

**First Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 23-0118.01 Alana Rosen x2606

**HOUSE BILL 23-1109**

---

**HOUSE SPONSORSHIP**

**Gonzales-Gutierrez and Joseph,**

**SENATE SPONSORSHIP**

**Winter F.,**

---

**House Committees**  
Education

**Senate Committees**

---

**A BILL FOR AN ACT**

101     **CONCERNING MEASURES TO IMPROVE SCHOOL POLICIES THAT IMPACT**  
102     **STUDENT CONDUCT.**

---

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill requires a school district to implement additional procedural safeguards for an expulsion hearing (hearing). A school district is required to provide all records that the school district intends to use as supporting evidence in a hearing to the student or the student's parent, guardian, or legal custodian at least 5 business days prior to the hearing. If a school district intends to present written statements or oral

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters or bold & italic numbers indicate new material to be added to existing law.*  
*Dashes through the words or numbers indicate deletions from existing law.*

testimony from witnesses during the hearing, the student and the student's parent, guardian, or legal custodian must be notified at least 5 business days prior to the hearing of the contents of the written statement or oral testimony provided to the school district. The student and the student's parent, guardian, or legal custodian have the right to cross-examine adverse witnesses who provide a written statement or oral testimony to the school district.

During the hearing, the school district has the burden of presenting clear and convincing evidence to demonstrate that the student violated state law and the school district's policy, and that excluding the student from the learning environment through expulsion or denial of admission is necessary. Following the hearing, the executive officer or designee acting as a hearing officer is required to report findings of fact, findings regarding mitigating factors, and recommendations.

Current law permits a student to be suspended, expelled, or denied admission for behavior on or off school property that is detrimental to the welfare or safety of other students or school personnel. The bill requires a school district or enrolling school district to demonstrate that a student's behavior off school grounds poses an imminent threat to other students or school personnel by establishing a direct and substantial nexus between the student's alleged conduct committed off school grounds and the risk of physical harm to other students or school personnel. Behavior that occurs off school grounds that results in delinquency or criminal charges and is unrelated to a school-sponsored event is not automatic grounds for suspension, expulsion, or denial of admission. For a hearing concerning a student whose alleged conduct occurred off school grounds, the executive officer or designee acting as a hearing officer is required to report findings of fact that establish a direct and substantial nexus between the student's behavior and the risk of physical harm to other students and school personnel.

Current law allows a school district board of education (board) to delegate its power to its executive officer or to a designee who serves as a hearing officer to expel or deny admission to a student. The bill requires the individual who serves as the board's hearing officer to agree to recusal if a conflict of interest occurs that interferes with the individual's duty to act as an impartial hearing officer. An executive officer, a designee, or any individual acting as a hearing officer is also required to participate in an annual training on state and federal school discipline laws.

---

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

2           **SECTION 1.** In Colorado Revised Statutes, 22-33-105, **amend**  
3 (2)(c) and (2.5); and **add** (2.3) and (2.4) as follows:

1           **22-33-105. Suspension, expulsion, and denial of admission.**

2           (2) In addition to the powers provided in section 22-32-110, the board of  
3 education of each district may:

4           (c) Deny admission to, or expel for any period not extending  
5 beyond one year, any ~~child~~ STUDENT whom the board of education, in  
6 accordance with the limitations imposed by this ~~article, shall determine~~  
7 ARTICLE 33, DETERMINES does not qualify for admission to, or continued  
8 attendance at, the public schools of the district. A SCHOOL DISTRICT SHALL  
9 NOT EXPEL OR DENY ADMISSION TO ANY STUDENT WHOSE CONDUCT  
10 OCCURRED OR ALLEGEDLY OCCURRED THREE HUNDRED SIXTY-FIVE DAYS  
11 OR MORE PRIOR TO THE SCHOOL DISTRICT SEEKING TO EXPEL OR DENY  
12 ADMISSION TO A STUDENT. A STUDENT WHOM THE BOARD OF EDUCATION  
13 IS ATTEMPTING TO EXPEL OR DENY ADMISSION TO HAS THE RIGHT TO A  
14 HEARING AT WHICH EVIDENCE MAY BE PRESENTED. A board of education  
15 may delegate such powers to its executive officer or to a designee who  
16 ~~shall serve~~ SERVES as a hearing officer. ~~If the hearing is conducted by a~~  
17 ~~designee acting as a hearing officer, the hearing officer shall forward~~  
18 ~~findings of fact and recommendations to the executive officer at the~~  
19 ~~conclusion of the hearing. The executive officer shall render a written~~  
20 ~~opinion within five days after a hearing conducted by the executive~~  
21 ~~officer or by a hearing officer. The executive officer shall report on each~~  
22 ~~case acted upon at the next meeting of the board of education, briefly~~  
23 ~~describing the circumstances and the reasons for the executive officer's~~  
24 ~~action. A child who is denied admission or expelled as an outcome of the~~  
25 ~~hearing shall have ten days after the denial of admission or expulsion to~~  
26 ~~appeal the decision of the executive officer to the board of education,~~  
27 ~~after which time the decision to grant or deny the appeal shall be at the~~

1 ~~discretion of the board of education. The appeal shall consist of a review~~  
2 ~~of the facts that were presented and that were determined at the hearing~~  
3 ~~conducted by the executive officer or by a designee acting as a hearing~~  
4 ~~officer, arguments relating to the decision, and questions of clarification~~  
5 ~~from the board of education. No board of education shall deny admission~~  
6 ~~to, or expel, any child without a hearing, if one is requested by the parent,~~  
7 ~~guardian, or legal custodian of the child, at which evidence may be~~  
8 ~~presented in the child's behalf. If the child is denied admission or~~  
9 ~~expelled, the child shall be entitled to a review of the decision of the~~  
10 ~~board of education in accordance with section 22-33-108.~~

11 (2.3) (a) (I) IF AN EXECUTIVE OFFICER OR A DESIGNEE ACTING AS  
12 A HEARING OFFICER CONDUCTS AN EXPULSION HEARING PURSUANT TO  
13 SUBSECTION (2)(c) OF THIS SECTION, THE OFFICER OR DESIGNEE SHALL  
14 CREATE A REPORT WITH FINDINGS OF FACT AND MAKE  
15 RECOMMENDATIONS. IF A DESIGNEE ACTING AS A HEARING OFFICER  
16 CONDUCTS A HEARING, THE DESIGNEE SHALL REPORT TO THE EXECUTIVE  
17 OFFICER AT THE CONCLUSION OF THE EXPULSION HEARING. THE  
18 EXECUTIVE OFFICER OR THE DESIGNEE ACTING AS THE HEARING OFFICER  
19 SHALL REPORT SPECIFIC FINDINGS REGARDING THE FACTORS SET FORTH IN  
20 SECTION 22-33-106 (1.2).

21 (II) IF AN EXECUTIVE OFFICER OR DESIGNEE ACTING AS A HEARING  
22 OFFICER CONDUCTS AN EXPULSION HEARING REGARDING A STUDENT'S  
23 BEHAVIOR OFF SCHOOL GROUNDS PURSUANT TO SECTION 22-33-106  
24 (1)(c.2), THE REPORT OF THE OFFICER OR DESIGNEE MUST INCLUDE FACTS  
25 THAT ESTABLISH A DIRECT AND SUBSTANTIAL NEXUS BETWEEN THE  
26 STUDENT'S ALLEGED CONDUCT COMMITTED OFF SCHOOL GROUNDS AND  
27 THE RISK OF PHYSICAL HARM TO OTHER STUDENTS OR SCHOOL PERSONNEL.

1 (b) IF AN EXPULSION HEARING, AS DESCRIBED IN SUBSECTION (2)(c)  
2 OF THIS SECTION, IS REQUESTED BY EITHER A SCHOOL DISTRICT, A  
3 STUDENT, OR THE STUDENT'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN,  
4 THE SCHOOL DISTRICT HAS THE BURDEN OF PRESENTING CLEAR AND  
5 CONVINCING EVIDENCE TO DEMONSTRATE THAT THE STUDENT VIOLATED  
6 SECTION 22-33-106 AND THE SCHOOL DISTRICT'S POLICY, AND THAT  
7 EXCLUDING THE STUDENT FROM THE LEARNING ENVIRONMENT THROUGH  
8 EXPULSION OR DENIAL OF ADMISSION IS NECESSARY.

9 (c) (I) IF AN EXPULSION HEARING, AS DESCRIBED IN SUBSECTION  
10 (2)(c) OF THIS SECTION, IS REQUESTED BY EITHER A SCHOOL DISTRICT OR  
11 A STUDENT OR THE STUDENT'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN,  
12 THE SCHOOL DISTRICT SEEKING TO EXPEL OR DENY ADMISSION TO THE  
13 STUDENT SHALL PROVIDE ALL RECORDS THAT THE SCHOOL DISTRICT  
14 INTENDS TO USE AS SUPPORTING EVIDENCE FOR EXPULSION OR DENIAL OF  
15 ADMISSION TO THE STUDENT OR THE STUDENT'S PARENT, GUARDIAN, OR  
16 LEGAL CUSTODIAN AT LEAST FIVE BUSINESS DAYS PRIOR TO THE  
17 EXPULSION HEARING. UPON DISCOVERY OF A RECORD NOT PREVIOUSLY  
18 PROVIDED, THE SCHOOL DISTRICT SHALL IMMEDIATELY PROVIDE THE  
19 RECORD TO THE STUDENT OR THE STUDENT'S PARENT, GUARDIAN, OR  
20 LEGAL CUSTODIAN. IF CRITICAL EVIDENCE IS DISCOVERED LESS THAN  
21 TWELVE HOURS BEFORE A HEARING, THE SCHOOL DISTRICT SHALL  
22 IMMEDIATELY PROVIDE THE RECORD TO THE STUDENT'S PARENT,  
23 GUARDIAN, OR LEGAL CUSTODIAN AND THE HEARING MUST BE  
24 RESCHEDULED TO ALLOW THE STUDENT OR THE STUDENT'S PARENT,  
25 GUARDIAN, OR LEGAL CUSTODIAN TIME TO REVIEW THE RECORD.

26 (II) IF THE SCHOOL DISTRICT INTENDS TO PRESENT WRITTEN  
27 STATEMENTS OR ORAL TESTIMONY AT AN EXPULSION HEARING, THE

1 STUDENT AND THE STUDENT'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN  
2 MUST BE NOTIFIED AT LEAST FIVE BUSINESS DAYS PRIOR TO THE HEARING  
3 OF THE CONTENT OF THE STATEMENT OR TESTIMONY AND THE IDENTITY OF  
4 THE WITNESS GIVING THE STATEMENT OR TESTIMONY. THE STUDENT AND  
5 THE STUDENT'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN HAVE THE  
6 RIGHT TO CROSS-EXAMINE AN ADVERSE WITNESS WHO PROVIDES A  
7 WRITTEN STATEMENT OR ORAL TESTIMONY TO THE SCHOOL DISTRICT. IF  
8 THERE IS CONCERN FOR THE SAFETY OR PRIVACY OF A WITNESS WHO  
9 PROVIDES A WRITTEN STATEMENT OR ORAL TESTIMONY TO THE SCHOOL  
10 DISTRICT, THE EXECUTIVE OFFICER OR DESIGNEE ACTING AS THE HEARING  
11 OFFICER MAY CONDUCT THE CROSS-EXAMINATION.

12 (d) (I) AN EXECUTIVE OFFICER SHALL RENDER A WRITTEN OPINION  
13 THAT IMPOSES OR REFRAINS FROM IMPOSING DISCIPLINARY ACTION WITHIN  
14 FIVE BUSINESS DAYS AFTER AN EXPULSION HEARING PURSUANT TO  
15 SUBSECTION (2)(c) OF THIS SECTION IS CONDUCTED BY THE EXECUTIVE  
16 OFFICER OR BY A DESIGNEE ACTING AS A HEARING OFFICER. THE  
17 EXECUTIVE OFFICER SHALL PROVIDE THE WRITTEN OPINION TO THE  
18 STUDENT OR THE STUDENT'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN.  
19 THE EXECUTIVE OFFICER SHALL REPORT ON EACH CASE ACTED UPON AT  
20 THE NEXT MEETING OF THE BOARD OF EDUCATION, BRIEFLY DESCRIBING  
21 THE CIRCUMSTANCES AND THE REASONS FOR THE EXECUTIVE OFFICER'S  
22 OPINION.

23 (II) IF THE EXPULSION HEARING CONCERNED A STUDENT'S ALLEGED  
24 CONDUCT COMMITTED OFF SCHOOL GROUNDS AS SET FORTH IN SECTION  
25 22-33-106 (1)(c.2), THE WRITTEN OPINION DESCRIBED IN SUBSECTION  
26 (2.3)(d)(I) OF THIS SECTION MUST INCLUDE FACTS ESTABLISHING A DIRECT  
27 AND SUBSTANTIAL NEXUS BETWEEN THE STUDENT'S ALLEGED CONDUCT

1 COMMITTED OFF SCHOOL GROUNDS AND THE RISK OF PHYSICAL HARM TO  
2 OTHER STUDENTS OR SCHOOL PERSONNEL.

3 (e) A STUDENT WHO IS DENIED ADMISSION OR EXPELLED AS A  
4 RESULT OF THE HEARING DESCRIBED IN SUBSECTION (2)(c) OF THIS  
5 SECTION HAS TEN BUSINESS DAYS AFTER THE DECISION OF THE EXECUTIVE  
6 OFFICER IS RENDERED TO APPEAL THE DECISION TO THE BOARD OF  
7 EDUCATION, AFTER WHICH TIME THE DECISION TO GRANT OR DENY THE  
8 APPEAL IS AT THE DISCRETION OF THE BOARD OF EDUCATION. THE APPEAL  
9 MUST CONSIST OF A REVIEW OF THE FACTS PRESENTED AND DETERMINED  
10 AT THE HEARING CONDUCTED BY THE EXECUTIVE OFFICER OR BY A  
11 DESIGNEE ACTING AS A HEARING OFFICER, ARGUMENTS RELATING TO THE  
12 DECISION, AND QUESTIONS OF CLARIFICATION FROM THE BOARD OF  
13 EDUCATION. IF THE BOARD OF EDUCATION UPHOLDS THE DETERMINATION  
14 OF THE EXECUTIVE OFFICER TO EXPEL OR DENY ADMISSION TO A STUDENT,  
15 THE STUDENT IS ENTITLED TO A REVIEW OF THE DECISION OF THE BOARD  
16 OF EDUCATION IN ACCORDANCE WITH SECTION 22-33-108.

17 (2.4) (a) UPON A BOARD OF EDUCATION'S DELEGATION OF POWER  
18 TO AN EXECUTIVE OFFICER OR TO A DESIGNEE WHO SERVES AS A HEARING  
19 OFFICER PURSUANT TO SUBSECTION (2)(c) OF THIS SECTION, THE  
20 EXECUTIVE OFFICER OR DESIGNEE MUST AGREE TO BE RECUSED IF A  
21 CONFLICT OF INTEREST OCCURS. A CONFLICT OF INTEREST INCLUDES, BUT  
22 IS NOT LIMITED TO:

23 (I) A RELATIONSHIP TO AN INDIVIDUAL INVOLVED IN THE ALLEGED  
24 INCIDENT; OR

25 (II) A RELATIONSHIP TO AN INDIVIDUAL INVOLVED IN THE  
26 INVESTIGATION OR REPORTING OF AN INCIDENT.

27 (b) AN EXECUTIVE OFFICER INVOLVED IN INVESTIGATING OR

1 REPORTING AN INCIDENT THAT LEADS TO A HEARING THAT COULD RESULT  
2 IN SUSPENSION, EXPULSION, OR DENIAL OF ADMISSION OF A STUDENT  
3 SHALL NOT ACT AS A HEARING OFFICER. INSTEAD, A SCHOOL DISTRICT  
4 BOARD OF EDUCATION SHALL DELEGATE ITS POWERS TO A DESIGNEE WHO  
5 IS NOT INVOLVED IN INVESTIGATING OR REPORTING THE INCIDENT.

6 (c) AN EXECUTIVE OFFICER OR A DESIGNEE ACTING AS A HEARING  
7 OFFICER SHALL PARTICIPATE IN AN ANNUAL TRAINING ON STATE SCHOOL  
8 DISCIPLINE LAW, INCLUDING HOW TO WEIGH THE FACTORS DESCRIBED IN  
9 SECTION 22-33-106 (1.2). TRAINING MUST INCLUDE INFORMATION ON THE  
10 REQUIREMENTS AND IMPLEMENTATION OF THE FEDERAL "INDIVIDUALS  
11 WITH DISABILITIES EDUCATION ACT", 20 U.S.C. SEC. 1400 ET SEQ., AS  
12 AMENDED; SECTION 504 OF THE FEDERAL "REHABILITATION ACT OF 1973",  
13 29 U.S.C. SEC. 794, AS AMENDED; AND THE "EXCEPTIONAL CHILDREN'S  
14 EDUCATIONAL ACT", PURSUANT TO ARTICLE 20 OF THIS TITLE 22.

15 (2.5) (a) Each board of education shall annually report to the state  
16 board the number of students expelled from schools ~~within~~ IN the district  
17 pursuant to this section and pursuant to section 25-4-907. ~~C.R.S.~~ Any  
18 ~~pupil~~ STUDENT who is expelled pursuant to this section ~~shall not be~~ IS NOT  
19 included in calculating the dropout rate for the school from which ~~such~~  
20 THE student is expelled or in calculating the dropout rate for the school  
21 district in which ~~such pupil~~ THE STUDENT was enrolled prior to being  
22 expelled. THE ANNUAL REPORT MUST INCLUDE DATA ON THE FREQUENCY  
23 WITH WHICH THE EXECUTIVE OFFICER AND THE BOARD OF EDUCATION  
24 UPHOLD THE RECOMMENDATIONS OF AN EXECUTIVE OFFICER OR A  
25 DESIGNEE ACTING AS A HEARING OFFICER TO IMPOSE OR REFRAIN FROM  
26 DISCIPLINARY ACTION PURSUANT TO SUBSECTION (2.3)(d) OF THIS  
27 SECTION.

1 (b) (I) THE ANNUAL REPORT DESCRIBED IN SUBSECTION (2.5)(a) OF  
2 THIS SECTION MUST INCLUDE DATA ON THE FREQUENCY WITH WHICH  
3 HEARING OFFICERS IN THE SCHOOL DISTRICT RECOMMEND EXPULSION. THE  
4 BOARD OF EDUCATION SHALL DISAGGREGATE STUDENT DATA BY GENDER,  
5 GRADE LEVEL, RACE, ETHNICITY, ENGLISH LANGUAGE LEARNER STATUS,  
6 DISABILITY, AND WHETHER THE STUDENT HAS FEDERAL SECTION 504  
7 ACCOMMODATIONS OR AN INDIVIDUALIZED EDUCATION PROGRAM.

8 (II) EACH BOARD OF EDUCATION SHALL REPORT DATA IN  
9 COMPLIANCE WITH THE "COLORADO PRIVACY ACT", ESTABLISHED  
10 PURSUANT TO PART 13 OF ARTICLE 1 OF TITLE 6, THE FEDERAL "FAMILY  
11 EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974", 20 U.S.C. SEC.  
12 1232g, AND THE "STUDENT DATA TRANSPARENCY AND SECURITY ACT",  
13 CREATED IN ARTICLE 16 OF THIS TITLE 22.

14 **SECTION 2.** In Colorado Revised Statutes, 22-33-106, **amend**  
15 (1) introductory portion, (1)(c), (1.2) introductory portion, (3)(c), and  
16 (3)(f); and **add** (1)(c.2) and (3)(g) as follows:

17 **22-33-106. Grounds for suspension, expulsion, and denial of**  
18 **admission.** (1) The following may be grounds for suspension or  
19 expulsion of a ~~child~~ STUDENT from a public school during a school year:

20 (c) Behavior on ~~or off~~ school property ~~that is detrimental to the~~  
21 ~~welfare or safety of other pupils or of school personnel, including~~  
22 ~~behavior that creates a~~ OR DURING A SCHOOL-SPONSORED EVENT THAT  
23 CONSTITUTES A threat of physical harm ~~to the child or to other children~~  
24 STUDENTS OR SCHOOL PERSONNEL; except that, if the ~~child~~ STUDENT who  
25 creates the threat is a child with a disability pursuant to section 22-20-103  
26 (5), the ~~child~~ STUDENT may not be expelled if the actions creating the  
27 threat are a manifestation of the ~~child's~~ STUDENT'S disability. ~~However~~

1 INSTEAD, the ~~child~~ STUDENT shall be removed from the classroom to an  
2 appropriate alternative setting within the district in which the ~~child~~  
3 STUDENT is enrolled for a length of time that is consistent with federal  
4 law, during which time the school in which the student is enrolled shall  
5 give priority to and arrange within ten days for a reexamination of the  
6 ~~child's~~ STUDENT'S individualized education program to amend ~~his or her~~  
7 THE STUDENT'S program as necessary to ensure that the needs of the ~~child~~  
8 STUDENT are addressed in a more appropriate manner or setting that is  
9 less disruptive to other students and is in accordance with ~~the provisions~~  
10 ~~of article 20 of this title~~ TITLE 22. Nothing in this ~~paragraph (c)~~ shall be  
11 SUBSECTION (1)(c) IS construed to limit a school district's authority to  
12 suspend a ~~child~~ STUDENT with a disability for a length of time that is  
13 consistent with federal law.

14 (c.2) (I) BEHAVIOR OFF SCHOOL GROUNDS ONLY IF THE SCHOOL  
15 DISTRICT DEMONSTRATES THAT THE STUDENT POSES AN IMMINENT THREAT  
16 TO OTHER STUDENTS OR SCHOOL PERSONNEL BY ESTABLISHING A DIRECT  
17 AND SUBSTANTIAL NEXUS BETWEEN THE STUDENT'S ALLEGED CONDUCT  
18 COMMITTED OFF SCHOOL GROUNDS AND THE RISK OF PHYSICAL HARM TO  
19 OTHER STUDENTS OR SCHOOL PERSONNEL. BEHAVIOR THAT OCCURS OFF  
20 SCHOOL GROUNDS THAT RESULTS IN DELINQUENCY OR CRIMINAL CHARGES  
21 AND IS UNRELATED TO A SCHOOL-SPONSORED EVENT IS NOT AUTOMATIC  
22 GROUNDS FOR SUSPENSION OR EXPULSION. A SCHOOL DISTRICT SHALL  
23 PRESUME THAT THE STUDENT'S CONDUCT ALLEGED IN A DELINQUENCY OR  
24 CRIMINAL CHARGE LACKS A DIRECT AND SUBSTANTIAL NEXUS TO THE RISK  
25 OF PHYSICAL HARM TO OTHER STUDENTS OR SCHOOL PERSONNEL UNLESS  
26 THE SCHOOL DISTRICT DISCOVERS AND PRESENTS CLEAR AND CONVINCING  
27 EVIDENCE TO THE CONTRARY.

1           (II) IF THE STUDENT WHO CREATES THE THREAT DESCRIBED IN  
2 SUBSECTION (1)(c.2)(I) OF THIS SECTION IS A CHILD WITH A DISABILITY  
3 PURSUANT TO SECTION 22-20-103 (5), THE STUDENT MAY NOT BE  
4 EXPELLED IF THE ACTIONS CREATING THE THREAT ARE A MANIFESTATION  
5 OF THE STUDENT'S DISABILITY. INSTEAD, THE STUDENT SHALL BE  
6 REMOVED FROM THE CLASSROOM TO AN APPROPRIATE ALTERNATIVE  
7 SETTING WITHIN THE DISTRICT IN WHICH THE STUDENT IS ENROLLED FOR  
8 A LENGTH OF TIME THAT IS CONSISTENT WITH FEDERAL LAW, DURING  
9 WHICH TIME THE SCHOOL IN WHICH THE STUDENT IS ENROLLED SHALL GIVE  
10 PRIORITY TO AND ARRANGE WITHIN TEN DAYS FOR A REEXAMINATION OF  
11 THE STUDENT'S INDIVIDUALIZED EDUCATION PROGRAM TO AMEND THE  
12 STUDENT'S PROGRAM AS NECESSARY TO ENSURE THAT THE NEEDS OF THE  
13 STUDENT ARE ADDRESSED IN A MORE APPROPRIATE MANNER OR SETTING  
14 THAT IS LESS DISRUPTIVE TO OTHER STUDENTS AND IS IN ACCORDANCE  
15 WITH ARTICLE 20 OF THIS TITLE 22. NOTHING IN THIS SUBSECTION (1)(c.2)  
16 IS CONSTRUED TO LIMIT A SCHOOL DISTRICT'S AUTHORITY TO SUSPEND A  
17 STUDENT WITH A DISABILITY FOR A LENGTH OF TIME THAT IS CONSISTENT  
18 WITH FEDERAL LAW.

19           (1.2) Each school district ~~is encouraged to~~ SHALL consider each  
20 of the following factors before suspending or expelling a student pursuant  
21 to ~~a provision of~~ subsection (1) of this section:

22           (3) The following may constitute additional grounds for denial of  
23 admission to a public school:

24           (c) Having been expelled from any school district FOR BRINGING  
25 A FIREARM TO A SCHOOL OR POSSESSING A FIREARM AT A SCHOOL during  
26 the preceding twelve months;

27           (f) Behavior ON SCHOOL PROPERTY OR DURING A

1 SCHOOL-SPONSORED EVENT in another school district during the preceding  
2 twelve months that is detrimental to the welfare or safety of CONSTITUTES  
3 A THREAT OF PHYSICAL HARM TO other pupils or of STUDENTS OR school  
4 personnel OF THE ENROLLING SCHOOL DISTRICT; AND

5 (g) BEHAVIOR OFF SCHOOL GROUNDS ONLY IF AN ENROLLING  
6 SCHOOL DISTRICT DEMONSTRATES THAT THE STUDENT POSES AN IMMINENT  
7 THREAT TO OTHER STUDENTS OR SCHOOL PERSONNEL BY ESTABLISHING A  
8 DIRECT AND SUBSTANTIAL NEXUS BETWEEN THE STUDENT'S ALLEGED  
9 CONDUCT COMMITTED OFF SCHOOL GROUNDS AND THE RISK OF PHYSICAL  
10 HARM TO OTHER STUDENTS OR SCHOOL PERSONNEL. BEHAVIOR THAT  
11 OCCURS OFF SCHOOL GROUNDS THAT RESULTS IN DELINQUENCY OR  
12 CRIMINAL CHARGES AND IS UNRELATED TO A SCHOOL-SPONSORED EVENT  
13 IS NOT AUTOMATIC GROUNDS FOR DENIAL OF ADMISSION. AN ENROLLING  
14 SCHOOL DISTRICT SHALL PRESUME THAT THE STUDENT'S CONDUCT  
15 ALLEGED IN A DELINQUENCY OR CRIMINAL CHARGE LACKS A DIRECT AND  
16 SUBSTANTIAL NEXUS TO THE RISK OF PHYSICAL HARM TO OTHER STUDENTS  
17 OR SCHOOL PERSONNEL UNLESS THE SCHOOL DISTRICT DISCOVERS AND  
18 PRESENTS CLEAR AND CONVINCING EVIDENCE TO THE CONTRARY.

19 **SECTION 3.** In Colorado Revised Statutes, 22-33-108, **amend**  
20 (2) and (3) as follows:

21 **22-33-108. Judicial proceedings.** (2) WITHIN FIVE BUSINESS  
22 DAYS AFTER A BOARD OF EDUCATION'S DETERMINATION TO UPHOLD AN  
23 EXPULSION OR DENIAL OF ADMISSION, THE BOARD OF EDUCATION SHALL  
24 ISSUE A WRITTEN ORDER PROVIDING NOTICE OF THE DECISION. ~~If a child or~~  
25 ~~his parent~~ STUDENT OR THE STUDENT'S PARENT, GUARDIAN, OR LEGAL  
26 CUSTODIAN desires court review of an order of the board of education  
27 issued pursuant to this ~~article, he shall~~ ARTICLE 33, THE STUDENT OR THE

1 STUDENT'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN MUST notify the  
2 board OF EDUCATION in writing within five BUSINESS days after receiving  
3 official ~~notification~~ NOTICE of the ~~board's~~ BOARD OF EDUCATION'S action.  
4 The board of education shall ~~thereupon~~ issue, or cause to be issued, to the  
5 ~~child~~ STUDENT or ~~his parent~~ THE STUDENT'S PARENT, GUARDIAN, OR  
6 LEGAL CUSTODIAN a statement of the reasons for the ~~board's~~ BOARD OF  
7 EDUCATION'S action WITHIN FIVE BUSINESS DAYS. THE BOARD OF  
8 EDUCATION SHALL CERTIFY THE RECORD AND PROVIDE A COPY TO THE  
9 STUDENT OR THE STUDENT'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN  
10 WITHIN FIVE BUSINESS DAYS. Within ten BUSINESS days ~~thereafter~~ AFTER  
11 RECEIVING THE BOARD OF EDUCATION'S CERTIFIED STATEMENT, the ~~child~~  
12 STUDENT or ~~his parents~~ THE STUDENT'S PARENT, GUARDIAN, OR LEGAL  
13 CUSTODIAN may file with the court a petition requesting that the order of  
14 the board of education be set aside, to which ~~shall~~ MUST be appended the  
15 statement of the board of education. No docket or other fees ~~shall be~~ ARE  
16 collected by the court in connection with this proceeding.

17 (3) After the petition is filed, the court shall notify the board OF  
18 EDUCATION and shall hold a hearing on the matter WITHIN TWENTY-ONE  
19 CALENDAR DAYS. The court shall conduct judicial review of a hearing  
20 decision pursuant to rule 106 (a)(4) of the Colorado rules of civil  
21 procedure and rule 3.8 of the Colorado rules of juvenile procedure. IF THE  
22 COURT FINDS IN FAVOR OF THE STUDENT OR THE STUDENT'S PARENT,  
23 GUARDIAN, OR LEGAL CUSTODIAN, AND DETERMINES THE SCHOOL  
24 DISTRICT, ENROLLING SCHOOL DISTRICT, OR BOARD OF EDUCATION  
25 VIOLATED THE RIGHTS OF THE STUDENT OR THE STUDENT'S PARENT,  
26 GUARDIAN, OR LEGAL CUSTODIAN PURSUANT TO THE UNITED STATES OR  
27 STATE CONSTITUTION OR SECTION 22-33-105, 22-33-106, OR 22-33-108,

1 THE COURT SHALL AWARD THE STUDENT OR THE STUDENT'S PARENT,  
2 GUARDIAN, OR LEGAL CUSTODIAN REASONABLE ATTORNEY FEES AND  
3 LITIGATION EXPENSES.

4 **SECTION 4. Act subject to petition - effective date.** This act  
5 takes effect at 12:01 a.m. on the day following the expiration of the  
6 ninety-day period after final adjournment of the general assembly; except  
7 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
8 of the state constitution against this act or an item, section, or part of this  
9 act within such period, then the act, item, section, or part will not take  
10 effect unless approved by the people at the general election to be held in  
11 November 2024 and, in such case, will take effect on the date of the  
12 official declaration of the vote thereon by the governor.