

## CHAPTER 296

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**EDUCATION - PUBLIC SCHOOLS**


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**HOUSE BILL 23-1291**

BY REPRESENTATIVE(S) Joseph and Gonzales-Gutierrez, Bacon, Bockenfeld, Brown, Epps, Garcia, Lieder, Lindsay, Lindstedt, Mabrey, Ricks, Story, Velasco, Vigil, Willford, Woodrow, Amabile, Dickson, Duran, English, Froelich, Jodeh, Martinez, Mauro, McLachlan, Michaelson Jenet, Ortiz, Sharbini, Sirota, McCluskie;  
also SENATOR(S) Winter F. and Fields, Coleman, Exum, Gonzales, Buckner, Cutter, Moreno, Priola, Rodriguez, Sullivan.

**AN ACT****CONCERNING PROCEDURES FOR EXPULSION HEARING OFFICERS, AND, IN CONNECTION THEREWITH, MAKING AN APPROPRIATION.**

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

**SECTION 1. Legislative declaration.** (1) The general assembly finds and declares that:

- (a) Providing a quality education for all is fundamental to creating a peaceful and prosperous Colorado;
- (b) Education gives people the knowledge and skills they need to stay healthy, become employed, and foster tolerance;
- (c) According to the U.S. Department of Education, minorities and students with limited English proficiency are disciplined in school at higher rates than their White peers;
- (d) Expulsions or zero-tolerance policies have a disparate impact on students with disabilities, minority students, and students from working class families;
- (e) Expulsions put students at a higher risk for negative life outcomes, including involvement in the criminal justice system;
- (f) The state has an obligation to develop best practices for school expulsion policies and procedures;

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

(g) To that end, effective unconscious bias training for expulsion hearing officers who are engaged in the expulsion process is necessary to increase awareness, manage biases, adjust behaviors, track progress, and provide information that contradicts stereotypes;

(h) Additionally, students who are disproportionately impacted by their schools' expulsion policies and procedures often deal with personal and social trauma that, in turn, impacts students' brain development and behavior; and

(i) Ensuring expulsion hearing officers who are involved in the school expulsion process adopt a trauma-informed perspective and are trained in recognizing unconscious biases is necessary to make sustainable long-term structural changes to expulsion policies and procedures that negatively impact Colorado's marginalized students.

(2) The general assembly, therefore, finds and declares that it is necessary to bolster K-12 school attendance and require unconscious bias and trauma-informed practice training for expulsion hearing officers.

**SECTION 2.** In Colorado Revised Statutes, 22-33-105, **amend** (2)(c) and (7); and **add** (2.3), (2.4), and (4.5) as follows:

**22-33-105. Suspension, expulsion, and denial of admission.** (2) In addition to the powers provided in section 22-32-110, the board of education of each district may:

(c) Deny admission to, or expel for any period not extending beyond one year, any ~~child~~ STUDENT whom the board of education, in accordance with the limitations imposed by this ~~article~~, ~~shall determine~~ ARTICLE 33, DETERMINES 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~~ SERVES 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.~~

(2.3) (a) IF AN EXPULSION HEARING IS REQUESTED BY A SCHOOL DISTRICT, A STUDENT, OR THE STUDENT'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN, THE SCHOOL DISTRICT HAS THE BURDEN OF PROVING BY A PREPONDERANCE OF THE EVIDENCE THAT THE STUDENT VIOLATED SECTION 22-33-106 AND THE SCHOOL DISTRICT'S POLICY.

(b) IF AN EXPULSION HEARING IS REQUESTED PURSUANT TO SUBSECTION (2.3)(a) OF THIS SECTION BY A SCHOOL DISTRICT, A STUDENT, OR THE STUDENT'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN, THE SCHOOL DISTRICT SEEKING TO EXPEL OR DENY ADMISSION TO THE STUDENT SHALL PROVIDE ALL RECORDS THAT THE SCHOOL DISTRICT INTENDS TO USE AS SUPPORTING EVIDENCE FOR EXPULSION OR DENIAL OF ADMISSION TO THE STUDENT OR THE STUDENT'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN AT LEAST TWO BUSINESS DAYS IN WHICH SCHOOL IS IN SESSION PRIOR TO THE EXPULSION HEARING. UPON DISCOVERY OF A RECORD NOT PREVIOUSLY PROVIDED, THE SCHOOL DISTRICT SHALL IMMEDIATELY PROVIDE THE RECORD TO THE STUDENT OR THE STUDENT'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN.

(c) IF AN EXECUTIVE OFFICER ACTING AS A HEARING OFFICER CONDUCTS AN EXPULSION HEARING PURSUANT TO SUBSECTION (2.3)(a) OF THIS SECTION, THE EXECUTIVE OFFICER SHALL CREATE A REPORT WITH FINDINGS OF FACT AND RECOMMENDATIONS, INCLUDING SPECIFIC FINDINGS REGARDING THE FACTORS SET FORTH IN SECTION 22-33-106 (1.2). IF A DESIGNEE ACTING AS A HEARING OFFICER CONDUCTS A HEARING, THE DESIGNEE SHALL FORWARD FINDINGS OF FACT AND RECOMMENDATIONS TO THE EXECUTIVE OFFICER AT THE CONCLUSION OF THE EXPULSION HEARING, INCLUDING SPECIFIC FINDINGS REGARDING THE FACTORS SET FORTH IN SECTION 22-33-106 (1.2). AN EXECUTIVE OFFICER SHALL RENDER A WRITTEN OPINION THAT IMPOSES OR REFRAINS FROM IMPOSING DISCIPLINARY ACTION WITHIN FIVE BUSINESS DAYS AFTER AN EXPULSION HEARING IS CONDUCTED BY THE EXECUTIVE OFFICER OR BY A DESIGNEE ACTING AS A HEARING OFFICER. THE EXECUTIVE OFFICER SHALL PROVIDE THE WRITTEN OPINION TO THE STUDENT OR THE STUDENT'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN. 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 OPINION.

(d) A STUDENT WHO IS DENIED ADMISSION OR EXPELLED AS A RESULT OF THE HEARING DESCRIBED IN SUBSECTION (2.3)(a) OF THIS SECTION HAS TEN BUSINESS DAYS AFTER THE DECISION OF THE EXECUTIVE OFFICER IS RENDERED TO APPEAL THE DECISION TO THE BOARD OF EDUCATION, AFTER WHICH TIME THE DECISION TO GRANT OR DENY THE APPEAL IS AT THE DISCRETION OF THE BOARD OF EDUCATION. THE APPEAL MUST CONSIST OF A REVIEW OF THE FACTS PRESENTED AND 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. IF THE BOARD OF EDUCATION UPHOLDS THE DETERMINATION OF THE EXECUTIVE OFFICER TO EXPEL OR DENY ADMISSION TO A STUDENT, THE STUDENT IS ENTITLED TO A REVIEW OF THE DECISION OF THE BOARD OF EDUCATION IN ACCORDANCE WITH SECTION 22-33-108.

(2.4) (a) A HEARING OFFICER MUST NOT HAVE A CONFLICT OF INTEREST WITH REGARD TO A STUDENT UNDER CONSIDERATION FOR EXPULSION OR DENIAL OF ADMISSION, OR TOWARD ANY ALLEGED VICTIM. A SCHOOL DISTRICT MUST ENSURE

THAT ANY PERSON ACTING AS A HEARING OFFICER RECEIVES TRAINING ON HOW TO SERVE IMPARTIALLY, INCLUDING AVOIDING PREJUDGMENT OF THE FACTS AT ISSUE AND CONFLICTS OF INTEREST. THE TRAINING MUST BE INCLUDED AS PART OF THE TRAINING PROGRAM OFFERED BY THE DEPARTMENT OF EDUCATION PURSUANT TO SUBSECTION (2.4)(c) OF THIS SECTION.

(b) AN EXECUTIVE OFFICER INVOLVED IN INVESTIGATING OR REPORTING AN INCIDENT THAT LEADS TO A HEARING THAT COULD RESULT IN SUSPENSION, EXPULSION, OR DENIAL OF ADMISSION OF A STUDENT SHALL NOT ACT AS A HEARING OFFICER. INSTEAD, THE EXECUTIVE OFFICER SHALL DELEGATE SUCH POWERS TO A DESIGNEE WHO IS NOT INVOLVED IN INVESTIGATING OR REPORTING THE INCIDENT.

(c) (I) ON OR BEFORE JUNE 30, 2024, THE DEPARTMENT OF EDUCATION SHALL CREATE AND MAINTAIN THE ONLINE TRAINING PROGRAM FOR HEARING OFFICERS WHO CONDUCT EXPULSION HEARINGS. THE DEPARTMENT OF EDUCATION SHALL COLLABORATE WITH STAKEHOLDERS ON THE CREATION OF THE ONLINE TRAINING PROGRAM, WHICH MAY OCCUR VIRTUALLY BY VIDEO OR AUDIO.

(II) (A) BEGINNING JANUARY 1, 2025, SCHOOL DISTRICTS AND THE STATE CHARTER SCHOOL INSTITUTE SHALL REQUIRE HEARING OFFICERS TO COMPLETE AN INITIAL FIVE-HOUR TRAINING PROGRAM WITHIN THIRTY DAYS AFTER THE DATE THE HEARING OFFICER STARTS WORK AS A HEARING OFFICER.

(B) IN ADDITION TO THE INITIAL FIVE-HOUR TRAINING COMPLETED PURSUANT TO SUBSECTION (2.4)(c)(II)(A) OF THIS SECTION, HEARING OFFICERS SHALL COMPLETE AN ANNUAL TRAINING PROGRAM TO STAY INFORMED ON SCHOOL DISCIPLINE UPDATES.

(III) TRAINING MUST INCLUDE INFORMATION ON THE FOLLOWING:

(A) CHILD AND ADOLESCENT BRAIN DEVELOPMENT;

(B) RESTORATIVE JUSTICE;

(C) ALTERNATIVES TO EXPULSION;

(D) TRAUMA-INFORMED PRACTICES;

(E) CONFLICT AND BIAS IN DISCIPLINE, SUSPENSION, AND EXPULSION; AND

(F) REQUIREMENTS AND IMPLEMENTATION OF THE APPLICABLE PORTIONS OF THE FEDERAL "INDIVIDUALS WITH DISABILITIES EDUCATION ACT", 20 U.S.C. SEC. 1400 ET SEQ., AS AMENDED; SECTION 504 OF THE FEDERAL "REHABILITATION ACT OF 1973", 29 U.S.C. SEC. 794, AS AMENDED; THE FEDERAL "FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974", 20 U.S.C. SEC. 1232g, AS AMENDED; THE "EXCEPTIONAL CHILDREN'S EDUCATIONAL ACT", ARTICLE 20 OF THIS TITLE 22; AND THE "SCHOOL ATTENDANCE LAW OF 1963", ESTABLISHED PURSUANT TO THIS ARTICLE 33.

(IV) BEGINNING JANUARY 1, 2025, IT IS AN ABUSE OF DISCRETION IF A HEARING

OFFICER PRESIDES OVER AN EXPULSION HEARING AND HAS NOT COMPLETED THE REQUIRED TRAINING PURSUANT TO THIS SUBSECTION (2.4).

(V) A SCHOOL DISTRICT, A DISTRICT CHARTER SCHOOL AUTHORIZED TO SUSPEND OR EXPEL STUDENTS, OR THE STATE CHARTER SCHOOL INSTITUTE MAY DEVELOP AND PROVIDE A TRAINING PROGRAM TO HEARING OFFICERS AND SCHOOL ADMINISTRATORS. THE TRAINING PROGRAM MUST MEET OR EXCEED THE REQUIREMENTS SET FORTH IN SUBSECTIONS (2.4)(c)(II) AND (2.4)(c)(III) OF THIS SECTION.

(4.5) THE BOARD OF EDUCATION OF EACH DISTRICT SHALL ADOPT A POLICY THAT STATES A STUDENT MUST NOT BE EXPELLED OR DENIED ADMISSION UNLESS THE SCHOOL DISTRICT CONSIDERS WHETHER ALTERNATIVE REMEDIES ARE APPROPRIATE AND WHETHER EXCLUDING THE STUDENT FROM SCHOOL IS NECESSARY TO PRESERVE THE LEARNING ENVIRONMENT.

(7) (a) Notwithstanding any other provision of this part 1 to the contrary:

~~(a)~~ (I) An institute charter school authorized pursuant to part 5 of article 30.5 of this ~~title~~ TITLE 22 may carry out the functions of a suspending authority pursuant to this section; and

~~(b)~~ (II) The state charter school institute created in part 5 of article 30.5 of this ~~title~~ TITLE 22 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.

(b) IF A DISTRICT CHARTER SCHOOL, AUTHORIZED PURSUANT TO PART 1 OF ARTICLE 30.5 OF THIS TITLE 22, IS AUTHORIZED TO SUSPEND OR EXPEL STUDENTS AS STIPULATED IN THE CHARTER SCHOOL CONTRACT PURSUANT TO SECTION 22-30.5-106 (1)(p), THE DISTRICT CHARTER SCHOOL SHALL COMPLY WITH THIS SECTION.

**SECTION 3.** In Colorado Revised Statutes, 22-33-106, **amend** (1.2) introductory portion as follows:

**22-33-106. Grounds for suspension, expulsion, and denial of admission.** (1.2) Each school district ~~is encouraged to~~ SHALL consider each of the following factors before suspending or expelling a student pursuant to ~~a provision of~~ subsection (1) of this section:

**SECTION 4.** In Colorado Revised Statutes, 22-33-108, **amend** (2) and (3) as follows:

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

OF EDUCATION in writing within five BUSINESS days after receiving official notification NOTICE of the board's BOARD OF EDUCATION'S action. The board of education shall thereupon issue, or cause to be issued, to the child STUDENT or his parent THE STUDENT'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN a statement of the reasons for the board's BOARD OF EDUCATION'S action WITHIN FIVE BUSINESS DAYS. UPON RECEIVING THE NOTICE FROM THE STUDENT OR THE STUDENT'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN, THE BOARD OF EDUCATION SHALL PROVIDE A COMPLETE AND ACCURATE COPY OF THE EXPULSION RECORD TO THE STUDENT OR THE STUDENT'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN WITHIN FIVE BUSINESS DAYS. Within ten BUSINESS days thereafter AFTER RECEIVING THE BOARD OF EDUCATION'S EXPULSION RECORD, the child STUDENT or his parents THE STUDENT'S PARENT, GUARDIAN, OR LEGAL CUSTODIAN may file with the court a petition requesting that the order of the board of education be set aside, to which shall MUST be appended the statement of the board of education. No docket or other fees shall be ARE collected by the court in connection with this proceeding.

(3) After the petition is filed, the court shall notify the board OF EDUCATION and shall hold a hearing on the matter WITHIN TWENTY-ONE CALENDAR DAYS. 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.

**SECTION 5. Appropriation.** For the 2023-24 state fiscal year, \$162,720 is appropriated to the department of education. This appropriation is from the general fund and is based on an assumption that the department will require an additional 0.9 FTE. To implement this act, the department may use this appropriation for expulsion hearing officer training and support.

**SECTION 6. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety.

Approved: June 1, 2023