effective August 5. **L. 2009:** (4)(a) amended, (SB 09-033), ch. 54, p. 193, § 1, effective August 5. **L. 2012:** (3) amended, (HB 12-1240), ch. 258, p. 1332, § 49, effective June 4. **L. 2014:** (4)(a) amended, (HB 14-1156), ch. 319, p. 1397, § 1, effective August 6. **L. 2018:** (4)(a) amended, (SB 18-013), ch. 267, p. 1648, § 1, effective May 29. **L. 2019:** (4)(a) amended, (HB 19-1171), ch. 148, p. 1768, § 1, effective August 2.

**22-82.9-105. Program funding.** (1) For each fiscal year, the general assembly shall make an appropriation by separate line item in the annual general appropriation bill to allow school food authorities to provide lunches at no charge for children in state-subsidized early childhood education programs administered by public schools or in kindergarten through twelfth grade, participating in the school lunch program, who would otherwise be required to pay a reduced price for lunch. The appropriation to the department for the program must be in addition to any appropriation made by the general assembly pursuant to section 22-54-123 or 22-54-123.5 (1). The department may expend not more than two percent of the money annually appropriated for the program to offset the direct and indirect costs incurred by the department in implementing the program pursuant to this article 82.9.

(1.5) Repealed.

(2) The department is authorized to seek and accept gifts, grants, and donations from public and private sources for the purposes of this article, but receipt of gifts, grants, and donations shall not be a prerequisite to the implementation of the program.

(3) To the extent permitted by law, the department may, at its discretion, direct other moneys to fund the program.

**Source: L. 2008:** Entire article added, p. 1641, § 2, effective August 5. **L. 2009:** (1) amended, (SB 09-230), ch. 227, p. 1037, § 14, effective May 4; (1) amended, (SB 09-033), ch. 54, p. 193, § 2, effective August 5. **L. 2014:** (1) amended, (HB 14-1156), ch. 319, p. 1397, § 2, effective August 6. **L. 2015:** (1) amended, (SB 15-235), ch. 127, p. 394, § 1, effective May 1. **L. 2018:** (1.5) added, (SB 18-013), ch. 267, p. 1648, § 2, effective May 29. **L. 2019:** (1) amended and (1.5) repealed, (HB 19-1171), ch. 148, p. 1768, § 2, effective August 2.

**Editor's note:** (1) Amendments to subsection (1) by Senate Bill 09-033 and Senate Bill 09-230 were harmonized.

(2) Section 4 of chapter 127 (SB 15-235), Session Laws of Colorado 2015, provides that changes to this section by the act apply to fiscal years beginning on or after July 1, 2014.

**22-82.9-106. Program - procedures.** The department shall develop procedures to allocate and disburse the moneys in the program among participating school food authorities each year, in an equitable manner and in compliance with the requirements of the federal "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq.

**Source: L. 2008:** Entire article added, p. 1642, § 2, effective August 5. **L. 2009:** Entire section amended, (SB 09-230), ch. 227, p. 1038, § 15, effective May 4.

**22-82.9-107. No individual entitlement.** (1) Nothing in this article shall be interpreted to create a legal entitlement to any participant to assistance provided pursuant to the program.

(2) The department in administering the program and a school food authority in implementing the program may not create and shall not be deemed to create a legal entitlement to any participant to assistance provided pursuant to the program.

**Source: L. 2008:** Entire article added, p. 1642, § 2, effective August 5. **L. 2009:** (2) amended, (SB 09-230), ch. 227, p. 1038, § 16, effective May 4.

## ARTICLE 83

Plan for Improving Achievement
in Math, Science, and Technology

**22-83-101. Legislative declaration.** The general assembly finds that state programs instituting comprehensive statewide systemic initiatives designed to broaden the impact, accelerate the pace, and increase the effectiveness of and achieve significant improvements in science, mathematics, and technology education in pre-K through 12 and postsecondary levels are essential to student improvement and achievement in the 1990's and beyond. The general assembly further finds that a statewide structure for systemic change in pre-K through 12 and postsecondary mathematics, science, and technology education should be designed which takes full advantage of the unique opportunities available in Colorado including, but not limited to, a decentralized educational system that supports creative reform initiatives beginning in the classroom, a concentration of expertise in the space sciences and technological fields, and a plan for improving such education through the use of a statewide comprehensive telecommunications system under the "Pre-K-16 Mathematics, Science, and Technology Improvement Act of 1990", article 81 of this title. The general assembly finds that the Colorado mathematics-science-technology commission appointed by the governor intends to facilitate and assist with developing plans for the restructuring of mathematics, science, and technology programs in pre-K through 12 and postsecondary education. The general assembly finds that the goals of such structure for systemic change should be to increase the knowledge of science and mathematics acquired by all students at all grade and ability levels, to afford every student the maximum opportunity to acquire the habits of mind and critical thinking skills that characterize the effective use of mathematics and science essential for engineering and technology, to assure the emergence of Colorado as the national leader in student achievement and participation in science, mathematics, and technology, particularly by those groups which are traditionally underrepresented, and to participate actively in achieving the president's and the nation's governors' goal of making American students the first in the world in mathematics and science achievement by the year 2000.

**Source: L. 91:** Entire article added, p. 514, § 1, effective June 5.

**22-83-102. Pre-K through 12 and postsecondary mathematics, science, and technology education improvement plan.** (1) The Colorado mathematics-science-technology commission shall facilitate an improvement plan that institutes comprehensive statewide systemic initiatives designed to analyze, review, and improve all or some of the systemic components of pre-K through 12 and postsecondary mathematics, science, and engineering education in Colorado. Such plan shall specifically include and address the following:

(a) The design, facilitation, and coordination of such a plan by the Colorado department of education, the Colorado commission on higher education, the Colorado alliance for science, individual school district boards, and the governing boards of state institutions of higher education, in cooperation and consultation with the mathematics-science-technology commission appointed by the governor;

(b) Measures taken in preparation for action, including the mathematics-science-technology commission's findings derived from a thorough analysis of the essential system components and factors affecting science, mathematics, engineering, and technical education;

(c) Specific objectives, including, but not limited to, increasing student participation and achievement in mathematics, science, and technology education at all grade and ability levels and increasing public awareness about mathematics, science, and technology instruction and issues;

(d) The results and benefits expected from the plan, including increased student access to and participation in math and science courses and the evaluation and redesigning of math and science instruction;

(e) An agenda for action and experimentation which describes an explicit management and implementation structure, confronts obstacles to change, and achieves planned improvements;

(f) The proposed development of a network of unique schools to develop and refine systemic change in mathematics, science, and technology education with an ultimate purpose of increasing the effectiveness for children;

(g) Long-term commitments to action specifically describing the commitment made by the officers, offices, agencies, groups, and systems making up the statewide partnership;

(h) The past and planned efforts made to increase public awareness and understanding of the urgent need to support improvements in mathematics, science, and technology education;

(i) A description of certain components of systemic change to be integrated into plans for mathematics, science, and technology education initiatives, including but not limited to the following:

(I) Organizational structure and decision-making;

(II) Provision and allocation of resources;

(III) Recruitment and preparation of teachers and college faculty;

(IV) Retention and continuing professional development of teachers and other professional personnel;

(V) Curriculum content and learning goals;

(VI) Delivery of instruction, including the use of educational technology;

(VII) Assessment of student achievement;

(VIII) Facilities and equipment;

(IX) Articulation within the system; and

(X) Accountability systems;

(j) The past and planned efforts made to restructure teacher education programs for higher education to ensure that all students shall have strong mathematics, science, and technology competencies; and

(k) The use of advanced technology to improve distance learning capabilities for rural and urban schools including, but not limited to, carrying mathematics, science, and technology courses on the state's existing telecommunications networks and those to be expanded or developed.

**Source: L. 91:** Entire article added, p. 515, § 1, effective June 5. **L. 97:** (1)(a) amended, p. 1013, § 20, effective August 6.

**22-83-103. Mathematics, science, and technology education improvement plan fund - creation.** (1) There is hereby created in the state treasury the mathematics, science, and technology education improvement plan fund, which fund shall be administered by the department of education.

(2) The department is authorized to receive donations, grants, contributions, gifts, bequests, federal funds, and funds from any source to be credited to the fund. All interest derived from the deposit and investment of moneys in the fund shall be credited to the fund. At the end of any fiscal year, all unexpended and unencumbered moneys in the fund shall remain therein and shall not be credited or transferred to the general fund or any other fund but shall be subject to appropriation by the general assembly for the purposes of this article.

(3) The general assembly may from time to time make appropriations from the general fund to the fund for the use of the department in carrying out the purposes of this article.

**Source: L. 91:** Entire article added, p. 517, § 1, effective June 5.

## ARTICLE 84

Colorado Magnet School for
Mathematics, Science, and Technology

**22-84-101 to 22-84-103. (Repealed)**

**Source: L. 2000:** Entire article repealed, p. 194, § 2, effective July 1.

**Editor's note:** This article was added in 1991. For amendments to this article prior to its repeal in 2000, consult the Colorado statutory research explanatory note and the table itemizing the replacement volumes and supplements to the original volume of C.R.S. 1973 beginning on page vii in the front of this volume.

## ARTICLE 86

Summer School Grant Program
Facility Schools

**22-86-101 to 22-86-106. (Repealed)**

**Source: L. 2008:** Entire article repealed, p. 1228, § 44, effective May 22.

**Editor's note:** This article was added in 2002. For amendments to this article prior to its repeal in 2008, consult the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

**Cross references:** For the legislative declaration contained in the 2008 act repealing this article, see section 1 of chapter 286, Session Laws of Colorado 2008.

## ARTICLE 87

Children's Internet Protection

**22-87-101. Short title.** This article shall be known and may be cited as the "Children's Internet Protection Act".

**Source: L. 2003:** Entire article added, p. 2475, § 31, effective August 15.

**22-87-102. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) Use of the internet in the public schools of the state provides an extraordinary, unique, and unparalleled educational resource;

(b) Reasonable measures must be adopted and implemented to protect the children who use internet services in public schools from access to material that is harmful to their beneficial development as responsible adults and citizens.

(2) It is the intent of the general assembly by enacting this article that public schools be required to adopt and enforce reasonable policies of internet safety that will protect children from access to harmful material without compromising either the use of the internet as an educational resource or responsible adult use of internet services in such schools.

(3) The general assembly favors the adoption by public libraries across the state of policies for children's internet protection that mirror the policies for public schools required to be adopted pursuant to the provisions of this article. Recognizing that limited state resources as of August 15, 2003, preclude an appropriation to expand the requirements of this article to include public libraries, the general assembly urges public libraries to, and hopes such libraries will, adopt the policies specified in this article on their own initiative.

**Source: L. 2003:** Entire article added, p. 2475, § 31, effective August 15.

**22-87-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Access to the internet" means, with reference to a particular technology device, that the technology device is connected to a network that provides access to the internet.

(2) Repealed.

(3) "District" means any public school district organized under the laws of Colorado, except a local college district.

(4) "Harmful to minors" means any picture, image, graphic image file, or other visual depiction that:

(a) Taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

(b) Depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

(c) Taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

(5) "Minor" means an individual who has not attained the age of seventeen.

(6) "Sexual act" or "sexual contact" shall have the same meanings as set forth in 18 U.S.C. sec. 2246 (2) and (3).

(6.5) "Technology device" means any computer, hardware, software, or other technology that is used for learning purposes and has the ability to connect with the internet.

(7) Repealed.

**Source: L. 2003:** Entire article added, p. 2475, § 31, effective August 15. **L. 2012:** (1) and IP(7) amended, (2) repealed, and (6.5) added, (HB 12-1240), ch. 258, p. 1333, § 54, effective June 4. **L. 2013:** (7) repealed, (HB 13-1219), ch. 104, p. 365, § 17, effective August 7.

**22-87-104. Adoption and enforcement of policy of internet safety for minors - public schools.** (1) No later than December 31, 2013, the governing body of each district shall adopt and implement a policy of internet safety for minors.

(2) After the adoption and implementation of the policy of internet safety required by subsection (1) of this section, the governing body of each district shall continue to enforce the policy adopted.

**Source: L. 2003:** Entire article added, p. 2476, § 31, effective August 15. **L. 2012:** Entire section amended, (HB 12-1240), ch. 258, p. 1334, § 55, effective June 4. **L. 2013:** (1) amended, (HB 13-1219), ch. 104, p. 365, § 16, effective August 7.

**22-87-105. Temporary disabling of technology protection measure. (Repealed)**

**Source: L. 2003:** Entire article added, p. 2477, § 31, effective August 15. **L. 2012:** IP(1) amended, (HB 12-1240), ch. 258, p. 1334, § 56, effective June 4. **L. 2013:** Entire section repealed, (HB 13-1219), ch. 104, p. 365, § 18, effective August 7.

**22-87-106. No restrictions on blocking access to the internet of other material.** Nothing in this article shall be construed as prohibiting a local board of education, or an elementary or secondary school, from blocking access to the internet on technology devices owned or operated by that board or school to material other than the material for which a technology protection measure is explicitly required in accordance with the requirements of this article.

**Source: L. 2003:** Entire article added, p. 2477, § 31, effective August 15. **L. 2012:** Entire section amended, (HB 12-1240), ch. 258, p. 1334, § 57, effective June 4.

**22-87-107. No effect on library maintained by postsecondary educational institution - no requirement of additional action for public schools already in compliance.** (1) Nothing in this article shall be construed to apply to any library facility maintained by any postsecondary educational institution. For purposes of this subsection (1), "postsecondary" shall have the same meaning as is provided in section 23-1-119 (4), C.R.S.

(2) Nothing in this article shall be construed to require any additional action on the part of any school district that is already in compliance with the requirements of this article as of July 1, 2003.

**Source: L. 2003:** Entire article added, p. 2477, § 31, effective August 15.

## ARTICLE 88

Audio Textbooks

**22-88-101 to 22-88-106. (Repealed)**

**Editor's note:** (1) This article was added in 2006. For amendments prior to its repeal in 2010, consult the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

(2) Section 22-88-106 provided for the repeal of this article, effective July 1, 2010. (See L. 2009, p. 771.)

## ARTICLE 88.1

Reading Assistance Grant Program Fund

**22-88.1-101. Reading assistance grant program fund - balance of moneys - transfer. (Repealed)**

**Source: L. 2011:** Entire article added, (SB 11-218), ch. 151, p. 527, § 6, effective May 5. **L. 2015:** Entire section repealed, (SB 15-264), ch. 259, p. 957, § 56, effective August 5.

## ARTICLE 89

Wind for Schools Grant Program

**22-89-101 to 22-89-105. (Repealed)**

**Source: L. 2018:** Entire article repealed, (SB 18-003), ch. 359, p. 2124, § 1, effective June 1.

**Editor's note:** This article was added in 2007. For amendments to this article prior to its repeal in 2018, consult the 2017 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

## ARTICLE 90

Interstate Compact on Educational
Opportunity for Military Children

**22-90-101. Interstate compact approved and ratified.** Pursuant to section 24-60-3402, C.R.S., the general assembly approved and ratified and authorized the governor to enter into a compact on behalf of the state of Colorado with any of the United States or other jurisdictions concerning educational opportunity for military children.

**Source: L. 2008:** Entire article added, p. 2277, § 1, effective August 5.

## ARTICLE 91

School Counselor Corps Grant Program

**22-91-101. Legislative declaration.** (1) The general assembly hereby finds that:

(a) A student's level of education attainment will directly influence the student's level of achievement and success throughout the rest of his or her life;

(b) The national center for education statistics reports that, in comparing employment rates and levels of education attainment across the country, in 2005, the unemployment rate for persons who dropped out of high school was seven and six-tenths percent, compared to an overall average unemployment rate for all education levels of four percent. The unemployment rate for persons who graduated from high school and attained an associates degree was three and three-tenths percent, and the unemployment rate dropped to two and three-tenths percent for persons who attained a bachelor's degree.

(c) The Colorado department of education reports that the graduation rate for Colorado school districts in the spring of 2006 was seventy-four and one-tenth percent;

(d) In 2003, approximately forty-nine percent of the students who graduated from a Colorado public high school enrolled in a public institution of higher education in Colorado;

(e) As recently as 2006, statistics showed that there is a forty percent probability that a student who is enrolled in ninth grade in Colorado will be enrolled in postsecondary education when the student is nineteen years of age, and thirty-four percent of the persons in Colorado who are eighteen to twenty-four years of age are enrolled in postsecondary education;

(f) Studies show that school counseling and postsecondary preparation can have a significant effect on students in assisting them to begin as early as seventh or eighth grade to identify their post-graduation goals and to begin planning to achieve them. This is especially true for African-American and Hispanic students, low-income students, and students whose parents have no direct experience with postsecondary education.

(g) Studies further show that strategic partnerships among school counselors, properly trained administrators, teachers, and community-based postsecondary service providers result in

improved attendance, improved academic performance, and increased postsecondary success for students from low-income families and students whose parents have no direct experience with postsecondary education;

(h) Studies also show that a significant factor in assisting a student to remain in school and to graduate is the creation of a strong personal relationship with at least one adult in the school, and in many cases that adult is a school counselor;

(i) Professional school counselors are trained to provide comprehensive programs that facilitate the development of the whole child in the areas of academic, career, and personal and social needs;

(j) For the 2006-07 school year, the student-to-counselor ratio in Colorado public schools was approximately five hundred to one, which is double the ratio recommended by the American school counselors association as an average statewide ratio; and

(k) Reducing the student-to-counselor ratio in Colorado's public schools is a positive move toward achieving the goals of closing the achievement gap, decreasing the dropout rate, and increasing the number of students who matriculate into postsecondary education without the need for remediation.

(2) The general assembly concludes, therefore, that it is in the best interests of the students in the state to encourage and support school districts, boards of cooperative services, and charter schools in increasing the number of school counselors available in middle, junior high, and high schools and in improving the level of school counseling services provided to students by enacting the school counselor corps grant program.

**Source: L. 2008:** Entire article added, p. 1353, § 1, effective May 27. **L. 2017:** (1)(k) amended, (SB 17-068), ch. 138, p. 463, § 6, effective August 9.

**Cross references:** For the legislative declaration in SB 17-068, see section 1 of chapter 138, Session Laws of Colorado 2017.

**22-91-102. Definitions.** As used in this article 91, unless the context otherwise requires:

(1) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(2) "Education provider" means a school district, a board of cooperative services, a charter school authorized by a school district pursuant to part 1 of article 30.5 of this title, or a charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title.

(2.5) "First-generation college student" means:

(a) An individual both of whose parents did not complete a baccalaureate degree; or

(b) In the case of an individual who regularly resided with and received support from only one parent, an individual whose only such parent did not complete a baccalaureate degree.

(3) "Postsecondary service provider" means an independent agency whose primary purpose is to provide career and college preparatory services to students.

(4) "Program" means the school counselor corps grant program created in section 22-91-103.

(5) "Recipient school" means a school at which an education provider will use money received from the program to either increase the number of school counselors or otherwise raise the level of school counseling provided.

(5.5) "School" means a public elementary, middle, junior high, or high school.

(6) "School counselor" means a person who holds a special services provider license with a school counselor endorsement issued pursuant to article 60.5 of this title 22 or who is otherwise endorsed or accredited by a national association to provide school counseling services. "School counselor" includes a person who holds a special services intern authorization pursuant to section 22-60.5-111 (3).

(7) Repealed.

(8) "State board" means the state board of education created pursuant to section 1 of article IX of the state constitution.

**Source: L. 2008:** Entire article added, p. 1355, § 1, effective May 27. **L. 2014:** (2.5) added and (7) amended, (SB 14-150), ch. 214, p. 800, § 1, effective May 16. **L. 2017:** IP and (5) amended, (5.5) added, and (7) repealed, (SB 17-068), ch. 138, p. 464, § 7, effective August 9. **L. 2018:** (6) amended, (HB 18-1309), ch. 269, p. 1662, § 6, effective August 8.

**Cross references:** For the legislative declaration in SB 17-068, see section 1 of chapter 138, Session Laws of Colorado 2017.

**22-91-103. School counselor corps grant program - created - rules.** (1) (a) There is created in the department the school counselor corps grant program to provide funding to education providers. The goal of the program is to increase the availability of effective school-based counseling to help increase the graduation rate within the state and increase the percentage of students who appropriately prepare for, apply to, and continue into postsecondary education.

(b) An education provider that receives a grant under the program must use the moneys to increase the level of funding the education provider allocated to school-based counseling prior to receiving the grant and not to replace other funding sources allocated to school-based counseling.

(c) The department shall administer the program as provided in this article and pursuant to rules adopted by the state board.

(d) An education provider that receives a grant through the program shall use state guidelines and standards to implement a comprehensive counseling model that includes a time and effort assessment, postsecondary workforce-ready programming, and social and emotional counseling work.

(e) An education provider that receives a grant through the program shall use state models for accountability. The education provider shall collect data on its counseling program to demonstrate the impact of the school counseling program on student achievement, attendance, and behavior. The education provider shall use the data to analyze school counseling program assessments to guide future action and improve future results for all students.

(2) The state board shall adopt rules, pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., for implementation of the program, including but not limited to rules regarding:

(a) The timeline for submitting applications to the department;

(b) The form of the grant application and any information in addition to that specified in section 22-91-104 (2) to be included in the application;

(c) Any criteria for awarding grants in addition to those specified in section 22-91-104 (3); and

(d) Any information to be included in the department's program report in addition to that required in section 22-91-105.

**Source: L. 2008:** Entire article added, p. 1355, § 1, effective May 27. **L. 2014:** (1) amended, (SB 14-150), ch. 214, p. 800, § 2, effective May 16. **L. 2017:** (1)(a) amended, (SB 17-068), ch. 138, p. 464, § 8, effective August 9.

**Cross references:** For the legislative declaration in SB 17-068, see section 1 of chapter 138, Session Laws of Colorado 2017.

**22-91-104. School counselor corps grant program - application - criteria - grant awards - rules - repeal.** (1) An education provider seeking a grant from the program shall submit an application to the school counselor corps advisory board existing within the department in accordance with the rules adopted by the state board. The school counselor corps advisory board shall review each grant application received and make recommendations to the department and state board concerning whether a grant should be awarded to the education provider and the recommended amount of the grant. If the school counselor corps advisory board determines an application is missing any information required by rule to be included with the application, the school counselor corps advisory board may contact the education provider to obtain the missing information.

(2) At a minimum, each grant application must specify:

(a) The intended recipient schools, the number of school counselors employed by the education provider prior to receipt of a grant, and the ratio of students to school counselors in the schools operated by or receiving services from the education provider;

(b) Whether the education provider has adopted standards for school counselor responsibilities, as recommended by a national association of school counselors;

(c) Whether the education provider has entered into, or has committed to establishing, one or more partnerships with institutions of higher education or postsecondary service providers in Colorado to support and increase the capacity and effectiveness of the counseling and postsecondary preparation services provided to students enrolled in or receiving educational services from the education provider;

(d) The education provider's plan for use of the grant money, including the extent to which the grant money will be used to increase the number of school counselors at recipient schools and to provide professional development for school counselors and professional development to enable other faculty members to provide counseling and postsecondary preparation services at recipient schools;

(e) The education provider's plan for involving leaders at the recipient schools and in the surrounding community and the faculty at recipient schools in increasing the capacity and effectiveness of the counseling and postsecondary preparation services provided to students enrolled in or receiving educational services from the education provider;

(f) The extent to which the education provider has developed or plans to develop partnerships to serve the postsecondary needs of all of the students enrolled in or receiving educational services from the education provider;

(g) The education provider's use of district-level, or school-level if the education provider is a charter school, needs assessments that identify challenging issues in the district or school in terms of student learning and success and identification of any programs initiated or services provided by the education provider to students that have helped to increase graduation rates and the level of postsecondary success among graduates;

(h) The attendance, grade-retention and promotion, and grading policies implemented by the education provider;

(i) Whether the education provider intends to provide matching funds to augment any grant moneys received from the program and the anticipated amount and source of any matching funds; and

(j) The education provider's plan for continuing to fund the increases in school counseling services following expiration of the grant.

(3) In reviewing applications and making recommendations to the department and state board, the school counselor corps advisory board shall consider the following criteria, in addition to any other criteria adopted by rule of the state board:

(a) The dropout rate at the intended recipient school or schools and, if the education provider is a school district, at all of the schools within the school district. The school counselor corps advisory board, department, and state board shall give priority to education providers that intend to use the grant money to assist schools at which the dropout rate exceeds the statewide average.

(a.5) The remediation rate at the intended recipient school or schools and, if the education provider is a school district, all of the schools within the school district. The school counselor corps advisory board, department, and state board shall give priority to education providers that intend to use the grant money to assist schools at which the remediation rate is greater than the statewide average.

(b) The percentage of students enrolled in the intended recipient school or schools, and, if the education provider is a school district, all of the schools within the school district, who are eligible for free or reduced-cost lunch or who are considered at-risk students. The school counselor corps advisory board, department, and state board shall give priority to education providers that identify intended recipient schools with a high percentage of said students.

(c) The percentage of students enrolled in the intended recipient school or schools and, if the education provider is a school district, all of the schools in the school district, who graduate and enroll in postsecondary education within two years after graduating from high school;

(c.5) The number of students enrolled in the intended recipient school or schools and, if the education provider is a school district, all of the schools in the school district, who apply to and enroll in postsecondary education within two years after graduating from high school and who are first-generation college students. The school counselor corps advisory board, department, and state board shall give priority to education providers that identify intended recipient schools with a high percentage of first-generation college students.

(d) Whether the education provider has adopted, or has demonstrated a commitment to adopting, standards for school counselor responsibilities, as recommended by a national association of school counselors;

(e) The likelihood that the education provider will continue to fund the increases in the level of school counseling services following expiration of the grant;

(f) The geographic location of the education provider. The school counselor corps advisory board, department, and state board may provide a preference in awarding grants to underserved areas of the state.

(g) The current student-to-counselor ratio at the school.

(4) The department and the state board shall consult with experts in the area of school counseling, including but not limited to school counselors, persons who provide education and professional development in the areas of school counseling and career counseling, and higher education admissions officers, in establishing any additional criteria for awarding grants and in reviewing applications and selecting grant recipients.

(4.5) The department shall provide support to schools to train principals on the most effective use of the program.

(5) (a) Subject to available appropriations, but not to exceed ten million dollars annually, the state board shall award grants to applying education providers pursuant to this section. The state board shall base the grant awards on the department's recommendations. Each grant has a term of four years beginning in the 2014-15 budget year. In making a grant award, the state board shall specify the amount of each grant.

(b) (I) In addition to the amount appropriated pursuant to subsection (5)(a) of this section, the general assembly shall appropriate two hundred fifty thousand dollars each year for the 2019-20 and 2021-22 fiscal years, from the general fund to the state board. The state board shall distribute the appropriation to the education providers that receive a grant for the following purposes:

(A) Developing and distributing information to students, families, and school leaders regarding the free application for federal student aid and applications for state student aid, and the benefits of completing the free application for federal student aid and applications for state student aid;

(B) Developing and distributing information to students and families regarding the steps required to complete the free application for federal student aid and applications for state student aid;

(C) Training school counselors on best practices to support students and families with filling out the free application for federal student aid and applications for state student aid, with an emphasis on supporting communities who have historically low completion rates of the free application for federal student aid and applications for state student aid; and

(D) Organizing and hosting opportunities for students and families to meet with stakeholders who assist in completing the free application for federal student aid or applications for state student aid.

(II) This subsection (5)(b) is repealed, effective July 1, 2023.

(6) The department may expend no more than three percent of the moneys annually appropriated for the program to offset the costs incurred in implementing the program, including the provision of grant-related professional development, training, and reporting activities.

(7) The department shall seek and may accept public or private gifts, grants, or donations to assist in funding the program.

(8) The general assembly hereby finds and declares that, for purposes of section 17 of article IX of the state constitution, awarding grants to education providers to use in increasing

the availability of school counselors and the level of school counseling services provided in schools and to thereby increase the graduation and matriculation rates and decrease the need for remediation in postsecondary education is an important element of accountable education reform and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 2008:** Entire article added, p. 1356, § 1, effective May 27. **L. 2011:** (6) amended, (SB 11-229), ch. 157, p. 543, § 1, effective May 5. **L. 2014:** (1), (3), (5), and (6) amended and (4.5) added, (SB 14-150), ch. 214, p. 801, § 3, effective May 16. **L. 2017:** IP(2), (2)(a), (2)(c) to (2)(g), (3)(a) to (3)(c.5), (4.5), and (8) amended, (SB 17-068), ch. 138, p. 464, § 9, effective August 9. **L. 2019:** (5) amended, (HB 19-1187), ch. 161, p. 1892, § 2, effective May 13. **L. 2020:** IP(5)(b)(I) amended, (HB 20-1418), ch. 197, p. 940, § 4, effective June 30.

**Cross references:** For the legislative declaration in SB 17-068, see section 1 of chapter 138, Session Laws of Colorado 2017. For the legislative declaration in HB 19-1187, see section 1 of chapter 161, Session Laws of Colorado 2019. For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

**22-91-104.5. School counselor corps advisory board - created - guidelines.** (1) There is created within the department the school counselor corps advisory board. The department shall establish guidelines for the duties, membership, and responsibilities of the advisory board. The advisory board may include, but is not limited to, members:

(a) Who represent the departments of education, higher education, and labor and employment; community colleges; or school districts; or

(b) Who have expertise in elementary, middle, and high school counseling; student retention; counselor education; career and technical education; student support services; career planning; pre-collegiate services and college admissions; and mental health and suicide prevention.

**Source: L. 2014:** Entire section added, (SB 14-150), ch. 214, p. 803, § 4, effective May 16.

**22-91-105. Reporting - repeal.** (1) Each education provider that receives a grant through the program shall report the following information to the department each year during the term of the grant:

(a) The number of school counselors hired using grant moneys;

(b) Any professional development programs provided using grant moneys;

(c) Any other services provided using grant moneys;

(d) A comparison of the dropout rates, and the college matriculation and remediation rates, if applicable, at the recipient schools for the years prior to receipt of the grant and the years for which the education provider receives the grant;

(e) Information indicating an increase in the level of postsecondary preparation services provided to students at recipient schools, such as the use of individual career and academic plans or enrollment in pre-collegiate preparation programs or postsecondary or vocational preparation programs;

(f) (I) A comparison of the number of students who completed the free application for federal student aid or applications for state student aid for the year the education provider receives the grant, if available, and the number of students who completed the free application for federal student aid or applications for state student aid for each of the years the education provider receives the grant.

(II) This subsection (1)(f) is repealed, effective July 1, 2023.

(g) Any additional information that the state board, by rule, may require.

(2) Notwithstanding section 24-1-136 (11)(a)(I), on or before May 15, 2009, and on or before 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 website.

(3) The department of higher education shall cooperate with the department in providing information necessary for the report submitted by the department pursuant to subsection (2) of this section.

**Source: L. 2008:** Entire article added, p. 1359, § 1, effective May 27. **L. 2011:** (2) amended, (HB 11-1277), ch. 306, p. 1503, § 28, effective August 10. **L. 2017:** (1)(d) and (1)(e) amended, (SB 17-068), ch. 138, p. 466, § 10, effective August 9; (2) amended, (HB 17-1267), ch. 242, p. 998, § 21, effective August 9. **L. 2019:** (1)(e) and (1)(f) amended and (1)(g) added, (HB 19-1187), ch. 161, p. 1893, § 3, effective May 13.

**Cross references:** For the legislative declaration in SB 17-068, see section 1 of chapter 138, Session Laws of Colorado 2017. For the legislative declaration in HB 19-1187, see section 1 of chapter 161, Session Laws of Colorado 2019.

## ARTICLE 92

Renewable Energy and Energy Efficiency
for Schools Loan Program

**22-92-101 to 22-92-107. (Repealed)**

**Source: L. 2018:** Entire article repealed, (SB 18-003), ch. 359, p. 2126, § 2, effective June 1.

**Editor's note:** This article was added in 2009. For amendments to this article prior to its repeal in 2018, consult the 2017 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

## ARTICLE 93

School Bullying Prevention and Education
Grant Program

**22-93-101. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Bullying" shall have the same meaning as set forth in section 22-32-109.1 (1)(b).

(2) "Cash fund" means the school bullying prevention and education cash fund created in section 22-93-105.

(3) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(4) "Facility school" means an approved facility school, as defined in section 22-2-402 (1).

(5) "Program" means the school bullying prevention and education grant program created in section 22-93-102.

(6) "Public school" means a school of a school district, a district charter school, an institute charter school, or a board of cooperative services, as defined in section 22-5-103.

(7) "State board" means the state board of education created pursuant to section 1 of article IX of the state constitution.

**Source: L. 2011:** Entire article added, (HB 11-1254), ch. 173, p. 647, § 1, effective May 13. **L. 2012:** (1) amended, (HB 12-1345), ch. 188, p. 750, § 44, effective May 19.

**22-93-102. School bullying prevention and education grant program - created.** (1) There is hereby created in the department the school bullying prevention and education grant program. Under the program, on and after July 1, 2012, or not more than ninety days after the promulgation of rules by the state board pursuant to section 22-93-104, whichever is later, a public school, a facility school, or a collaborative group of public schools or facility schools may apply for a grant to fund efforts to reduce the frequency of bullying incidents. The department shall administer the program in consultation with the school safety resource center created in section 24-33.5-1803, C.R.S.

(2) Notwithstanding any other provision of this article, the department shall not be required to implement the provisions of this article until sufficient moneys have been transferred or appropriated to the cash fund.

(3) The department is hereby authorized to hire any employees necessary to carry out the duties associated with the provisions of this article. The creation of any new positions of employment within the department pursuant to this article shall be subject to the availability of sufficient moneys in the cash fund and shall be eliminated when sufficient moneys are no longer available in the cash fund. The department shall ensure that all position descriptions and notices to hire for positions created pursuant to this article clearly state that such positions are subject to the availability of sufficient moneys in the cash fund.

**Source: L. 2011:** Entire article added, (HB 11-1254), ch. 173, p. 648, § 1, effective May 13.

**22-93-103. School bullying prevention and education grant program - grant process - reports by grant recipients.** (1) The department shall solicit and review applications from public schools and facility schools for grants pursuant to this section. The department may award grants to public schools, facility schools, and collaborative groups of public schools and facility schools for periods of one to three years.

(2) Each application, at a minimum, shall describe how the applicant public school, facility school, or collaborative group of public schools or facility schools will use any awarded grant moneys to reduce the frequency of bullying incidents. Each grant recipient shall use its grant moneys to supplement and not supplant any moneys currently being used by the grant recipient to reduce the frequency of bullying incidents.

(3) The department shall select those public schools, facility schools, and collaborative groups of public schools and facility schools that will receive grants pursuant to this section and the duration and amount of each grant. In selecting the grant recipients, the department, at a minimum, shall take into account the criteria established by rules promulgated by the state board pursuant to section 22-93-104 (1)(b).

(4) Notwithstanding section 24-1-136 (11)(a)(I), on or before a date specified by rule of the state board pursuant to section 22-93-104 (1)(d), the department shall submit annually to the state board and to the education committees of the senate and house of representatives, or any successor committees, the following information regarding the administration of the program in the preceding year:

(a) The number of grant recipients that received grants under the program;

(b) The amount of each grant awarded to each grant recipient;

(c) The average amount of each grant awarded under the program;

(d) The number of pupils who are either enrolled at each public school of each grant recipient or receiving services through each facility school of each grant recipient; and

(e) The source and amount of each gift, grant, and donation received by the department for the implementation of this article pursuant to section 22-93-105 (3)(b).

(5) In selecting grant recipients, the department, to the extent possible, shall ensure that grants are awarded to public schools, facility schools, and collaborative groups of public schools and facility schools in a variety of geographic areas of the state.

(6) Each grant recipient shall submit a written report to the department not later than six months after the expiration of the term of the grant concerning the effectiveness or ineffectiveness of each use of grant moneys by the grant recipient in reducing the frequency of bullying incidents.

**Source: L. 2011:** Entire article added, (HB 11-1254), ch. 173, p. 648, § 1, effective May 13. **L. 2017:** IP(4) amended, (HB 17-1267), ch. 242, p. 998, § 22, effective August 9.

**22-93-104. Rules.** (1) On or before April 1, 2012, or not more than ninety days after the department receives sufficient moneys to implement this article as described in section 22-93-102 (2), whichever is later, the state board shall promulgate rules for the administration of this article, including but not limited to:

(a) Application procedures by which public schools, facility schools, and collaborative groups of public schools and facility schools may apply for grants pursuant to this article;

(b) Criteria for the department to apply in selecting the public schools, facility schools, and collaborative groups of public schools and facility schools that shall receive grants and determining the amount of grant moneys to be awarded to each grant recipient, which criteria, at a minimum, shall require each grant recipient to:

(I) Use awarded grant moneys for purposes that are based upon evidence-based best practices for preventing bullying;

(II) Use at least a portion of awarded grant moneys for the purpose of educating students' parents and legal guardians regarding the grant recipient's policies concerning bullying prevention and education and the grant recipient's ongoing efforts to reduce the frequency of bullying incidents; and

(III) Adopt a specific policy concerning bullying education and prevention that includes:

(A) Provisions for the biennial administration of surveys of students' impressions of the severity of bullying in their schools, the administration of which surveys, at a minimum, shall satisfy the rules promulgated by the state board pursuant to paragraph (c) of this subsection (1); and

(B) The designation of a team of persons at each school of the school district who advise the school administration concerning the severity and frequency of bullying incidents that occur in the school, which team may include, but need not be limited to, law enforcement officials, social workers, prosecutors, health professionals, mental health professionals, counselors, teachers, administrators, parents, and students.

(c) Rules for the administration of surveys of students' impressions of the severity of bullying in their schools, which procedures, at a minimum, shall include:

(I) Procedures for the distribution, collection, standardization, and analysis of data collected in each survey, which procedures shall ensure the confidentiality of each student's answers to the survey and clarify that the completion of a survey shall be voluntary and shall not be required of any student;

(II) Certain questions that each survey shall ask of each student concerning how frequently the student witnesses bullying at his or her school and how frequently the student perceives himself or herself to be a victim of bullying; and

(III) Provisions to ensure that, to the extent practicable, a school district or school, including a district charter school or an institute charter school, may utilize existing forms and procedures in administering the surveys.

(d) The designation of a date by which the department shall annually submit to the state board and to the education committees of the senate and house of representatives, or any successor committees, the information described in section 22-93-103 (4).

**Source: L. 2011:** Entire article added, (HB 11-1254), ch. 173, p. 649, § 1, effective May 13.

**22-93-105. School bullying prevention and education cash fund - created.** (1) There is hereby established in the state treasury the school bullying prevention and education cash fund. The cash fund shall consist of moneys transferred or appropriated thereto pursuant to subsection (3) of this section and any other moneys that may be made available by the general assembly. The moneys in the cash fund are continuously appropriated to the department for the direct and indirect costs associated with implementing this article. Any moneys not provided as grants may be invested by the state treasurer as provided in section 24-36-113, C.R.S. All interest and income derived from the investment and deposit of moneys in the cash fund shall be credited to the cash fund. Any amount remaining in the cash fund at the end of any fiscal year shall remain in the cash fund and shall not be credited or transferred to the general fund or to any other fund.

(2) No more than five percent of the moneys annually expended from the cash fund may be used for the expenses incurred by the department in administering this article.

(3) (a) The general assembly may appropriate money to the bullying prevention and education cash fund from the marijuana tax cash fund created in section 39-28.8-501.

(b) The department may seek, accept, and expend public or private gifts, grants, and donations from public and private sources to implement this article; except that the department shall not accept a gift, grant, or donation that is subject to conditions that are inconsistent with the provisions of this article or any other law of the state. The department shall transfer all private and public moneys received through gifts, grants, and donations to the state treasurer, who shall credit the same to the cash fund.

(4) Nothing in this section shall be interpreted to require the department to solicit moneys for the purposes of this article.

**Source: L. 2011:** Entire article added, (HB 11-1254), ch. 173, p. 651, § 1, effective May 13. **L. 2015:** (1) and (3)(a) amended, (HB 15-1367), ch. 271, p. 1074, § 12, effective June 4. **L. 2018:** (3)(a) amended, (HB 18-1369), ch. 253, p. 1554, § 3, effective August 8.

**Cross references:** For the legislative declaration in HB 15-1367, see section 1 of chapter 271, Session Laws of Colorado 2015. For the legislative declaration in HB 18-1369, see section 1 of chapter 253, Session Laws of Colorado 2018.

**22-93-106. School bullying prevention and education - availability of best practices and other resources.** (1) On or before November 1, 2011, the department shall create a page on its public website at which the department shall continuously make publicly available evidence-based best practices and other resources for educators and other professionals engaged in bullying prevention and education.

(2) The department shall solicit evidence-based best practices and other resources from the school safety resource center created in section 24-33.5-1803, C.R.S.; from school districts; from the state charter school institute established in section 22-30.5-503; and from other state and federal agencies that are concerned with school bullying prevention and education. The department shall review materials that it receives and, as may be appropriate, make such materials available to the public on the website described in subsection (1) of this section.

**Source: L. 2011:** Entire article added, (HB 11-1254), ch. 173, p. 651, § 1, effective May 13.

## ARTICLE 94

Quality Teacher Recruitment

**22-94-101. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.

(2) "District" means a school district, a group of school districts, or a board of cooperative services as defined in section 22-5-103 (2).

(3) "Highly qualified" has the same meaning as provided in 20 U.S.C. sec. 7801 (23).

(4) "Program" means a quality teacher recruitment program created by a vendor through a contract with the department.

(5) "Vendor" means a for-profit or nonprofit organization.

**Source: L. 2013:** Entire article added, (SB 13-260), ch. 236, p. 1145, § 12, effective May 17.

**22-94-102. Contract to create quality teacher recruitment program.** (1) The department shall contract with a vendor, in partnership with a district, to create a quality teacher recruitment program to recruit, select, train, and retain highly qualified teachers to teach in public schools and in school districts in the state that can demonstrate a historic difficulty in recruiting and retaining highly qualified teachers. In contracting with a vendor in partnership with a district, the department shall ensure that the vendor will place highly qualified teachers in the district by the beginning of the 2014-15 school year.

(2) In awarding a contract pursuant to subsection (1) of this section, the department shall take into consideration the number of districts in which the vendor will place highly qualified teachers, the number of highly qualified teachers that the vendor will place, and the potential number of children who will be taught by the highly qualified teachers. The department shall ensure that it awards the contract to one or more vendors that satisfy the following criteria:

(a) The vendor commits to working with one or more school districts in the state for at least two years to recruit and place highly qualified teachers;

(b) The vendor has a documented history of recruiting, training, and retaining highly qualified teachers in areas of Colorado or other states that have had historic difficulty in recruiting and retaining highly qualified teachers;

(c) The vendor commits to placing only teachers who are deemed highly qualified;

(d) The vendor can demonstrate that the teachers it has placed in public schools and school districts in the past, either in Colorado or in other states, achieve high academic growth from their students based on state achievement data or independent studies;

(e) The vendor has a documented history of providing professional development for teachers, including induction, training, on-going support, and evaluations; and

(f) The vendor commits to matching no less than one hundred percent of any moneys that the department pays through a contract entered into pursuant to subsection (1) of this section. A vendor that responds to the department's solicitation for a contract issued pursuant to subsection (1) of this section shall provide written documentation from one or more private or corporate donors that pledge to make gifts, grants, or donations to the vendor that, in total, equal at least the amount that the department has specified will be available for the purposes of a contract pursuant to subsection (1) of this section for the applicable fiscal year. The written documentation must also include the date by which the vendor will receive the gifts, grants, or donations to be used in furtherance of the requirements of this article.

(3) The vendor with which the department contracts to operate a program pursuant to this article shall use any moneys paid to the vendor in connection with the contract to recruit, train, and place highly qualified teachers to teach in public schools or school districts in Colorado that have had historic difficulty in recruiting and retaining highly qualified teachers.

The vendor shall provide the necessary administrative services to operate the program and shall not use any state moneys for these purposes.

**Source: L. 2013:** Entire article added, (SB 13-260), ch. 236, p. 1145, § 12, effective May 17.

**22-94-103. Annual reports.** (1) A vendor that enters into a contract with the department to establish and operate a program pursuant to this article shall, for the duration of the contract, submit a report to the department that includes the data and performance metrics from the prior school year as specified in subsection (3) of this section.

(2) In addition to the report required pursuant to subsection (1) of this section, the department shall contract with a third party to evaluate and submit to the department a report after the first year of the program and a final report after the second year of the program regarding the progress of the vendor based on the data and performance metrics specified in subsection (3) of this section. The department may use up to two percent of the moneys appropriated by the general assembly for the purposes of this article in the applicable fiscal year to contract for the report required in this subsection (2).

(3) The reports required in subsections (1) and (2) of this section must include but need not be limited to:

(a) The number of students in the state who are taught by teachers who are placed in public schools or districts in the state through a program;

(b) The average length of time that teachers placed in districts through a program remain in the district in which they are placed;

(c) The names of the public schools and districts in which teachers are placed through a program;

(d) The subjects and grade levels taught by the teachers who are placed through the program; and

(e) The effectiveness ratings of the teachers placed through the program pursuant to section 22-9-106.

(4) Notwithstanding section 24-1-136 (11)(a)(I), the department shall submit an annual report to the office of the governor, the state board of education, and the members of the education committees of the house of representatives and the senate, or any successor committees, summarizing the findings from the two reports submitted to the department pursuant to this section.

**Source: L. 2013:** Entire article added, (SB 13-260), ch. 236, p. 1147, § 12, effective May 17. **L. 2017:** (4) amended, (HB 17-1267), ch. 242, p. 999, § 23, effective August 9.

## ARTICLE 95

Advanced Placement Incentives Pilot Program

**22-95-101 to 22-95-105. (Repealed)**

**Editor's note:** (1) This article 95 was added in 2014. For amendments to this article 95 prior to its repeal in 2020, consult the 2019 Colorado Revised Statutes and the Colorado statutory research explanatory note beginning on page vii in the front of this volume.

(2) For the amendments to § 22-95-105 by HB 20-1418 in effect from June 30, 2020, to July 1, 2020, see chapter 197, Session Laws of Colorado 2020. (L. 2020, p. 945.)

(3) Section 22-95-105 provided for the repeal of this article 95, effective July 1, 2020. (See L. 2020, p. 945.)

## ARTICLE 95.5

Advanced Courses Grant Programs

PART 1

ACCELERATED COLLEGE OPPORTUNITY
EXAM FEE GRANT PROGRAM

**22-95.5-101. Definitions.** As used in this part 1, unless the context otherwise requires:

(1) "Department" means the department of education created and existing pursuant to section 24-1-115.

(2) "Eligible student" means a student enrolled in a high school who is a low-income student, as defined in 20 U.S.C. sec. 9832, and who is planning to take one or more advanced placement exams or international baccalaureate exams.

(2.5) "Exam" means an advanced placement exam or an international baccalaureate exam.

(3) "Grant program" means the accelerated college opportunity exam fee grant program created in section 22-95.5-102.

(4) "High school" means any public school that serves grades nine through twelve and has one or more students who plan to take an exam.

(5) "State board" means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

**Source: L. 2018:** Entire article added, (HB 18-1396), ch. 243, p. 1508, § 1, effective August 8. **L. 2019:** IP amended, (SB 19-059), ch. 149, p. 1774, § 3, effective August 2; (2), (3), and (4) amended and (2.5) added, (HB 19-1222), ch. 189, p. 2095, § 1, effective August 2.

**Cross references:** For the legislative declaration in SB 19-059, see section 1 of chapter 149, Session Laws of Colorado 2019.

**22-95.5-102. Accelerated college opportunity exam fee grant program - creation - rules.** (1) There is created in the department the accelerated college opportunity exam fee grant program to increase the number of eligible students who take advanced placement exams and international baccalaureate exams and receive scores for which college academic credit is

awarded by providing funds to high schools to pay all or a portion of exam fees on behalf of eligible students.

(2) The department shall administer the grant program in accordance with state board rules. The department shall:

(a) Accept and review grant applications received from high schools;

(b) Determine the amount, based on available appropriations, that will be awarded for each exam that will be administered to an eligible student; and

(c) Award grants, at the amount set for each exam that will be administered to an eligible student, determined pursuant to subsection (2)(b) of this section, to each high school that has submitted an application.

(3) (a) The amount set by the department for each exam pursuant to subsection (2)(b) of this section must be the same for each exam, regardless of the subject of the exam.

(b) Notwithstanding subsection (3)(a) of this section, and subject to available appropriations, the department may award a grant for an exam fee in an amount greater than the amount of a grant awarded for another exam up to the amount necessary to cover the entire fee of an exam. In order to award a grant in a greater amount pursuant to this subsection (3)(b), any grant awarded for a lesser amount must cover the entire cost of the exam fee for which the lesser grant is awarded.

(4) Pursuant to article 4 of title 24, the state board shall promulgate rules to implement the grant program, including rules relating to:

(a) The application process, including application requirements and deadlines;

(b) A process for verifying student eligibility; and

(c) Deadlines for the department to award grants.

(5) A high school that receives an award pursuant to this section shall use the entire amount awarded to pay all or a portion of exam fees on behalf of eligible students who will take an exam in the amount awarded for each exam by the department pursuant to this section.

**Source: L. 2018:** Entire article added, (HB 18-1396), ch. 243, p. 1509, § 1, effective August 8. **L. 2019:** (1), (2)(b), (3), and (5) amended, (HB 19-1222), ch. 189, p. 2095, § 2, effective August 2.

**22-95.5-103. Reporting requirements.** In its annual report before the house and senate committees of reference pursuant to section 2-7-203, the department shall include information describing the grants awarded through the grant program during the preceding year.

**Source:** Entire article added, (HB 18-1396), ch. 243, p. 1509, § 1, effective August 8.

PART 2

JOHN W. BUCKNER AUTOMATIC ENROLLMENT
IN ADVANCED COURSES GRANT PROGRAM

**Cross references:** For the legislative declaration in SB 19-059, see section 1 of chapter 149, Session Laws of Colorado 2019.

**22-95.5-201. Definitions.** As used in this part 2, unless the context otherwise requires:

(1) "Advanced course" means an advanced course of study in any subject, including an advanced placement course; an international baccalaureate course; or a course designated by a school district as an honors, gifted, or accelerated course.

(2) "Department" means the department of education created and existing pursuant to section 24-1-115.

(3) "Grant program" means the John W. Buckner automatic enrollment in advanced courses grant program created in section 22-95.5-202.

(4) "Local education provider" means a public school as described in section 22-1-101, a school district, or a board of cooperative services created pursuant to article 5 of this title 22.

(5) "Parent" means a student's biological parent, adoptive parent, or legal guardian.

(6) "Rural school district" means a school district in Colorado that the department determines is rural, based on the geographic size of the school district and the distance of the school district from the nearest large, urbanized area.

(7) "School district" means any public school district organized under the laws of Colorado. "School district" does not include a local college district.

(8) "State board" means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

**Source: L. 2019:** Entire part added, (SB 19-059), ch. 149, p. 1771, § 2, effective August 2.

**22-95.5-202. John W. Buckner automatic enrollment in advanced courses grant program - creation - rules.** (1) There is created in the department the John W. Buckner automatic enrollment in advanced courses grant program to increase the number of students enrolled in advanced courses for subjects in which the student has demonstrated proficiency.

(2) The department shall administer the grant program in accordance with state board rules. The department shall:

(a) Notify local education providers of the grant program, including application deadlines, twice within the three months before the first application deadline after the creation of the grant program, and once annually thereafter;

(b) Accept and review grant applications;

(c) Determine the amount, in accordance with state board rules and based on available appropriations, that will be awarded to each eligible local education provider; and

(d) Award a grant to each eligible local education provider that has submitted an application.

(3) (a) Pursuant to article 4 of title 24, the state board shall promulgate rules to implement the grant program, including rules relating to:

(I) The application process, including deadlines;

(II) The formula for determining the amount of the grant awarded to each eligible local education provider;

(III) Deadlines for the department to award grants; and

(IV) A process for verifying that local education providers that have received an award are complying with the requirements of the grant program.

(b) When promulgating rules for determining the amount of the grant award pursuant to subsection (3)(a)(II) of this section, the state board shall include the following factors:

(I) The costs associated with a local education provider implementing its plan submitted with its application;

(II) The number of grade levels in which the local education provider automatically enrolls students in advanced courses; and

(III) The number of students automatically enrolled in advanced courses by the local education provider.

(c) In promulgating rules pursuant to this part 2, the state board shall ensure that a rural school district may submit a simplified grant application.

**Source: L. 2019:** Entire part added, (SB 19-059), ch. 149, p. 1771, § 2, effective August 2.

**22-95.5-203. Eligibility - application - use of grant money - report.** (1) (a) A local education provider may apply for a grant pursuant to this section; except that, when a school district submits an application and is eligible for a grant pursuant to this part 2, a school operating within that district may not submit an application.

(b) An application from an individual school must be submitted by the chief administrative officer of the school and, if the school is not a charter school, the school must notify the superintendent of the school district of the application.

(2) (a) A local education provider is eligible for the grant program if the local education provider automatically enrolls each student entering the ninth grade or higher in an advanced course based on any of the following criteria:

(I) The student achieved a score that is equivalent to, or exceeds, demonstrating proficiency on the state assessment that was administered pursuant to section 22-7-1006.3 for the preceding academic year, referred to in this section as an "eligible score", as follows:

(A) Students who achieve an eligible score in a subject related to mathematics must be automatically enrolled in advanced courses in mathematics;

(B) Students who achieve an eligible score in subjects relating to reading and writing must be enrolled in advanced courses in English, social studies, humanities, or other related subjects; and

(C) Students who achieve an eligible score in a subject related to science or social studies must be automatically enrolled in advanced courses in science or social studies; or

(II) Any other measure, applied to all students enrolled in a local education provider, that, in the judgment of the local education provider, is an indicator that a student demonstrates the ability to succeed in an advanced course.

(b) (I) A local education provider is encouraged to automatically enroll each student entering the fourth through eighth grade in advanced courses as described in this section.

(II) A local education provider is encouraged to use automatic enrollment for courses in subjects not listed in this section.

(c) A local education provider shall permit a parent of a student to remove the student from an advanced course in which the student has been automatically enrolled. A local education provider may permit a parent of a student to exempt the student from any automatic enrollment in advanced courses.

(3) In an application submitted pursuant to this part 2, a local education provider shall include the following:

(a) A description of the local education provider's existing advanced courses and any planned advanced courses, including courses that may be implemented with money received from the grant program;

(b) The local education provider's plan for automatically enrolling students into advanced courses;

(c) A description of how the local education provider will use any grant awarded consistent with the requirements of subsection (4) of this section; and

(d) Any other information required by state board rule.

(4) A local education provider that is awarded a grant pursuant to this part 2 may use the grant money for any of the following:

(a) Expanding the number of advanced courses offered in the local education provider, including the use of technology to increase the number of advanced courses offered;

(b) Incentivizing teachers to teach advanced courses, including teacher training and professional development in areas relating to advanced course instruction;

(c) Developing advanced course curriculum; or

(d) Expanding parent and student engagement with the local education provider as it relates to advanced course availability and enrollment and student success in advanced courses.

(5) A local education provider that is awarded a grant pursuant to this part 2 may not use the grant money for the purpose of hiring new teachers.

(6) A local education provider that receives an award from the grant program must submit an annual report to the department that includes the following information:

(a) The number of students enrolled in advanced courses;

(b) The number of students automatically enrolled in advanced courses by the local education provider; and

(c) Demographic information of students automatically enrolled in advanced courses, including but not limited to age, ethnicity, racial, and socioeconomic information.

**Source: L. 2019:** Entire part added, (SB 19-059), ch. 149, p. 1772, § 2, effective August 2.

**22-95.5-204. Department of education reporting requirements.** In its annual report before the house and senate committees of reference pursuant to section 2-7-203, the department shall include information describing the grants awarded through the grant program during the preceding year.

**Source: L. 2019:** Entire part added, (SB 19-059), ch. 149, p. 1774, § 2, effective August 2.

## ARTICLE 96

Behavioral Health Care
Professional Matching Grant Program

**22-96-101. Legislative declaration.** (1) The general assembly hereby finds and declares that:

(a) Colorado ranks fortieth in the nation in the school nurse-to-student ratio;

(b) The federal center for disease control's healthy people 2020 recommended one school nurse for every seven hundred fifty general education students, but many school nurses in Colorado are responsible for as many as six thousand students, making it difficult to provide the social-emotional support necessary to students and staff;

(c) In 2011, prior to the legalization of retail marijuana, almost forty percent of students surveyed reported having tried marijuana one or more times, with nine percent reporting that they had tried marijuana before age thirteen;

(d) In addition, twenty-two percent of students reported using marijuana one or more times in the last thirty days, with six percent reporting that they had used marijuana on school property one or more times;

(e) The legalization of retail marijuana is anticipated to increase the availability of marijuana to underage youth;

(f) Marijuana use by minors can have immediate and lasting health implications, and many youth who engage in substance abuse develop or have underlying behavioral health needs;

(g) School health professionals have already started to experience the results of marijuana as a newly legalized substance in increased visits to the health office and referrals from school staff; and

(h) School health professionals are in a unique position to educate, assess, and treat youth who have substance abuse or behavioral health issues.

(2) The general assembly further finds and declares that a program to provide matching grants to education providers to enhance the presence of school health professionals in schools throughout the state will facilitate better screening, education, and referral care coordination for students with substance abuse and other behavioral health needs.

**Source: L. 2014:** Entire article added, (SB 14-215), ch. 352, p. 1603, § 3, effective July 1. **L. 2017:** (2) amended, (SB 17-068), ch. 138, p. 462, § 2, effective August 9.

**Cross references:** For the legislative declaration in SB 17-068, see section 1 of chapter 138, Session Laws of Colorado 2017.

**22-96-102. Definitions.** As used in this article 96, unless the context otherwise requires:

(1) "Behavioral health care" means services to prevent, identify, and treat substance use disorders, substance misuse, and mental health disorders, including services to support social-emotional health.

(1.5) "Department" means the department of education created and existing pursuant to section 24-1-115.

(2) "Education provider" means a school district, a board of cooperative services, a charter school authorized by a school district pursuant to part 1 of article 30.5 of this title, or a charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title.

(2.5) "School" means a public elementary, middle, junior high, or high school.

(3) "School health professional" means a state-licensed or state-certified school nurse, school psychologist, school social worker, school counselor, or other state-licensed or state-certified professional qualified under state law to provide support services to children and adolescents, including mental health professionals licensed pursuant to article 245 of title 12.

(4) Repealed.

(5) "State board" means the state board of education created pursuant to section 1 of article IX of the state constitution.

**Source: L. 2014:** Entire article added, (SB 14-215), ch. 352, p. 1604, § 3, effective July 1. **L. 2017:** IP and (3) amended, (2.5) added, and (4) repealed, (SB 17-068), ch. 138, p. 462, § 3, effective August 9. **L. 2018:** (3) amended, (HB 18-1309), ch. 269, p. 1663, § 8, effective August 8. **L. 2019:** (1) and (3) amended and (1.5) added, (SB 19-010), ch. 155, p. 1842, § 1, effective May 10.

**Cross references:** For the legislative declaration in SB 17-068, see section 1 of chapter 138, Session Laws of Colorado 2017.

**22-96-103. Behavioral health care professional matching grant program - created - rules.** (1) (a) There is created in the department the behavioral health care professional matching grant program, referred to in this article 96 as the "program", to provide funding to education providers for the following purposes:

(I) To increase the presence of school health professionals in schools to provide behavioral health care to students who have mental health, substance use or misuse, or other behavioral health needs;

(II) To provide training and resources for school staff on the implementation of evidence-based programming on behavioral health education for all students;

(III) To allow school health professionals to connect students with services that are provided by community-based organizations for treatment and counseling for students who need behavioral health care; and

(IV) To provide behavioral health care services at recipient schools, including but not limited to screenings, counseling, therapy, referrals to community organizations, and training for students and staff on behavioral health issues.

(b) An education provider that receives a grant under the program shall use the money to increase the level of funding the education provider allocates to school health professionals to provide behavioral health care to students prior to receiving the grant and not to replace other funding sources allocated to provide school health professionals for students. The education provider may use the money to contract with a community partner for behavioral health care services, including hiring private health care professionals, training, screening, and preventive supports. Additionally, the education provider may use the money to provide direct services or consultation by a school health professional through telehealth technology. The department shall administer the program as provided in this article 96 and pursuant to rules adopted by the state board.

(2) The state board shall adopt rules pursuant to the "State Administrative Procedure Act", article 4 of title 24, C.R.S., for implementation of the program, including but not limited to rules regarding:

(a) The timeline for submitting applications to the department;

(b) The form of the grant application and any information in addition to that specified in section 22-96-104 (2) to be included in the application;

(c) Any criteria for awarding grants in addition to those specified in section 22-96-104 (3); and

(d) Any information to be included in the department's program report in addition to that required in section 22-96-105.

**Source: L. 2014:** Entire article added, (SB 14-215), ch. 352, p. 1605, § 3, effective July 1. **L. 2017:** (1) amended, (SB 17-068), ch. 138, p. 462, § 4, effective August 9. **L. 2019:** (1) amended, (SB 19-010), ch. 155, p. 1843, § 2, effective May 10.

**Cross references:** For the legislative declaration in SB 17-068, see section 1 of chapter 138, Session Laws of Colorado 2017.

**22-96-104. Behavioral health care professional matching grant program - application - criteria - grant awards.** (1) An education provider that seeks a grant from the program shall submit an application to the department in accordance with the rules adopted by the state board. The department shall review each application received from an education provider and make recommendations to the state board concerning whether a grant should be awarded to the education provider and the recommended amount of the grant. If the department determines an application is missing any information required by rule to be included with the application, the department may contact the education provider to obtain the missing information.

(2) At a minimum, each grant application must specify:

(a) The intended recipient schools, the number of health professionals employed by the education provider prior to receipt of a grant, and the ratio of students to school health providers in the schools operated by or receiving services from the education provider;

(b) The education provider's plan for use of the grant money, including the extent to which the grant money will be used to increase the number of school health professionals at recipient schools and to provide behavioral health care services at recipient schools, including screenings, counseling, therapy, referrals to community organizations, and training for students and staff on behavioral health issues;

(c) The education provider's plan for involving leaders at the recipient schools and in the surrounding community and the faculty at recipient schools in increasing the capacity and effectiveness of the behavioral health care services provided to students enrolled in or receiving educational services from the education provider;

(d) The extent to which the education provider has developed or plans to develop community partnerships to serve the behavioral health care needs of all of the students enrolled in or receiving educational services from the education provider;

(e) The extent to which the education provider has seen increased incidence of disciplinary actions for drug use or selling drugs, suicide attempts, deaths by suicide, bullying, adverse childhood experiences, or other factors that affect students' mental well-being;

(f) The extent to which the education provider has an existing program that can be expanded to increase the availability of school health professionals;

(g) The amount of matching funds that the education provider intends to provide to augment any grant moneys received from the program and the anticipated amount and source of any matching funds; and

(h) The education provider's plan for continuing to fund the increase in school health professional services following expiration of the grant.

(3) In reviewing applications and making recommendations, the department shall prioritize applications based on the following criteria and any other criteria adopted by rule of the state board:

(a) The education provider's need for additional school health professionals in schools, demonstrated by the local school and community data regarding student alcohol or drug use, access to a behavioral health care provider, or other data showing the need for a school health professional;

(b) The existence of a successful school health team in the education provider's school or schools;

(c) The amount of the matching money that the education provider or a community partner is able to commit;

(d) The education provider's emphasis and commitment to implement evidence-based and research-based programs and strategies;

(e) The likelihood that the education provider or community partner will continue to fund the increases in the level of school health professional services following expiration of the grant; and

(f) The extent to which an education provider prioritizes use of grant money for staff training related to behavioral health supports.

(4) The department and the state board shall consult with experts in the area of school health professional services when establishing any additional criteria for awarding grants and in reviewing applications and selecting grant recipients.

(5) Subject to available appropriations, the state board shall award grants to applying education providers pursuant to this section. The state board shall base the grant awards on the department's recommendations. Each grant shall have an initial term of one year. In making the award, the state board shall specify the amount of each grant.

(6) The department may expend no more than three percent of the moneys annually appropriated for the program to offset the costs incurred in implementing the program.

(7) Grant applications and reporting will be designed to limit administrative burden on applicants and recipients.

**Source: L. 2014:** Entire article added, (SB 14-215), ch. 352, p. 1605, § 3, effective July 1. **L. 2017:** IP(2), (2)(a) to (2)(d), and (3)(a) amended, (SB 17-068), ch. 138, p. 463, § 5, effective August 9. **L. 2019:** (2)(b), (2)(c), (2)(d), (2)(e), (3)(a), (3)(c), (3)(d), and (3)(e) amended and (3)(f) and (7) added, (SB 19-010), ch. 155, p. 1843, § 3, effective May 10.

**Cross references:** For the legislative declaration in SB 17-068, see section 1 of chapter 138, Session Laws of Colorado 2017.

**22-96-105. Reporting.** (1) In any fiscal year in which the general assembly makes an appropriation to the department for the purposes of the program, each education provider that

receives a grant through the program shall report the following information to the department each year during the term of the grant:

(a) The number of school health professionals hired using grant moneys;

(b) A list and explanation of the services provided using grant moneys; and

(c) Any additional information that the state board, by rule, may require.

(2) On or before May 1, 2015, and on or before May 1 in each fiscal year thereafter in which the general assembly makes an appropriation to the department for the purposes of the program, 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 website.

**Source: L. 2014:** Entire article added, (SB 14-215), ch. 352, p. 1607, § 3, effective July 1.

## ARTICLE 97

Teacher Grants for Computer Science Education

PART 1

COMPUTER SCIENCE EDUCATION GRANTS

**22-97-101. Definitions.** As used in this part 1, unless the context otherwise requires:

(1) "Computer science education" means the study of computers, algorithmic processes, and computer programming and coding, including their principles, their hardware and software designs, their applications, and their impact on society.

(2) "Department" means the department of education created and existing pursuant to section 24-1-115.

(3) "Eligible teacher" means a person who is employed as a teacher in a public school in the state.

(4) "Grant program" means the grant program established pursuant to section 22-97-102.

(5) "Public school" has the same meaning as provided in section 22-1-101 and includes, but is not limited to, a district charter school, an institute charter school, and an online school, as defined in section 22-30.7-102 (9.5).

(6) "School district" means a school district authorized by section 15 of article IX of the state constitution and organized pursuant to article 30 of this title 22. "School district" also includes a board of cooperative services created pursuant to article 5 of this title 22, if it is operating a public school; a district charter school; an institute charter school; and an online school, as defined in section 22-30.7-102 (9.5).

(7) "State board" means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

**Source: L. 2017:** Entire article added, (SB 17-296), ch. 313, p. 1685, § 5, effective June 2. **L. 2019:** IP amended, (HB 19-1277), ch. 353, p. 3259, § 2, effective August 2.

**22-97-102. Computer science education grants for teachers - creation - legislative declaration - rules.** (1) There is created in the department a grant program for eligible teachers who wish to pursue additional postsecondary education in order to provide computer science education to students in public schools. A school district or a school district on behalf of an eligible teacher or teachers may apply for a grant.

(2) The department shall administer the grant program in accordance with state board rules. The department shall accept and review grant applications received from school districts or school districts on behalf of an eligible teacher or teachers and shall make recommendations to the state board for the award of grants. In making its recommendations, the department may consider the priorities contained in subsection (4) of this section.

(3) Pursuant to article 4 of title 24, the state board shall promulgate rules necessary for the implementation of the grant program, including rules relating to:

(a) The application process, including application requirements and deadlines;

(b) Criteria for the award of grants, including the priorities for awarding grants contained in subsection (4) of this section;

(c) The amount and duration of the grants; and

(d) The approved uses of the grant, including tuition, fees, training program costs, and books and materials.

(4) In awarding grants, the state board may:

(a) Give priority to grant applications that benefit a teacher or teachers in a school district that serves:

(I) A high-poverty student population;

(II) A high number of minority students; or

(III) Students in rural areas;

(b) Give priority to grant applications that benefit a teacher or teachers who intend to continue teaching in public schools in Colorado after completing postsecondary education obtained through the grant program; and

(c) Give priority to grant applications for postsecondary course work or training that enables a teacher to teach computer science, including concurrent enrollment courses in computer science, and that applies toward the completion of a degree in computer science, the completion of an industry-recognized certificate in computer science, or the completion of a high-quality training program, or that results in the mastery of a teaching content area in computer science.

(5) The state board may award grants to school districts for high-quality training programs offered to teachers in the district that enable the teachers to teach computer science courses.

(6) Subject to available appropriations, the state board shall annually award grants.

(7) The general assembly declares that, for purposes of section 17 of article IX of the state constitution, computer science education grants for teachers are an important element in expanding technology education and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 2017:** Entire article added, (SB 17-296), ch. 313, p. 1686, § 5, effective June 2.

**22-97-103. Reporting.** (1) No later than January 1, 2018, and no later than each January 1 thereafter if the state board has awarded a grant during the previous calendar year, the department shall report to the education committees of the house of representatives and the senate, or any successor committees.

(2) At a minimum, the report must include:

(a) The number of grants awarded during the previous calendar year;

(b) The amount of the grants;

(c) The number of teachers in each school district who benefitted from the grant; and

(d) The uses of the grant, including the postsecondary courses, degrees, training programs, or industry-recognized certificates completed and the education provider providing the education.

(3) Notwithstanding section 24-1-136 (11)(a)(I), the report required in this section continues indefinitely.

**Source: L. 2017:** Entire article added, (SB 17-296), ch. 313, p. 1687, § 5, effective June 2.

PART 2

COMPUTER SCIENCE EDUCATION
GRANT PROGRAM ACT

**22-97-201. Short title.** The short title of this part 2 is the "Computer Science Education Grant Program Act".

**Source: L. 2019:** Entire part added, (HB 19-1277), ch. 353, p. 3255, § 1, effective August 2.

**22-97-202. Definitions.** As used in this part 2, unless the context otherwise requires:

(1) "Computer science education" means the study of computers, algorithmic processes, and computer programming and coding, including their principles, their hardware and software designs, their applications, and their impact on society.

(2) "Department" means the department of education created and existing pursuant to section 24-1-115.

(3) "Grant program" means the computer science education grant program created pursuant to section 22-97-203.

(4) "Public school" has the same meaning as provided in section 22-1-101 and includes, but is not limited to, a district charter school or an institute charter school.

(5) "School district" means a school district authorized by section 15 of article IX of the state constitution and organized pursuant to article 30 of this title 22. "School district" also includes a board of cooperative services created pursuant to article 5 of this title 22, if it is operating a public school; a district charter school; an institute charter school; and an online school, as defined in section 22-30.7-102 (9.5).

(6) "State board" means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

**Source: L. 2019:** Entire part added, (HB 19-1277), ch. 353, p. 3255, § 1, effective August 2

**22-97-203. Computer science education grant program - creation - rules - legislative declaration.** (1) There is created in the department the computer science education grant program to provide money to public schools or school districts in order to increase enrollment or participation of traditionally underrepresented students in computer science education.

(2) The department shall administer the grant program in accordance with state board rules. The department shall accept and review grant applications received from public schools or school districts and shall make recommendations to the state board for the award of grants. In making its recommendations, the department shall consider the priorities contained in subsection (5) of this section. The state board shall select the grant recipients and the amount of each grant.

(3) Pursuant to article 4 of title 24, the state board shall promulgate rules necessary for the implementation of the grant program, including rules relating to:

(a) The application process, including application requirements and deadlines. The application process must include, at a minimum:

(I) Data regarding the total number of students who are currently enrolled or participating in computer science education activities offered by the applicant, if any, disaggregated based on:

(A) Gender;

(B) Race and ethnicity;

(C) Students who are enrolled in special education services or programs, as defined in section 22-20-103 (23);

(D) Students who are English language learners, as defined in section 22-24-103 (4); and

(E) Students who are eligible for free or reduced-cost lunch pursuant to the provisions of the federal "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq.;

(II) A description of the computer science education activities currently offered by the public school or school district applicant, if any, including whether any advanced placement computer science courses are offered; and

(III) A description of how technology equipment, including but not limited to hardware, software, or accessories, will be used to increase enrollment or participation of students described in subsection (3)(a)(I) of this section in computer science education activities. A grant application must not request more than fifty percent of the total grant award for technology equipment.

(b) Criteria for the award of grants, including the priorities for awarding grants contained in subsection (5) of this section;

(c) The amount and duration of the grants; and

(d) The approved uses of the grant.

(4) Notwithstanding subsection (3)(a)(I) of this section, if a demographic category described in subsection (3)(a)(I) of this section contains five or fewer students, that number on the application must be withheld in order to protect the identity of those students.

(5) In awarding grants, the state board shall give priority to grant applications that:

(a) Demonstrate how the applicant will use the grant to serve:

(I) A high-poverty student population;

(II) A high percentage of minority students;

(III) Students in rural areas; or

(IV) A high percentage of female students;

(b) Expose students to diverse professionals within the computer science industry; or

(c) Demonstrate a low number of computer science education activities offered in the public school or school district, if any.

(6) The general assembly shall appropriate two hundred fifty thousand dollars each year for the 2021-22 and 2022-23 fiscal years from the general fund to the department. The department shall distribute the money to the education providers that receive a grant.

**Source: L. 2019:** Entire part added, (HB 19-1277), ch. 353, p. 3256, § 1, effective August 2. **L. 2020:** (6) amended, (HB 20-1418), ch. 197, p. 940, § 5, effective June 30; (2) and (3)(b) amended, (HB 20-1402), ch. 216, p. 1049, § 40, effective June 30.

**Cross references:** For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

**22-97-204. Reporting.** (1) No later than October 1, 2021, and no later than each October 1 thereafter, each grant recipient who was awarded a grant pursuant to section 22-97-203 during the previous school year shall submit a report to the state board.

(2) At a minimum, the report required pursuant to subsection (1) of this section must include:

(a) The total number of all computer science education activities, with a description of the computer science programs and the computer science curriculum covered;

(b) (I) The total number of students who are enrolled in the computer science education activities offered by the grant recipient, and disaggregated based on:

(A) Gender;

(B) Race and ethnicity;

(C) Students who are enrolled in special education services or programs, as defined in section 22-20-103 (23);

(D) Students who are English language learners, as defined in section 22-24-103 (4); and

(E) Students who are eligible for free or reduced-cost lunch pursuant to the provisions of the federal "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq.

(II) Notwithstanding subsection (2)(b)(I) of this section, if a demographic category described in subsection (2)(b)(I) of this section contains five or fewer students, that number on the report must be withheld in order to protect the identity of those students.

(c) The number of students who enrolled in the computer science education activities offered by the grant recipient and took an end-of-course advanced placement exam; and

(d) The number of students who enrolled in the computer science education activities offered by the grant recipient and scored three or above on an end-of-course advanced placement exam.

(3) No later than January 1, 2022, and no later than each January 1 thereafter, the department shall publish a public report regarding the grant program. The report must include, at a minimum, the data reported by grant applicants, pursuant to section 22-97-203 (3)(a)(I), and the data reported by all grant recipients, pursuant to subsection (2)(a) of this section.

**Source: L. 2019:** Entire part added, (HB 19-1277), ch. 353, p. 3257, § 1, effective August 2.

**22-97-205. Repeal of part.** This part 2 is repealed, effective July 1, 2024.

**Source: L. 2019:** Entire part added, (HB 19-1277), ch. 353, p. 3258, § 1, effective August 2.

## ARTICLE 98

Teacher Retention in Public Schools

**22-98-101. Legislative declaration.** (1) The general assembly finds that:

(a) A recent study by the department of higher education and the department of education identified the existence of a teacher shortage in Colorado;

(b) The study specifically found that the inability to retain teachers, either in a specific school district or public school or in the profession, is a significant cause of the teacher shortage. The four-year teacher attrition rate for public schools in Colorado is sixteen and four-tenths percent, about two percent higher than the national average. The percentage of teachers who plan to leave teaching in Colorado is also about two percent higher than the national average.

(c) The Colorado teacher shortage study and other research have identified several strategies to address the issue of teacher retention, including providing robust induction programs and other significant supports for new teachers; providing peer review and mentorship programs both as support for new teachers and as career advancement opportunities for experienced teachers; allowing flexibility in work schedules to decrease teacher-student contact time and increase time for planning, collaborating, and mentoring; providing opportunities for professional development and recognition for experienced teachers; and creating career advancement pathways to help in retaining experienced teachers; and

(d) Implementing these strategies requires funding, and a strategy that may be effective in addressing the issues in one school district or public school may not be effective in another school district or public school. Because each school district and public school faces different challenges, each school district and public school needs the opportunity to select a strategy that will best meet the needs of that school district or public school and to receive funding to implement that strategy.

(2) The general assembly therefore finds that, to significantly decrease the teacher shortage in Colorado and support school districts and public schools that demonstrate both teacher shortages and the need for financial assistance to address the shortages, it is necessary to establish a grant program for school districts, public schools, and boards of cooperative services that operate public schools that will provide funding to them to implement a wide variety of locally appropriate options to improve their ability to successfully retain teachers.

**Source: L. 2018:** Entire article added, (HB 18-1412), ch. 239, p. 1490, § 1, effective May 24.

**22-98-102. Definitions.** As used in this article 98, unless the context otherwise requires:

(1) "Board of cooperative services" means a board of cooperative services created pursuant to article 5 of this title 22.

(2) "Department" means the department of education created and existing pursuant to section 24-1-115.

(3) "Fund" means the retaining teachers fund created in section 22-98-104.

(4) "Grant program" means the retaining teachers grant program created in section 22-98-103.

(5) "Local education provider" means a school district, a board of cooperative services that operates a public school, a charter school that is authorized by a school district pursuant to part 1 of article 30.5 of this title 22, or an institute charter school that is authorized pursuant to part 5 of article 30.5 of this title 22.

(6) "Postsecondary institution" means an area technical college, a local district college, or a state institution of higher education, as defined in section 23-18-102.

(7) "School district" means a school district in Colorado that is organized and existing pursuant to law but does not include a local college district.

(8) "State board" means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

**Source: L. 2018:** Entire article added, (HB 18-1412), ch. 239, p. 1491, § 1, effective May 24.

**22-98-103. Retaining teachers grant program - created - applications - rules.** (1) There is created in the department of education the retaining teachers grant program to assist local education providers in retaining teachers by implementing one or more of the initiatives described in subsection (2) of this section. The department shall administer the grant program by reviewing grant applications and recommending grant recipients and the amount of each grant to the state board. Subject to available appropriations, the state board, taking into account the recommendations of the department, shall award the grants from money appropriated to the fund. Each grant continues for up to three years, subject to review by the department as provided in subsection (6) of this section.

(2) The state board shall award grants through the grant program to implement one or more of the following initiatives that are designed to improve the ability of a local education provider to retain teachers:

(a) Job-sharing for teachers;

(b) Providing on-site early childhood care services for family members of educators;

(c) Robust teacher induction programs for new teachers;

(d) Peer review and mentorship programs and other career development and advancement strategies;

(e) Programs to provide professional development for the creation and implementation of career advancement pathways for master teacher and teacher leadership positions for effective teachers;

(f) Incentive programs to recognize and retain highly effective teachers;

(g) Reduced teacher-student contact hours and increased planning, mentoring, and collaboration time for new teachers and mentor teachers; and

(h) Increased use of technology in blended learning initiatives to create opportunities and financial incentives for teacher development and career advancement and cost savings to support salary increases.

(3) (a) A local education provider may apply to the grant program by submitting an application to the department in accordance with the rules adopted by the state board. At a minimum, the application must include:

(I) Evidence describing the level of difficulty that the applicant encounters in retaining teachers, the specific reasons for the difficulty, and a specific accounting of the grade levels and subjects for which the applicant is unable to retain teachers;

(II) An accounting of the existing monetary or other resources available to the applicant to use in implementing initiatives to retain teachers;

(III) A description of the initiative to retain teachers that the applicant intends to implement using the grant and how the initiative is designed to address the specific issues causing the difficulty with retaining teachers;

(IV) The specific, measurable goals that the applicant expects to achieve in implementing the initiative and how the applicant expects to measure attainment of the goals; and

(V) The cost of implementing the initiative and the applicant's plan for sustaining the initiative after the grant money is no longer available.

(b) A local education provider is encouraged to partner with other local education providers or with one or more postsecondary institutions to apply for a grant. At the request of a local education provider, the department shall provide technical assistance in writing the grant application and in complying with the annual review requirements described in subsection (6) of this section.

(4) In recommending and selecting grant recipients, the department and the state board shall prioritize the applicants based on the demonstration of a high number of positions for which an applicant is unable to retain teachers and evidence of a high rate of teacher turnover if the applicant is a low-performing school or within the low-performing schools operated by the applicant. In addition, the department and the state board, at a minimum, shall consider:

(a) The applicant's capacity to successfully implement the proposed initiative and the likelihood that the proposed initiative will increase the applicant's ability to retain teachers;

(b) The cost-effectiveness and quality of the proposed initiative; and

(c) The applicant's plan for sustaining implementation of the initiative after the grant money is no longer available.

(5) Each grant recipient shall use the grant money to supplement, not supplant, resources that the grant recipient applies to teacher retention initiatives before receiving the grant. It is the intent of the general assembly that each grant recipient use the grant money for new teacher retention initiatives or to expand existing teacher retention initiatives, as described in this section.

(6) (a) Each grant awarded through the grant program continues for three budget years, subject to annual review by the department and renewal by the state board. The department shall annually review the progress achieved by each grant recipient in attaining the goals of the initiative funded by the grant and recommend to the state board that the grant be extended or revoked. Taking into consideration the recommendations of the department, the state board shall

extend the grant only if the state board determines that the grant recipient is making adequate progress toward achieving the goals of the initiative.

(b) The department shall monitor and, if necessary, audit, each grant recipient's use of the grant money to implement the funded initiative. The grant recipient shall submit information concerning the use of the grant money to the department as required by state board rule.

(c) The department shall provide information to the local education providers concerning the grant program, the requirements for applying for a grant, the initiatives that a local education provider may implement using grant money, and the availability of assistance in writing grant applications.

(7) The state board shall promulgate rules in accordance with the "State Administrative Procedure Act", article 4 of title 24, as necessary to implement the grant program. In promulgating rules for reporting information concerning the use of grant money, the state board shall ensure that the reporting requirements are as minimal and efficient for grant recipients as possible to implement the grant program.

**Source: L. 2018:** Entire article added, (HB 18-1412), ch. 239, p. 1492, § 1, effective May 24.

**22-98-104. Retaining teachers fund - created - repeal.** (1) The retaining teachers fund is hereby created in the state treasury. The fund consists of money that the general assembly may appropriate or transfer to the fund.

(2) The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund.

(3) The money in the fund is continuously appropriated to the department to implement the grant program. In each budget year, the department may use up to two percent of the amount appropriated to the fund for the direct costs incurred in implementing the grant program, including any costs incurred in providing technical support to local education providers as provided in section 22-98-103 (3)(b).

(3.5) (a) Notwithstanding any provision of this section to the contrary, on July 1, 2020, the state treasurer shall transfer all unexpended and unencumbered state money in the retaining teachers fund to the state education fund created in section 17 (4) of article IX of the state constitution.

(b) This subsection (3.5) is repealed, effective July 1, 2021.

(4) The state treasurer shall transfer all unexpended and unencumbered money in the fund on July 1, 2022, to the general fund.

**Source: L. 2018:** Entire article added, (HB 18-1412), ch. 239, p. 1494, § 1, effective May 24. **L. 2020:** (3.5) added, (HB 20-1418), ch. 197, p. 948, § 26, effective June 30.

**Cross references:** For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

**22-98-105. Report.** (1) Notwithstanding section 24-1-136 (11)(a)(I), on or before January 15, 2019, and on or before January 15 each year thereafter, the department shall submit to the state board, the joint budget committee, and the education committees of the senate and

the house of representatives, or any successor committees, a report concerning implementation of the grant program. At a minimum, the report must include:

(a) The name of each grant recipient and the amount of each grant;

(b) A description of the initiative to be implemented with each grant and a report of the progress made by each grant recipient in achieving the goals of the initiative;

(c) For the reports submitted in 2021 and 2022, an evaluation of the effect of the grant program in improving teacher retention by local education providers and in reducing the overall teacher shortage in the state;

(d) Any recommendations for legislative changes to improve the effectiveness of the grant program; and

(e) For the report submitted in 2022, a recommendation concerning whether to continue the grant program.

**Source: L. 2018:** Entire article added, (HB 18-1412), ch. 239, p. 1494, § 1, effective May 24.

**22-98-106. Repeal of article.** This article 98 is repealed, effective July 1, 2022.

**Source: L. 2018:** Entire article added, (HB 18-1412), ch. 239, p. 1495, § 1, effective May 24.

## ARTICLE 99

Health and Wellness Through Comprehensive
Quality Physical Education Instruction Pilot Program

**Editor's note:** Section 20(5) of chapter 151 (SB 19-246), Session Laws of Colorado 2019, provides that the act adding this article 99 takes effect only if HB 19-1161 does not become law. HB 19-1161 did not become law.

**22-99-101. Legislative declaration.** (1) The general assembly finds that:

(a) While ensuring cognitive development and strong academic outcomes for Colorado's students is of paramount importance, focus must also be placed on the whole student, including their physical, psychological, and social health and development;

(b) Not only does physical education instruction reduce childhood obesity and foster a lifetime commitment to physical activity and healthy lifestyles, but a 2007 study by the institute of medicine found that physical activity also has a positive impact on cognitive ability and brain development, insomnia, depression, anxiety, and avoiding tobacco use;

(c) According to the United States department of defense, in 2018, obesity was one of the top reasons why seventy-one percent of Americans ages seventeen to twenty-four did not meet the military's physical requirements for military service;

(d) Recent research has demonstrated that there is a positive relationship between frequency of physical education and academic achievement;

(e) In addition, increased time devoted to physical education has been demonstrated to lead to positive development of social skills, social behaviors, self-esteem, pro-school attitudes, and improved mental health;

(f) Further, children who have physical education instruction are two and one-half times more likely to be active adults;

(g) Quality physical education strengthens the whole child through movement competency, cognitive development, and social-emotional wellness to achieve lifelong health benefits; and

(h) In 2016, a coalition of Colorado-based health and wellness organizations and educators drafted a model physical education policy based on research and best practices for voluntary adoption by schools and school districts.

(2) Therefore, the general assembly declares that it is important to the health and well-being of Colorado's children and youth to ensure competent and comprehensive quality physical education instruction in Colorado schools through the creation of a pilot program for comprehensive quality physical education instruction based on the model physical education policy and through the subsequent evaluation of the pilot program's impact on participating children and youth.

**Source: L. 2019:** Entire article added, (SB 19-246), ch. 151, p. 1794, § 10, effective May 10.

**22-99-102. Definitions.** As used in this article 99, unless the context otherwise requires:

(1) "Applicant" means a Colorado school or school district applying to participate in the pilot program.

(2) "Comprehensive quality physical education" means the program of comprehensive quality physical education instruction described in section 22-99-103 (5).

(3) "Department" means the department of education created and existing pursuant to section 24-1-115.

(4) "Eligible school or school district" means an elementary or middle school or the elementary and middle schools of a school district.

(5) "Pilot program" means the health and wellness through comprehensive quality physical education instruction pilot program created in this article 99.

(6) "School" means a school of a school district authorized by section 15 of article IX of the state constitution, a charter school authorized by a school district pursuant to part 1 of article 30.5 of this title 22, a charter school authorized by the state charter school institute pursuant to part 5 of article 30.5 of this title 22, or a school operated by a board of cooperative services pursuant to article 5 of this title 22.

(7) "School district" means a school district authorized by section 15 of article IX of the state constitution.

(8) "State board" means the state board of education created and existing pursuant to section 1 of article IX of the state constitution.

**Source: L. 2019:** Entire article added, (SB 19-246), ch. 151, p. 1795, § 10, effective May 10.

**22-99-103. Pilot program - creation - qualifying instruction - application - award of grants - report.** (1) There is created in the department the health and wellness through comprehensive quality physical education instruction pilot program for the purpose of awarding grants to eligible schools or school districts to implement a program of comprehensive quality physical education instruction, as described in subsection (5) of this section. A school or school district awarded a grant pursuant to this section shall only use the grant money to address a resource need in its current physical education program that creates a barrier to implementing a program of comprehensive quality physical education instruction, as described in subsection (5) of this section. A school or school district awarded a pilot program grant shall use the money to supplement, not supplant, existing school or school district resources used for physical education programs.

(2) An eligible school or school district may apply for a three-year pilot program grant. The grant application must include all grade levels served in the eligible school or eligible schools of the school district. An application from an individual school must be submitted by the chief administrative officer of the school and, if the school is not a charter school, approved by the superintendent of the school district.

(3) Subject to available appropriations, pilot program grants are three-year grants, renewable annually, that cover the 2020-21 academic year through the 2022-23 academic year. The department shall evaluate all complete pilot program grant applications received by December 1, 2019, and shall make recommendations to the state board for the award of pilot program grants to up to fifteen eligible schools or school districts for a total amount awarded annually of no more than three million dollars, including department administrative expenses. The state board shall award the initial pilot program grants no later than February 29, 2020, to allow for a planning period for grant recipients prior to the implementation of the required pilot program components during the 2020-21 academic year.

(4) In awarding pilot program grants to eligible schools or school districts, the state board shall consider, among other award criteria:

(a) Barriers to implementing a comprehensive quality physical education instruction program in the eligible school or school district, including but not limited to:

(I) Lack of resources;

(II) Lack of appropriate equipment;

(III) Difficulty retaining staff;

(IV) The existence of a four-day school week; and

(V) Lack of local school mill levy override funding to supplement school total program funding;

(b) The ability of the eligible school or school district to implement all components of the pilot program and whether a pilot program grant will enable the school or school district to address a resource need necessary to provide comprehensive quality physical education instruction;

(c) The amount of grant money needed for the eligible school or school district to implement the pilot program without supplanting existing resources and a preliminary draft of the eligible school or school district's three-year comprehensive quality physical education instruction action plan, as described in subsection (6) of this section, if available, or a statement of how the school or school district intends to use the three-year grant;

(d) The requirement that at least thirty percent of the grants are awarded to eligible schools or school districts receiving federal money for programs under Title I, part A of the federal "Elementary and Secondary Education Act of 1965", 20 U.S.C. sec. 6301 et seq., as amended;

(e) The eligible school or school district's geographic location and the desirability of creating, to the extent possible, an even distribution of rural, urban, and suburban schools, as well as elementary and middle schools, to ensure an adequate sample and diversity for purposes of the pilot program evaluation; and

(f) A preliminary draft of the school or school district's three-year comprehensive quality physical education instruction action plan.

(5) A school or school district awarded a pilot program grant shall use the grant to implement a comprehensive quality physical education instruction program that includes, at a minimum, all of the following components:

(a) (I) Thirty minutes daily or one hundred fifty minutes per week of physical education instruction for all students in kindergarten through fifth grade, not including recess time or physical activity breaks;

(II) Forty-five minutes daily or two hundred twenty-five minutes per week for all students in sixth through eighth grade, not including recess time or physical activity breaks;

(III) A class size for physical education instruction that is comparable to the class size for academic subjects;

(IV) Safe, clean, and well-maintained indoor and outdoor spaces for physical education instruction and physical activity, and equipment and facilities that support physical education instruction;

(V) Curriculum that meets Colorado's physical education standards at each covered grade level;

(VI) Moderate to vigorous physical activity for at least half of the physical education class time;

(VII) Regular assessment of physical education learning objectives, including formative and summative assessments and a measure for student growth;

(VIII) Student progress monitoring, including student surveys of physical activity, nutrition, sleep habits, and perceptions of physical education instruction;

(IX) Physical education instructor and classroom teachers surveys of student outcomes or changes in student behavior attributed to the pilot program;

(X) A prohibition against removal of a student from the physical education program for academic reasons or as a form of punishment; and

(XI) A prohibition against exempting students from physical education instruction; except that a parent or guardian may excuse a student from participation for a limited period of time or limited portion of the instruction for religious observances or due to religions prohibitions. A student may be excused from the physical activity component of the instruction if the student is injured or has a physical or emotional condition that prevents participation. In those circumstances, modified physical activities may be provided. In accordance with the federal "Individuals with Disabilities Education Improvement Act", 20 U.S.C. sec. 1400 et seq., as amended, all students shall receive equal-quality physical education.

(b) Licensed educators with a physical education endorsement, or, if employed by a school that does not require teacher licensing for employment, a program of professional

development that enables the physical education instructor to become proficient in teaching comprehensive quality physical education in accordance with the pilot program requirements and physical education endorsement standards; and

(c) A mandatory professional development program for instructors that includes at least fifteen hours of instruction each year, which instruction must address appropriate practices in providing comprehensive quality physical education, including emerging technologies, model physical education programs, and improvement in physical education teaching methods.

(6) Each school awarded a pilot program grant and each school district awarded a pilot program grant shall prepare a three-year comprehensive quality physical education instruction action plan that includes class schedules, physical education curriculum, physical education teacher qualifications, a professional development plan, and sample physical education assessments and assessment rubrics.

(7) The department shall provide each school awarded a grant with the following support, if available and relevant:

(a) Standards-based physical education curriculum;

(b) A list of approved instructional resources and the process for approval for new and innovative instructional resources;

(c) Samples of approved formative and summative assessments and the process for approval of new assessments;

(d) Samples of approved physical education instructor assessment rubrics;

(e) Criteria to assess student and instructor growth in physical education;

(f) Resources relating to professional development for physical education instructors; and

(g) School district-appropriate practices for physical education instructors to use in physical education classes.

(8) Pilot program grant recipients shall notify parents of students in participating schools of the grant award and pilot program goals and requirements and the opportunities for parents to participate and provide feedback regarding the pilot program and its implementation within their student's school.

(9) The department shall encourage pilot program grant recipients to share best practices and to collaborate during the implementation planning process and throughout the duration of the pilot program. Grant recipients are also encouraged to provide education and training to school administrators regarding the importance of comprehensive quality physical education instruction and the necessary components of a comprehensive quality physical education program in the school.

(10) If a grant recipient is substantially out of compliance with significant requirements of the pilot program, after providing as much notice as is practicable, the state board may decline to renew a recipient's pilot program grant for the second or third academic year.

(11) Participating pilot program schools and school districts shall provide data and information to the department and to the program evaluator described in section 22-99-104 for purposes of reporting on the implementation and evaluation of the pilot program.

(12) Notwithstanding the provisions of section 24-1-136 (11)(a)(I) to the contrary, the department shall report to the education committees of the senate and the house of representatives, or any successor committees, at the annual meeting of legislative committees of

reference conducted during the legislative interim pursuant to section 2-7-203, concerning grants awarded pursuant to the pilot program.

**Source: L. 2019:** Entire article added, (SB 19-246), ch. 151, p. 1796, § 10, effective May 10. **L. 2020:** (5)(a)(XI) amended, (HB 20-1402), ch. 216, p. 1050, § 41, effective June 30.

**22-99-104. Pilot program evaluation.** (1) Subject to available appropriations, the department shall issue a request for proposals for a program evaluation of the pilot program to be completed no later than October 1, 2023. The cost of the program evaluation must not exceed one hundred eighty thousand dollars for the duration of the pilot program through completion of the program evaluation. The contract must include data collection on an ongoing basis with baseline, formative data collection throughout the pilot program period and a post-data collection analysis. In awarding the contract for the program evaluation, first priority shall be given to a proposal from a state-supported institution of higher education in Colorado that offers a kindergarten through twelfth grade physical education licensure program.

(2) (a) The department shall contract with the program evaluator at the commencement of the pilot program, if possible, so that the pilot program evaluator can develop the necessary data collection practices prior to implementation of the operation of the pilot program in schools. At a minimum, the pilot program evaluator shall develop the necessary data collection practices to ensure that the program evaluation can assess pilot program impacts, including but not limited to:

(I) Objective measures of student behavior resulting from implementation of the pilot program, which measures may demonstrate changes in student disciplinary referrals, attendance, and academic achievement, among other behaviors; and

(II) Objective measures of changes to student health and well-being, which measures may demonstrate student physical fitness, as well as broader measures of student health and well-being, including changes in mental health or substance use.

(b) The program evaluator shall conduct a student and instructor perception survey and interviews to determine the value of the pilot program experience to students and to physical education instructors and classroom instructors and shall also review student and instructor formative and summative assessments to determine the impact of the pilot program.

(c) For purposes of program evaluation, the program evaluator shall work with pilot program recipients to identify and determine collection practices for necessary data from initial implementation of the pilot program through completion of the final pilot program evaluation. Necessary data collected by pilot program participants must include, but is not limited to, student demographics, measures of student poverty, and English language learner status. The program evaluator shall not release student identifying information and shall comply with state and federal law relating to student data privacy.

**Source: L. 2019:** Entire article added, (SB 19-246), ch. 151, p. 1800, § 10, effective May 10.

**22-99-105. Appropriation.** For the 2019-20 state fiscal year, the general assembly shall appropriate one million one hundred thousand dollars from the marijuana tax cash fund, created in section 39-28.8-501, to the department to implement the pilot program. Any money

appropriated for the pilot program pursuant to this section that is not expended prior to July 1, 2020, is further appropriated to the department for the 2020-21 through 2023-24 state fiscal years for the same purpose.

**Source: L. 2019:** Entire article added, (SB 19-246), ch. 151, p. 1801, § 10, effective May 10.

**22-99-106. Repeal of article.** This article 99 is repealed, effective July 1, 2024.

**Source: L. 2019:** Entire article added, (SB 19-246), ch. 151, p. 1801, § 10, effective May 10.

## ARTICLE 100

Local School Food Purchasing Programs

**22-100-101. Definitions.** As used in this article 100, unless the context otherwise requires:

(1) "Colorado grown, raised, or processed products" means all fruits, vegetables, grains, meats, and dairy products, except liquid milk, grown or raised in Colorado and minimally processed products or value-added processed products that meet the standards for the Colorado proud designation, established by the Colorado department of agriculture, even if the product does not have the Colorado proud designation.

(2) "Department" means the department of education created pursuant to section 24-1-115.

(3) "Minimally processed products" means raw or frozen fabricated products; products that retain their inherent character, such as shredded carrots or diced onions; and dried products, such as beans, but does not include any products that are heated, cooked, or canned.

(4) "Participating provider" means a school district, charter school, board of cooperative services that operates a public school, or residential child care center as defined in section 26-6-102 (5) that participates in the federal "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq., and that has been selected by the department to participate in the school food purchasing program pursuant to section 22-100-102 (2)(b).

(5) "School food purchasing program" means the local school food purchasing program created pursuant to section 22-100-102.

(6) "Technical assistance and education program" means the local school food purchasing technical assistance and education grant program created pursuant to section 22-100-103.

(7) "Value-added processed products" means products that are altered from their unprocessed or minimally processed state through preservation techniques, including cooking, baking, or canning.

**Source: L. 2019:** Entire article added, (HB 19-1132), ch. 176, p. 2021, § 1, effective August 2.

**22-100-102. Local school food purchasing program - creation - rules - report - repeal.** (1) There is created in the department the local school food purchasing program to reimburse participating providers for the purchase of Colorado grown, raised, or processed products.

(2) (a) A school district, charter school, board of cooperative services that operates a public school, or residential child care center may apply to the department on a form developed by the department to participate in the school food purchasing program to receive reimbursement for the purchase of Colorado grown, raised, or processed products pursuant to this section.

(b) (I) (A) The department shall select participating providers that, in the previous year for which numbers are available, the total number of lunches provided by all participating providers was ten million or fewer, and no participating provider may have provided more than two million one hundred fifty thousand school lunches in the previous year.

(B) Notwithstanding any provision of this section to the contrary, only the participating providers selected on or before March 1, 2020, shall participate in the local school food purchasing program for the 2021-22 budget year. This subsection (2)(b)(I)(B) is repealed, effective July 1, 2022.

(II) The department shall give preference to applicants that:

(A) Demonstrate a commitment to local purchasing or food and agricultural education;

(B) Have a kitchen with the ability to store, prepare, and serve local food products;

(C) Have greater than twenty-five percent of their students eligible for free or reduced-price lunch pursuant to the provisions of the federal "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq.;

(D) Served fewer than one million two hundred fifty thousand school lunches in the previous year's count; and

(E) Satisfy any other eligibility requirements established by the department.

(III) To the extent possible, in selecting participating providers, the department shall ensure diversity in geographic location and district pupil count.

(c) On or before August 1 of the year following the participating provider's application, the participating provider shall track and report to the department on a form developed by the department for the school year in which it applied, and for the prior year, the total amount of Colorado grown, raised, or processed products it purchased for student meals, the total amount of value-added processed products it purchased for school meals, and the total number of lunches that it provided to students.

(3) (a) (I) In October 2021 and each October thereafter, the department shall reimburse each participating provider participating in the school food purchasing program as of the previous December 1 five cents for every school lunch that the participating provider provided in the previous school year; except that a participating provider shall not be reimbursed for the amount of value-added processed products that exceeds twenty-five percent of the total of the Colorado grown, raised, or processed products it purchased.

(II) Notwithstanding the provisions of subsection (3)(a)(I) of this section, the maximum amount of reimbursements that may be awarded in any year is five hundred thousand dollars.

(b) (Deleted by amendment, L. 2020.)

(4) Reimbursement payments pursuant to this section accrue to the participating provider's nonprofit school food account.

(5) (a) The state board of education is authorized to adopt rules to implement the school food purchasing program.

(b) The department is authorized to monitor the school food purchasing program to ensure program integrity and to annually reallocate money among participating providers to maximize the amount of the money given.

(6) If in any fiscal year the department does not expend or encumber the full amount of the appropriation for the school food purchasing program, up to five percent of the appropriation is available to the department in the next fiscal year to pay for the evaluation required by section 22-100-104 (1)(e).

**Source: L. 2019:** Entire article added, (HB 19-1132), ch. 176, p. 2022, § 1, effective August 2. **L. 2020:** (2)(a), (2)(b), and (3) amended and (6) added, (HB 20-1300), ch. 97, p. 378, § 1, effective March 27; (2)(b)(I) and (3)(a)(I) amended, (HB 20-1418), ch. 197, p. 949, § 30, effective June 30.

**Cross references:** For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

**22-100-103. Local school food purchasing technical assistance and education grant program - created - report.** (1) There is created in the department the local school food purchasing technical assistance and education grant program to issue a grant to a statewide nonprofit organization to develop and manage a grant program to assist with the promotion of Colorado grown, raised, or processed products to participating providers.

(2) Subject to available appropriations, the nonprofit organization may award grants for the following:

(a) Training, technical assistance, and physical infrastructure grants to participating providers, grower associations, or other organizations that aggregate products from producers for:

(I) Professional contracting services to support the development and sustainability of local and regional food systems;

(II) Chef training on food handling and procurement practices and small kitchen equipment purchases;

(III) Good agricultural practices certification costs and good handling practices certification costs and training on selling to schools; and

(IV) Capacity building for local value-added processed products; and

(b) Education, outreach, and promotion for:

(I) Schools to engage families and communities around the benefits of farm-to-school and ways to support farm-to-school; and

(II) Grower associations and growers to communicate to schools and school communities about the multiple benefits of purchasing local products.

(3) The nonprofit organization shall annually report to the department on the technical assistance and education program including:

(a) The number and types of entities receiving grants;

(b) The number, types, and purposes of the grants awarded pursuant to subsection (2)(a) of this section; and

(c) The types of education and outreach conducted by participating providers and others pursuant to subsection (2)(b) of this section.

**Source: L. 2019:** Entire article added, (HB 19-1132), ch. 176, p. 2023, § 1, effective August 2.

**22-100-104. Evaluation - report.** (1) On or before December 1, 2022, and on or before December 1 of each year thereafter, the department shall submit a report to the education committees of the house of representatives and the senate, the rural affairs and agriculture committee of the house of representatives, and the agriculture and natural resources committee of the senate, or any successor committees, on the effect of the school food purchasing program on the amount of Colorado grown, raised, or processed products purchased by participating providers, including:

(a) Names and demographic data of participating providers;

(b) Dollar amount spent on Colorado products during the school food purchasing program, including local purchasing data from the year prior to the school food purchasing program included in the application;

(c) Product categories purchased;

(d) Number of Colorado producers or businesses participating by participating provider and in total;

(e) Economic impact on participating providers, producers, and economies; and

(f) Qualitative producer and participating provider surveys.

(2) Notwithstanding the provisions of section 24-1-136 (11)(a)(I), the reporting requirement pursuant to subsection (1) of this section continues indefinitely.

**Source: L. 2019:** Entire article added, (HB 19-1132), ch. 176, p. 2024, § 1, effective August 2. **L. 2020:** IP(1) amended, (HB 20-1418), ch. 197, p. 949, § 31, effective June 30.

**Cross references:** For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

**22-100-105. Repeal of article.** This article 100 is repealed, effective January 1, 2024.

**Source: L. 2019:** Entire article added, (HB 19-1132), ch. 176, p. 2025, § 1, effective August 2. **L. 2020:** Entire section amended, (HB 20-1418), ch. 197, p. 950, § 32, effective June 30.

**Cross references:** For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

## ARTICLE 101

Eliminate Duplicate Regulations

**22-101-101. Elimination of duplicate regulations commission - creation - definition.** (1) There is created in the department of education the elimination of duplicate regulations commission, referred to in this article 101 as the "commission".

(2) The commission consists of:

(a) The commissioner of education, or his or her designee;

(b) The executive director of the department of human services, or his or her designee;

(c) The executive director of the department of public health and environment, or his or her designee;

(d) The director of the division of fire prevention and control in the department of public safety, or his or her designee; and

(e) At least three practitioners, appointed by the commissioner of education, whose programs are in good licensing standing with the department of human services and are operated by, or on behalf of, a school district, district charter school, or institute charter school.

(3) For purposes of this article 101, unless the context otherwise requires, "program" means a school-aged child care program that holds a license pursuant to part 1 of article 6 of title 26, including a before- and after-school program, day camp, summer camp, extended day program, or playground program, and operates on the property of a school district, district charter school, or institute charter school.

**Source: L. 2019:** Entire article added, (SB 19-104), ch. 382, p. 3430, § 1, effective August 2.

**22-101-102. Duties.** (1) The commission shall:

(a) Analyze and identify duplicate regulations promulgated by the department of education, the department of human services, the department of public health and environment, and the division of fire prevention and control in the department of public safety relating to health and safety requirements for programs, including, without limitation, the active oversight and monitoring of such programs; and

(b) Identify which regulations described in subsection (1)(a) of this section may be eliminated, revised, or delegated to the department of education, the department of human services, the department of public health and environment, or the division of fire prevention and control in the department of public safety to eliminate duplicate regulations and ensure the efficient regulation of the health and safety requirements for programs.

(2) When performing the duties in subsection (1) of this section, the commission shall:

(a) Consider and prioritize oral and written public testimony;

(b) Consider and prioritize updating regulations consistent with evidence-based research regarding the health and safety of children; and

(c) Consider and prioritize updating regulations to align with requirements for federal funding eligibility.

(3) On or before June 30, 2020, the department of education, the department of human services, the department of public health and environment, and the division of fire prevention and control in the department of public safety shall commence respective rule-making proceedings consistent with the outcomes of the commission.

**Source: L. 2019:** Entire article added, (SB 19-104), ch. 382, p. 3431, § 1, effective August 2.

**22-101-103. Repeal of article.** This article 101 is repealed, effective July 1, 2021.

**Source: L. 2019:** Entire article added, (SB 19-104), ch. 382, p. 3431, § 1, effective August 2.

## ARTICLE 102

Colorado K-5 Social and Emotional Health Act

**22-102-101. Short title.** The short title of this article 102 is the "Colorado K-5 Social and Emotional Health Act".

**Source: L. 2019:** Entire article added, (HB 19-1017), ch. 156, p. 1846, § 1, effective August 2.

**22-102-102. Legislative declaration.** (1) The general assembly finds that:

(a) School mental health professionals, including school social workers, positively impact the school environment by working with young students and their families to identify safety-net insecurities, social and emotional skills deficits, instances of abuse and neglect, and mental health challenges;

(b) Identifying these student issues as early as possible increases the likelihood that problems can be resolved successfully and in a manner that decreases long-term problems with learning and other barriers to student success in the future;

(c) A pilot program that places a team of school mental health professionals in every pilot program school will allow the team, in partnership with classroom teachers, to provide needed support for young students and their families at a critical time in their education;

(d) A significant goal of the pilot program is to ensure that students of elementary age receive the right level of necessary services, in the right place, and at the right time;

(e) Receiving the right level of services, in the right place, and at the right time helps remove the burden placed on teachers to be everything to a student, from therapist to family counselor, and instead allows teachers to return to their primary task: Teaching; and

(f) The pilot program will enable parents, students, teachers, administrators, and school mental health professionals to create a safe, positive, and successful school learning environment.

(2) Therefore, the general assembly declares that the creation and successful implementation of a Colorado K-5 social and emotional health pilot program could have a profound impact on the early educational and social experiences of kindergarten through fifth-grade students, resulting in those students graduating to middle and high school programs with fewer social, emotional, and behavioral issues; adverse childhood experiences; disciplinary referrals and delinquent conduct; school absences and truancy; and incidences of self-harm.

**Source: L. 2019:** Entire article added, (HB 19-1017), ch. 156, p. 1846, § 1, effective August 2.

**22-102-103. Definitions.** As used in this article 102, unless the context otherwise requires:

(1) "Department" means the department of education created and existing pursuant to section 24-1-115.

(2) "Pilot program" means the K-5 social and emotional health pilot program, created in section 22-102-104.

(3) "Pilot school" means a school selected by the department to participate in the pilot program created in section 22-102-104 for students in kindergarten through fifth grade.

(4) "School counselor" means a counselor holding a master's degree in educational counseling and a professional special services license in Colorado with an endorsement in school counseling, including but not limited to the completion of course work in the areas of academic and social emotional development; assessment for social and emotional concerns, including suicide prevention and intervention; crisis intervention; social-emotional prevention programs, including character education and violence prevention; mental health, protective factors for at-risk students, and career awareness, exploration, and planning.

(5) "School district" means a school district organized and existing pursuant to law but does not include a local college district. "School district" includes the state charter school institute and a board of cooperative services that operates a school.

(6) "School mental health professional" means a school counselor, a school psychologist, or a school social worker.

(7) "School psychologist" means a school psychologist holding a master's degree and a professional special services license in Colorado with a school psychologist endorsement.

(8) "School social worker" means a social worker holding a master's degree and a professional special services license in Colorado with an endorsement in school social work, including but not limited to the completion of course work in the areas of school and special education law, including content covering functional behavior assessment and the development of behavior intervention plans.

**Source: L. 2019:** Entire article added, (HB 19-1017), ch. 156, p. 1847, § 1, effective August 2.

**22-102-104. K-5 social and emotional health pilot program - creation - selection of pilot schools - rules.** (1) There is created the K-5 social and emotional health pilot program in the department to determine the impact of dedicated school mental health professionals in kindergarten through fifth grade in elementary schools that have high-poverty, high-need students. The pilot program is implemented within the selected pilot schools and administered by the department as a pilot program for three consecutive school years, unless extended by the general assembly. Subject to available appropriations or gifts, grants, or donations for the three-year term of the pilot program, pursuant to section 22-102-106, the department shall employ or contract with a pilot program coordinator and contract for preliminary and final program evaluations of the pilot program. The department shall promulgate any rules necessary for the administration of the pilot program.

(2) (a) Subject to available appropriations or gifts, grants, or donations for the three-year term of the pilot program, no later than January 15 immediately preceding the first implementation year, the department shall select up to ten pilot schools to participate in the pilot program. If available appropriations and gifts, grants, or donations are insufficient to fully fund the pilot program, the department may select fewer than ten pilot schools to participate in the pilot program. The department shall select pilot schools that exhibit the characteristics set forth in subsection (2)(b) of this section and that are appropriate test schools to evaluate the impact and effectiveness of the pilot program. The pilot schools must demonstrate a willingness to participate in the pilot program and to collect the data and information necessary for the evaluation of the pilot program.

(b) The department shall select pilot schools, including rural, small, and geographically diverse schools, which schools shall be located in a school district that has a high rate of youth suicide, attempted suicide, or suicidal ideation; have a high-poverty student population and a high percentage of students who experience or may experience food insecurity, as evidenced by the number or percentage of students in the school who are eligible for free and reduced-priced meals; and may include schools:

(I) In large, metropolitan school districts;

(II) That have significant ethnic, cultural, and language diversity within their student populations, which may include students from refugee populations;

(III) That have a high number or density of youth who are students in out-of-home placement, as defined in section 22-32-138;

(IV) That are in a school district that has a high percentage of students who are adjudicated delinquent; and

(V) That are in a school district that has a plan in place to recruit, hire, and retain a diverse workforce that reflects the race, ethnicity, and other characteristics of the student body.

(c) Prior to a selected school implementing the pilot program pursuant to this article 102, the school must notify all parents or legal guardians of students at the school of the school's selection as a pilot school.

**Source: L. 2019:** Entire article added, (HB 19-1017), ch. 156, p. 1848, § 1, effective August 2. **L. 2020:** (1) and (2)(a) amended, (HB 20-1418), ch. 197, p. 942, § 8, effective June 30.

**Cross references:** For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

**22-102-105. Implementation of pilot program.** (1) In the first and subsequent years of operation of the pilot program, each pilot school shall employ or contract with additional school mental health professionals so that each of grades one through five and the kindergarten program in each pilot school has a school mental health professional dedicated to each grade and the kindergarten program. If a single grade or the kindergarten program has more than two hundred fifty students, additional school mental health professionals must be added to the grade or kindergarten program to maintain a ratio of approximately one school mental health professional per two hundred fifty students, as determined by the pilot school. A small pilot school shall maintain a ratio of approximately one school mental health professional per two hundred fifty

students, as determined by the pilot school. At least one of the school mental health professionals at each pilot school must be a school social worker.

(2) The goal of the pilot program is for a school mental health professional to develop an ongoing relationship with pilot school students and to follow those students, to the extent possible, as the students advance through the grades at the pilot school. This will allow the school mental health professional to understand the needs of the students and their families over time and to help address those needs over time, if necessary. To achieve this goal, school mental health professionals may be assigned to a cohort of students by grade or, in a smaller school, by multiple grades. School mental health professionals in each pilot school shall work as a team to address the academic and social-emotional needs of the pilot school's students and to create a safe and positive school learning environment through additional behavioral health supports.

(3) Throughout the duration of the pilot program, the pilot school must employ or contract with, at the pilot school's expense, the same number of school mental health professionals employed by or contracted with the pilot school during the school year immediately preceding the first year of implementation of the pilot program so that additional money for the pilot program supplements, but does not supplant, the pilot school's existing expenditures for school mental health professional positions prior to the operation of the pilot program.

(4) (a) In implementing the pilot program, the school mental health professionals shall work as a team, with each professional providing services to students and offering training and resources to school faculty and administrators that are authorized under the school mental health professional's special services license and endorsement.

(b) In addition, school mental health professionals shall, consistent with the school mental health professional's job duties and licensure:

(I) Provide the school with resources to develop and improve the social and emotional health of students, including resources translated into the primary languages of the student population to the extent possible, and create a safe and positive learning environment through additional behavioral health supports; and

(II) Provide social and emotional skill building in the school and with students in the classroom.

(c) School mental health professionals may, consistent with the school mental health professional's job duties and licensure:

(I) Assist students and their families with applying for and obtaining necessary public benefits for which each student and the student's family is eligible;

(II) Provide services and supports to students who have an individualized education program, as provided in section 22-20-108;

(III) Consult and coordinate with other school professionals on behalf of students and support families accessing community-based resources as needed and appropriate; and

(IV) Identify food insecurity, homelessness, and other issues affecting students and make referrals to services within the community, bringing those services into the school setting where possible.

(d) As appropriate, and to the extent possible, the school mental health professional must provide services or arrange for services to be provided for students at the school and during school hours or when student busing is available.

(e) Services provided by the school mental health professional to the student must include the student's family and household, where appropriate. The school mental health professional is specifically authorized to make home visits when appropriate under the circumstances and consistent with licensure.

(5) Each pilot school's team of school mental health professionals shall participate in the school's or school district's multi-tiered systems of support process to assist in developing appropriate plans for the mental health and behavioral needs of individual students.

(6) Each pilot school, or each pilot school's governing body, where appropriate, shall collect, transmit, and retain any data and information necessary for the evaluation of the pilot program pursuant to section 22-102-106. Each pilot school shall record the unique student identifier, as defined in section 22-16-103, for all students enrolled in the pilot school.

(7) A student who is home-schooled but who participates in extracurricular activities or athletic programs at a school that is selected as a pilot school is excluded from any data collection or reporting requirements pursuant to this article 102.

**Source: L. 2019:** Entire article added, (HB 19-1017), ch. 156, p. 1849, § 1, effective August 2. **L. 2020:** (3) amended, (HB 20-1418), ch. 197, p. 943, § 9, effective June 30.

**Cross references:** For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

**22-102-106. Pilot program coordinator - evaluation of pilot program - student impacts and outcomes.** (1) The department shall employ or contract with a pilot program coordinator to oversee the implementation of the pilot program across the pilot schools. The pilot program coordinator must be a school social worker who shall work with each pilot school's team of school mental health professionals. The duties of the pilot program coordinator include, at a minimum:

(a) Coordinating data collection and program evaluation requirements with the professional program evaluator retained pursuant to subsection (2) of this section;

(b) Serving as a contact person and resource for teams of school mental health professionals in the pilot schools;

(c) Helping pilot schools identify successful practices for recruiting and retaining mental health professionals;

(d) Sharing best practices relating to the pilot program and its implementation at the pilot schools; and

(e) Ensuring fidelity to the goals of the pilot program across the pilot schools.

(2) (a) The department shall select a professional program evaluator to complete a preliminary evaluation of the pilot program on or before September 1 of the second full school year of implementation of the pilot program and a final evaluation of the pilot program to be completed on or before September 1 immediately following the conclusion of the final school year of the pilot program. Subject to available appropriations or gifts, grants, or donations for the three-year term of the pilot program, the department shall contract with the evaluator in the school year prior to the implementation of the pilot program in the pilot schools to create a process for the collection and transmission of data and information to the evaluator to ensure that the evaluator has the data and information necessary to complete the preliminary and final

reports concerning the impact and outcomes of the pilot program. The pilot program evaluator, in conjunction with the department, shall select a group of control schools that have school characteristics and student demographics similar to those of the pilot schools to serve as a control group for purposes of evaluating the impacts and outcomes of the pilot program on participating students and pilot schools. Data collected for pilot schools and control group schools must include data from school climate and healthy schools surveys for any grade in which such surveys have been created.

(b) The department shall select a professional program evaluator that has the knowledge and skills necessary to evaluate the effectiveness of services provided by the pilot program and the resulting impacts and outcomes of the pilot program on the student cohorts participating in the pilot program. The department is encouraged, but is not required, to contract with a state institution of higher education to complete the evaluation of the pilot program.

(c) The department and the pilot schools shall cooperate fully with the pilot program evaluator's collection and analysis of data and information relating to the pilot program's impact and outcomes. The department, pilot schools, the pilot program coordinator, and the contracted evaluator shall comply with all state and federal laws relating to the confidentiality of academic and medical records of students and shall provide aggregated data where appropriate.

(d) The pilot program evaluator shall determine the impact of the pilot program on students' academic, mental, social-emotional, and physical health and well-being. The evaluator shall collect and analyze data relating to student and school outcomes, which outcomes may include:

(I) The increase or decrease in students' disciplinary referrals, either within the pilot school, or pilot school's district, if relevant, or with law enforcement, and the increase or decrease in students adjudicated delinquent within the pilot school's district;

(II) The increase or decrease in students' lost instruction time due to disciplinary action or visits to the school nurse or school counselor;

(III) The increase or decrease in excused and unexcused absences and truancy;

(IV) The increase or decrease in overall student performance on statewide assessments, by grade;

(V) The increase or decrease in the student cohorts' grade point average, by grade;

(VI) The increase in access to supportive services for students and their families, as evidenced by:

(A) An increase in the number or percentage of students identified as eligible for free or reduced-price meals, by grade;

(B) An increase in employment outcomes for students' families;

(C) An increase or decrease in students' food security as demonstrated by an increase or decrease in the number or percentage of students participating in the federal supplemental nutrition assistance program;

(D) An increase or decrease in the number or percentage of eligible students accessing public benefits;

(E) An increase or decrease in the pilot schools' awareness of or involvement with domestic violence or child abuse issues affecting students;

(F) Impact on the school's learning environment and changes to the school climate during the operation of the pilot program and evaluation of school climate;

(G) The reduction in adverse childhood experiences or the positive resolution of adverse childhood experiences, if available;

(H) The reduction in youth suicide and attempted suicide; and

(VII) Any other relevant data and information relating to pilot program outcomes and impacts as determined by the pilot program evaluator.

**Source: L. 2019:** Entire article added, (HB 19-1017), ch. 156, p. 1851, § 1, effective August 2. **L. 2020:** (2)(a) amended, (HB 20-1418), ch. 197, p. 943, § 10, effective June 30.

**Cross references:** For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

**22-102-107. Appropriations for this article - gifts, grants, or donations.** (1) The general assembly may appropriate money from the marijuana tax cash fund, created in section 39-28.8-501, to the department to be used for the pilot program established in this article 102. The department may accept and expend gifts, grants, or donations from private or public sources for the purposes of this article 102.

(2) The department may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this article 102.

**Source: L. 2019:** Entire article added, (HB 19-1017), ch. 156, p. 1853, § 1, effective August 2. **L. 2020:** (1) amended, (HB 20-1418), ch. 197, p. 943, § 11, effective June 30.

**Cross references:** For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

**22-102-108. Repeal of article.** This article 102 is repealed, effective July 1, 2033.

**Source: L. 2019:** Entire article added, (HB 19-1017), ch. 156, p. 1854, § 1, effective August 2. **L. 2020:** Entire section amended, (HB 20-1418), ch. 197, p. 944, § 12, effective June 30.

**Cross references:** For the legislative declaration in HB 20-1418, see section 1 of chapter 197, Session Laws of Colorado 2020.

**22-103-101. Legislative declaration.** (1) The general assembly finds that:

(a) The COVID-19 pandemic has led many school districts and public schools during the 2019-20 and 2020-21 school years to move between periods of online instruction, in-person instruction, and a hybrid of online and in-person instruction;

(b) To learn online, a student must have access to adequate broadband service that allows for online instruction, including video conferencing, taking into account the access needs of other internet users within the student's household;

(c) Students from low-income backgrounds, students experiencing homelessness, migrant students, students from rural Colorado, and students in foster care are less likely to have access to high-speed broadband service;

(d) A report developed by the Colorado department of education and the Colorado education initiative and released in April 2020 found that almost sixty-six thousand public school students in Colorado lack any internet access;

(e) Without adequate internet access, students are less likely to be able to participate in class, more likely to experience significant learning loss, and more likely to fall behind their peers who have access to high-speed internet;

(f) Education experts estimate that, while the average elementary and secondary student is likely to lose seven months of learning as a result of the COVID-19 pandemic, the learning loss is significantly greater for students of color and low-income students: Hispanic students may fall behind by more than nine months, Black students by more than ten months, and low-income students by more than a year;

(g) The COVID-19 pandemic has had a significant impact on the mental health and well-being of students, educators, and other staff, and telehealth services, combined with adequate broadband service, can help individuals access behavioral health services in their homes;

(h) In addition to students, many educators and other staff lack adequate broadband service to provide online instruction;

(i) Broadband service providers across the state have provided low- and no-cost options for local education providers and families to help get students the ability to participate in online instruction;

(j) Many local education providers are working collaboratively with broadband service providers to develop innovative solutions to address internet access and capacity, particularly in rural communities; and

(k) Additional resources are necessary to ensure that every Colorado student has access to the high-speed broadband service necessary for online instruction.

(2) The general assembly finds, therefore, that it is critical to quickly provide resources for local education providers to use in giving students, educators, and other staff increased access to broadband service so that students may benefit from online instruction and successfully learn online, thereby preventing learning loss particularly for low-income and other academically at-risk students.

**Source: L. 2020, 1st Ex. Sess.:** Entire article added, (HB 20B-1001), ch. 9, p. 45, § 1, effective December 7.

**22-103-102. Definitions.** As used in this article 103, unless the context otherwise requires:

(1) "Commissioner" means the commissioner of education appointed by the state board of education pursuant to section 1 of article IX of the state constitution.

(2) "Department" means the department of education created pursuant to section 24-1-115.

(3) "Fund" means the connecting Colorado students grant program fund created in section 22-103-106.

(4) "Grant" means a grant awarded through the program as provided in this article 103.

(5) "Homelessness" means that a student lacks a fixed, regular, and adequate nighttime residence.

(6) "Internet" means the international computer network consisting of federal and nonfederal, interoperable, packet-controlled, switched data networks.

(7) "Local education provider" means a school district created pursuant to article 30 of this title 22, a charter school authorized pursuant to part 1 of article 30.5 of this title 22, the state charter school institute established in section 22-30.5-503, an institute charter school authorized pursuant to part 5 of article 30.5 of this title 22, a board of cooperative services created pursuant to article 5 of this title 22, or an Indian tribe or nation that operates a public school in Colorado.

(8) "Program" means the connecting Colorado students grant program created in this article 103.

**Source: L. 2020, 1st Ex. Sess.:** Entire article added, (HB 20B-1001), ch. 9, p. 45, § 1, effective December 7.

**22-103-103. Connecting Colorado students grant program - created - application - awards.** (1) There is created in the department of education the connecting Colorado students grant program to award grants to local education providers to increase access to broadband service for students, educators, and other staff who lack stable, reliable internet access for online learning and thereby enable educators and students to teach and learn online. A local education provider that receives a grant shall use the grant money to meet the internet access needs of its students, educators, and other staff, which may include:

(a) Improving internet access for students, educators, and other staff, which may include:

(I) Subscribing for broadband service to provide internet access for students, educators, and other staff;

(II) Providing devices to access the internet;

(III) Purchasing data plans for students, educators, and other staff; and

(IV) Increasing the availability of internet access using wireless fidelity, or wi-fi, antennas; mobile hotspots; satellite connections; or other technologies capable of delivering broadband service; and

(b) Addressing broadband infrastructure needs in communities in which broadband service is significantly limited or not available.

(2) To obtain a grant, a local education provider must submit a grant application to the department. Each application must include:

(a) A description of how the local education provider has consulted with educators and other school-level and administrative staff and with broadband service providers in preparing the application;

(b) A description of the programs, including any free resources, that the local education provider has previously accessed to provide internet access for students, educators, and other staff;

(c) A description of the broadband service that the local education provider makes available to students, educators, and other staff at the time of application, including the use of free resources;

(d) A description of the internet access needs of students, educators, and other staff that are necessary to enable effective online teaching and learning and that the local education provider is unable to meet at the time of application;

(e) The local education provider's proposed plan to meet the internet access needs of students, educators, and other staff, including whether the local education provider is seeking to improve internet access as provided in subsection (1)(a) of this section or addressing broadband infrastructure needs as provided in subsection (1)(b) of this section and whether the local education provider is partnering or planning to partner with one or more broadband service providers;

(f) The timeline by which the local education provider expects to spend the grant money to complete the proposed plan to meet the internet access needs of students, educators, and other staff;

(g) An estimate of the total cost of the broadband service and, if included in the grant application, devices to access the internet, including the quantity and cost per unit, that the local education provider requires to provide sufficient internet access for students, educators, and other staff to enable effective online teaching and learning;

(h) The number and overall percentages of students, educators, and other staff in the local education provider's community of students, educators, and staff who will receive improved internet access as a result of the proposed use of a grant;

(i) The bandwidth speed of the broadband service and of the internet-access devices, if any, that will be available to students, educators, and other staff as a result of the grant, including the upload and download speeds and support for why the identified speeds are adequate for online learning for every school-aged child in a household and for educators or other staff to provide online instruction; and

(j) Any additional information required by the department.

(3) The department shall review the applications received pursuant to this section and recommend applicants and grant amounts to the commissioner. Subject to available appropriations, the commissioner shall award the grants and determine the amount of each grant. The department shall consult with the office of information technology created in section 24-37.5-103, the Colorado office of economic development created in section 24-48.5-101, broadband service experts, and education technology experts when reviewing applications. The department shall pay the grants from money available in the fund. In reviewing and awarding grants, the department and the commissioner shall consider:

(a) The timeline by which the applying local education provider expects to spend the grant money and especially whether the grant money is likely to be spent and the local education provider's proposed plan to meet the internet access needs of students, educators, and other staff completed by the end of the 2020-21 school year;

(b) The degree to which an applying local education provider has worked with broadband service providers to take advantage of low- or no-cost options for providing internet access to students, educators, and other staff before seeking a grant;

(c) The manner in which the applying local education provider prioritizes students who are most at risk of learning loss when educational services are provided through the internet, including students experiencing homelessness, students in foster care, migrant students, students who lack access to broadband service, and highly mobile students;

(d) If the applicant is a school district or a board of cooperative services, the degree to which the applying local education provider's proposed use of a grant represents a long-term, sustainable improvement in the level of internet access available to all of the schools within the

applying school district or within all of the school districts that are members of or purchase services from the applying board of cooperative services; and

(e) The degree to which the applying local education provider has access to other financial resources to use in providing internet access to students, educators, and other staff.

(4) In recommending and awarding grants, the department and the commissioner shall prioritize:

(a) Local education providers that, for the 2019-20 school year, served a student population that included a high percentage of students who were eligible for free or reduced-price meals under the federal "Richard B. Russell National School Lunch Act", 42 U.S.C. sec. 1751 et seq.; and

(b) Local education providers that serve a student population that includes a high percentage of students with little or no access to broadband service, as determined using broadband service subscription percentage estimates available from the United States census bureau's American community survey.

(5) By February 1, 2021, the department shall distribute as grants to local education providers the entire amount appropriated to the fund for the 2020-21 budget year, less the amount allowed for expenses.

**Source: L. 2020, 1st Ex. Sess.:** Entire article added, (HB 20B-1001), ch. 9, p. 45, § 1, effective December 7.

**22-103-104. Report.** (1) On or before July 15, 2021, the department shall submit a report to the state board of education, governor, and education committees of the senate and house of representatives, or any successor committees, concerning implementation of the program. After the initial report, the department shall submit a report to the same parties within six months after the end of a budget year in which the department awards one or more grants. At a minimum, the report must describe:

(a) The number of local education providers that applied for a grant and the number of local education providers that received a grant;

(b) The number of students and the number of educators and other staff who received improved internet access as a result of the use of grants;

(c) A description of the use of the grants in providing broadband service and improved internet access;

(d) A description of innovative programs that other local education providers may implement to improve internet access for their students, educators, and other staff; and

(e) Other information concerning implementation of the program that demonstrates the degree to which the program is or is not effective in improving internet access for students, educators, and other staff throughout the state.

(2) The department shall solicit, and each local education provider that receives a grant shall provide, such information as is necessary to prepare the report described in this section.

(3) Notwithstanding the requirement in section 24-1-136 (11)(a)(I), the requirement to submit the report described in this section continues indefinitely.

**Source: L. 2020, 1st Ex. Sess.:** Entire article added, (HB 20B-1001), ch. 9, p. 45, § 1, effective December 7.

**22-103-105. Broadband service resources for local education providers - public list.** The department, in collaboration with the office of information technology created in section 24-37.5-103 and broadband service providers, shall develop and update as necessary a list of free or low-cost broadband services and other internet access resources for students, educators, and other staff. On or before January 10, 2021, the department shall post the list on its website in a location easily accessible to the public and shall distribute a copy of the list to local education providers.

**Source: L. 2020, 1st Ex. Sess.:** Entire article added, (HB 20B-1001), ch. 9, p. 45, § 1, effective December 7.

**22-103-106. Connecting Colorado students grant program fund - created - legislative declaration.** (1) (a) The connecting Colorado students grant program fund is hereby created in the state treasury. The fund consists of money credited to the fund pursuant to subsection (2) of this section and any other money that the general assembly may appropriate or transfer to the fund. The state treasurer shall credit all interest and income derived from the deposit and investment of money in the fund to the fund. The state treasurer shall transfer all unexpended and unencumbered money in the fund on February 1, 2022, to the general fund.

(b) The money in the fund is continuously appropriated to the department for the direct and indirect costs of implementing the program pursuant to this article 103. The department may annually use up to two percent of the money annually awarded as grants from the fund for the expenses incurred in administering the program.

(2) The department may seek, accept, and expend gifts, grants, or donations from private or public sources for the purposes of this article 103. The department shall transmit all money received through gifts, grants, or donations to the state treasurer, who shall credit the money to the fund.

(3) The general assembly declares that, for purposes of section 17 of article IX of the state constitution, the program is an important element in improving student safety and may therefore receive funding from the state education fund created in section 17 (4) of article IX of the state constitution.

**Source: L. 2020, 1st Ex. Sess.:** Entire article added, (HB 20B-1001), ch. 9, p. 45, § 1, effective December 7.

**22-103-107. Repeal of article.** This article 103 is repealed, effective February 1, 2022.

**Source: L. 2020, 1st Ex. Sess.:** Entire article added, (HB 20B-1001), ch. 9, p. 45, § 1, effective December 7.