

**2012 Amendments  
Regarding School Discipline  
(Elimination of Zero Tolerance)**

**HB12-1345, School Finance Act**

**Including  
Shaded Language and  
Callout Notes in the Margins  
For Ease of Reference**

**Janelle Krueger, Principal Consultant  
Expelled and At-Risk Student Services (EARSS) Grant Program  
Office of Dropout Prevention and Engagement  
Colorado Department of Education**

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## **HB12-1345 Amendments Regarding School Discipline and Referrals to Law Enforcement**

**Background:** SB11-133 created an interim legislative committee to study school discipline and referrals to law enforcement. Its purpose was to address concerns that there may be:

1. overly harsh penalties in place to address minor school behavior-related incidents,
2. too many school-based incidents excessively referred to law enforcement and therefore ending up being processed in the juvenile justice system, and
3. too many ethnic minorities being disproportionately disciplined and therefore contributing to an over-representation of minority youth entering the juvenile justice system.

The committee met late-July through early-October, 2011. Testimony, in part, addressed the negative aspects of "zero tolerance" discipline policies, use of police discretion, and alternatives to managing school discipline. The committee determined that:

1. more discretion should be returned to local school officials,
2. law enforcement officers should receive more training, and
3. a reporting system be created for police and district attorneys to annually report their actions for school-based incidents to the Division of Criminal Justice.

The interim committee's bill moved through the 2012 legislative session as SB12-046 until the last day of the session when it was passed as an amendment to HB12-1345, the School Finance Act.

The most significant results of the bill are:

1. the elimination of mandatory expulsions for drugs, weapons, assaults, and robbery,
2. changed the grounds for suspension and expulsions from "shall" be grounds to "may" be grounds,
3. factors to consider in determining disciplinary actions,
4. promotion of alternatives to discipline to decrease out-of-school suspensions and expulsions
5. required training for law enforcement officers, and
6. reporting requirements regarding law enforcement officer and district attorney actions for school-based incidents.

### **Edits in this document:**

- **Yellow shading is amended language from the bill.**
  - In some instances, this may include statutory language relocated or renumbered from pre-existing sections in the C.R.S., but appears as an amendment because it's new language in the paragraph or section that is amended.
  - The C.R.S. version does not indicate language struck out by the amendment. This document adds strike outs in a few places for added clarity.
- Callout notes in the margin identify subjects, paraphrase, summarize, or add additional explanations to better align the amendment to other statutes, or state the legislative intent.

### **Caution/Disclaimer:**

The intent of this document is to highlight the amendments from HB12-1345 as incorporated into the C.R.S., and not to explain each amended section of the C.R.S. in its entirety. The reader should check the sequence of the numeric and alpha character outline to note the skipped sections.

It is recommended that readers access the full content of associated statutes in order to understand the context of the amendments and other requirements of the related statutes.

## LEGISLATIVE DECLARATION

The following **Legislative declaration** in Section 21 of HB12-1345 does not appear in the C.R.S., but is critical for understanding the underlying rationale and context of the bill's amendments:

(1) The general assembly hereby declares that:

(a) The use of inflexible "zero-tolerance" policies as a means of addressing disciplinary problems in schools has resulted in unnecessary expulsions, out-of-school suspensions, and referrals to law enforcement agencies;

(b) Involvement of students in the criminal or juvenile justice systems should be avoided when addressing minor misbehavior that is typical for a student based on his or her developmental stage;

(c) State laws must allow school administrators and local boards of education to use their discretion to determine the appropriate disciplinary response to each incident of student misconduct;

(d) Each school district of the state is encouraged, in creating and enforcing a school conduct and discipline code, to protect students and staff from harm, provide opportunities for students to learn from their mistakes, foster a positive learning community, keep students in school, and show mindful consideration of negative impacts that can occur as a result of involvement with the criminal justice system;

(e) School discipline policies and practices must apply equally to all students regardless of their economic status, race, gender, ethnicity, religion, national origin, sexual orientation, or disability; and

(f) Each school district of the state is encouraged to include in its school conduct and discipline code a specific policy that:

(I) States which violations of the code require a referral to law enforcement due to the serious nature of the violation or as a result of a state or federal reporting law;

(II) States which violations of the code may result in a referral to law enforcement, subject to the discretion of a school administration or a local board of education; and

*Note - This language was not incorporated into any particular section of the C.R.S.*

(III) States factors that the school district will consider when making a determination as to whether to refer a student to law enforcement, which factors, at a minimum, include:

(A) The age of a student;

(B) The disciplinary history of a student;

(C) Whether a student has a disability;

(D) The seriousness of a violation;

(E) Whether a violation threatened the safety of any student or staff member; and

(F) Whether a lesser intervention would properly address a violation.

(2) Now, therefore, the general assembly determines and declares that:

(a) To ensure that the best interests of Colorado schools are being served, in accordance with section 2-2-1201, Colorado Revised Statutes (C.R.S.), the legislative service agencies of the general assembly shall conduct a post-enactment review of this act and report their conclusions to the education committees of the house of representatives and senate, or any successor committees, and to the persons described in section 2-2-1201 (3), C.R.S.;

(b) Notwithstanding the provisions of section 2-2-1201 (3), C.R.S., the legislative service agencies of the general assembly shall complete the post-enactment review of this act four years after this act becomes law;

(c) Notwithstanding the provisions of section 2-2-1201 (2) (a), C.R.S., the review shall not make the determinations described in said section 2-2-1201 (2) (a), C.R.S., but shall include any information reported to the division of criminal justice by school resource officers and other law enforcement officers pursuant to section 22-32-146, C.R.S., as described in section 13 of this act; and by district attorneys pursuant to section 20-1-113, C.R.S., as described in section 20 of this act; and

(d) The members of the education committees of the house of representatives and senate, or any successor committees, are encouraged to consider whether to:

(I) Continue to require school resource officers and other law enforcement officers and district attorneys to report such information to the division of criminal justice; or

(II) Enact legislation to repeal such reporting requirements.

**COLORADO REVISED STATUTES**  
TITLE 22. EDUCATION  
SCHOOL DISTRICTS  
**ARTICLE 32. SCHOOL DISTRICT BOARDS - POWERS AND DUTIES**

C.R.S. 22-32-109.1 (2012)

**22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements**

**(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 a law enforcement agency; or
- (VI) Any other form of discipline, which shall be officially identified as part of a board policy.

(b) "Bullying" means any written or verbal 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 his or her academic performance or against whom federal and state laws prohibit discrimination upon any of the bases described in [section 22-32-109 \(1\) \(II\) \(I\)](#). 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.

(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 \(1\) \(c.5\)](#).

Definition section added, but same definitions from previous statutes unless otherwise noted.

Changes "**Habitually disruptive student**" definition from "three suspensions" in a year for the 4 previously specified behaviors in "grounds for suspensions and expulsions" to causing material and substantial disruptions "three or more times" during the year without specifying certain behaviors.

See page 13 to compare the old and new language.

(f) (I) "Referral to law enforcement" means a communication between a school administrator, teacher, or other school employee and a law enforcement agency, which communication:

(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 a law enforcement agency.

Defines for the first time in state statute what "referral to law enforcement" means.

(II) "Referral to law enforcement" does not include:

(A) Contact with a law enforcement agency that is made for the purpose of education, prevention, or intervention regarding a student's behavior; or

(B) Routine or incidental communication between a school administrator, teacher, or other school employee and a law enforcement officer.

Defines what "referral to law enforcement" does not include.

(g) "Restorative justice" has the same meaning as set forth in section 22-32-144 (3).

144(3) defines **Restorative Justice** as "practices that emphasize repairing the harm to the victim and the school community caused by a student's misconduct." Section 144 was enacted by HB11-1032.

(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, 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, each school district board of education shall 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, and local law enforcement agencies. The plan, at a minimum, shall include the following

**Re: Safe School Planning**

--- Adds data and additional stakeholders to what and who should be included in the development of a safe school plan.

- Victim advocates
- School psychologists
- Law enforcement

**(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 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:

**Re: Student Awareness** --Attempts to ensure students are more “familiar” with the conduct and discipline code than in the past. (This goes beyond only disseminating the code.)

(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.

**Re: Disruptions and Classroom removals** -  
- The amendment did not change current allowances or requirements, but rather re-worked language for more clarity.

(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](#) and [22-33-106](#);

(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.

(II) In creating and enforcing a school conduct and discipline code pursuant to subparagraph (I) of this paragraph (a), 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;

**Re: Tobacco policies**

Note that 22-32-109 requires a similar policy that also applies this prohibition to teachers, staff, and visitors, and requires that the enforcement of this policy cannot include expulsion of a student solely for tobacco use.

**Re: Approach to discipline, on and after August 1st, 2013:**

The code should impose proportionate disciplinary interventions and consequences designed to reduce:

- expulsions
- out-of-school suspensions
- referrals to law enforcement



Creating and enforcing the discipline code, cont.

(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 code should include plans for:

- prevention
- intervention
- restorative justice
- peer mediation
- counseling
- or other approaches

The code should be 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.;

**Re: Limitation on use of restorative justice and peer mediation** for victims/offenders of:

- unlawful sexual behavior
- domestic violence
- stalking
- violation of a protection order

(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 \(5\)](#); and

(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.

The code needs to comply with state and federal laws concerning students with disabilities and in consideration of US Code Title IX.

**(b) Safe school reporting requirements.**

This section was not substantially revised, nor did it change what was currently being reported. Amendments clarified that the number of conduct and discipline code violations reported be for incidents occurring on school grounds, in a school vehicle, or at a school activity or sanctioned event.

**22-32-146. School use of on-site peace officers as school resource officers - notifications of arrests and notices issued - reporting requirements**

(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 each August 1 thereafter, 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. Each such report shall include, at a minimum, the following information relating to the preceding twelve months:

(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.

**Re: Notices of police actions to principals**

For school-based incidents, officers must notify a principal within:

- 24 hours after a student arrest, and
- 10 days after issuing to students summonses, tickets, and notices to appear in court or at police station.

**Re: Deadline for crime reports:**

Bill sponsor has clarified that this was intended to be 2014 so the DCJ has the 2012-13 school year to prepare to implement this requirement, which will cover the 2013-14 school year.

**Re: Data to be reported**

For each type of school-based offense, law enforcement must report:

- # of students investigated
- # arrested, summonsed, ticketed, or given court notices
- Students' age, gender, school, race or ethnicity

## 22-33-102. Definitions

As used in this article, unless the context otherwise requires:

- (1) "Academic year"
- (2) "Adult"
- (3) "Board of education"

(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" has the same meaning as set forth in [section 19-1-103 \(36\), C.R.S.](#)

- (6) "Executive officer"
- (7) "General educational development tests" or "GED"

(8) "**Habitually disruptive student**" has the same meaning as set forth in [section 22-33-106 \(1\) \(c.5\)](#).

(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"
- (10.5) "Pupil enrollment count day"

(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.

**Re: Dangerous weapons definition**

No changes, rather relocated to this section .

Changes "**Habitually disruptive student**" definition from "three suspensions" in a year for the 4 previously specified behaviors in "grounds for suspensions and expulsions" to causing material and substantial disruptions "three or more times" during the year without specifying certain behaviors. See page 13.

Reworded only for clarity and/or added to the list

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

(HB12-1345 amended only (2)(c), (3)(d)(III), and (6), as follows, with added spacing by the editor to better depict the process:

(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 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.

~~When delegated, an appeal may be taken from~~ 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.

**Re: Expulsion or Denial of Admission Appeals to board of education**

Sets a 10-day window for a child to appeal the executive director's decision to deny admission or expel to 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.

Section 108 pertains to judicial proceedings for the court to review board of education decisions.

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](#).

(3)(d) The suspending authority shall:

(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.

**Re: Full or partial credit** for makeup work during the period of suspension

Intent is to support student reintegration and prevent dropping out.

(6) When a pupil is expelled by a school district, ~~for the remainder of the school year,~~ the pupil's parent, guardian, or legal custodian is responsible for seeing that the ~~compulsory school attendance statute is complied with~~ pupil complies with the provisions of this article during the period of expulsion ~~from~~ such school district.

**Re: Parents duty to ensure pupil compliance** during period of expulsion.

### **22-33-106. Grounds for suspension, expulsion, and denial of admission**

(1) The following ~~shall~~ **may** be grounds for suspension or expulsion of a child from a public school during a school year:

**Re: Mandatory vs. discretionary grounds for suspension**

(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.

The word *may* was substituted for *shall* in order to support the intent of the bill to eliminate zero tolerance, emphasize more local discretion be applied and to reduce suspensions and expulsion.

(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 ~~been suspended pursuant to paragraph (a), (b), (c), or (d) of this subsection (1) three times during the course of the school year for causing~~ **caused** a material and substantial disruption on school grounds, ~~or~~ **in** a school vehicle, or at **a** school activities **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 ~~suspension~~ **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.

**Re: New definition of "habitually disruptive student"**

IMPORTANT – Changes three "suspensions" to three "disruptions."

**Re: Elimination of mandated expulsions**

These four behaviors now fall under the "may" be grounds for suspension or expulsion provision.

(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.

This reference to this current law was added to this section.

(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.

**Re: Factors to consider before suspension or expulsion**

- Age
- History
- Disability
- Seriousness
- Threat to safety
- If lesser intervention would be adequate

(1.5) Notwithstanding any other provision of law, in accordance with the provisions of 20 U.S.C. sec. 7151, 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.

**Re: Mandate for firearm expulsions**

Incorporates the federal Gun-Free Schools Act (**GFSA**) into the Colorado Revised Statutes.

(2) Subject to the district's responsibilities under article 20 of this title, the following **shall may** be grounds for expulsion from or denial of admission to a public school, or diversion to an appropriate alternate program:

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

Article 20 is Education of Exceptional Children

No changes to content listed below (2) and (3) .

(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.

**Re: Prohibitions on the re-enrollment of expelled students**

Incorporates the GFSA as a reason to not re-enroll in same school as victim

(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

Incorporates the GFSA

### 22-33-203. Educational alternatives for expelled students

(2) (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.

(3) If a student is expelled ~~for the remainder of the school year~~ 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.

**Re: Amendment to Part 2 - Expulsion Prevention Programs**

Adding "conduct" is only for consistency purposes. The striking out of the "remainder of the school year" is the only other amendment to this article.

The latter broadens the requirement to track expelled students if a parent refuses the alternative services available, as described in (1) [not shown]

### 22-11-302. School district accountability committees - powers and duties

(1) Each school district accountability committee shall have the following powers and duties:

(e) **To consider input and recommendations from** the school accountability committee ~~for the principal's of each school shall provide input and recommendations to the district accountability committee and the district administration concerning the principal's evaluation~~ **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; and**

(f) **To provide input to the local school board concerning the creation and enforcement of its school conduct and discipline code.**

**Re: School Accountability Committees**

Makes minor revisions to the principal evaluation responsibilities and adds input to the conduct and discipline code.



**22-11-503. Performance reports - contents – rules**

(3) In addition to any information specified by rule of the state board, each school performance report shall include the following information concerning the operations and environment of the public school that is the subject of the report:

(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

**Re: Safety and Discipline Data on Schoolview**

Makes the data to be made available via the web portal match the data required in the Safe Schools Act.

**22-2-117. Additional power - state board - waiver of requirements - rules**

(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 22-7-409, 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).

**Re: State Board Waivers**

Prohibits waiver of section 146’s law enforcement notices to principals.

See page 9

**22-30.5-116. Charter schools - school bullying policies required**

(2) For the purposes of this section, "bullying" shall have the same meaning as set forth in section 22-32-109.1 (1) (b).

**22-30.5-502. Definitions** *[Part 5 refers to Institute Charter Schools]*

As used in this part 5, unless the context otherwise requires:

(2.5) "Bullying" shall have the same meaning as set forth in section 22-32-109.1 (1) (b).

**Re: Alignment to Charter Schools**

Aligns revised numeric outline numbers for bullying definition.

**22-30.5-505. State charter school institute - institute board - appointment - powers and duties – rules**

(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, and 22-33-203.

Adds section 105 suspension, expulsion, and denial of admission to institute charter schools. This is the section that outlines due process protocols.

**22-37-103. Definitions**

As used in this article, unless the context otherwise requires:

(3) "In-school suspension" means a ~~suspension pursuant to section 22-33-105~~ ~~in~~ **period of time during** which, **pursuant to section 22-33-105**, the student is ~~suspended~~ **prohibited** from ~~participation~~ **participating** in regular school activities but remains in the school environment and ~~receives continuous~~ **continues to receive** educational instruction, supervision, and discipline.

**22-38-103. Definitions**

As used in this article, unless the context otherwise requires:

(2) "Expelled student" means a student who has been expelled from school pursuant to **section 22-33-105**

**Re: Definitions of "In-school suspension" and "expelled student:"**

Reworks the In-school Suspension paragraph for clarity and aligns definitions to section 105 – Suspensions, expulsions and denial of admission.

**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)**.

**Re: Bullying definition alignment**

Aligns new numeric reference to Article 93 that, among other things, established the bullying prevention grant program with grants, gifts, and donations. (Enacted by HB10-1254.)

**END HB12-1345 AMENDMENTS TO TITLE 22 EDUCATION LAWS**

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**HB12-1345 Amendments re: References to GED**

**Explanation:** Amendments to definitions in 22-33-102, either by additions or deletions, created the need to renumber the sequence of sections. The definition of GED was changed from (4.5) to (7). The following C.R.S. statutes were amended only to refer to the GED as defined in 22-32-102 (7):

- 18-1.3-204.. Conditions of Probation
- 19-2-207. Juvenile Parole Board – authority.
- 19-2-1002. Juvenile parole
- 25-9-106.5 Education and experience – substitution allowed.

TITLE 20. DISTRICT ATTORNEYS  
**ARTICLE 1. DISTRICT ATTORNEYS**  
PART 1. GENERAL PROVISIONS

**20-1-113. Reporting of criminal proceedings involving public school students**

(1) On or before August 1, 2013, and on or before each August 1 thereafter, the district attorney of each judicial district, or his or her designee, shall report to the division of criminal justice created in [section 24-33.5-502](#), C.R.S., information about offenses alleged to have been committed by a student that have occurred on school grounds, in a school vehicle, or at a school activity or sanctioned event within the judicial district during the preceding twelve months.

(2) The information reported by each district attorney pursuant to subsection (1) of this section shall include the number of offenses filed in court, including the total number of each type of such offenses, the disposition of each case, and the age, gender, school, and race or ethnicity of each student that the district attorney prosecuted.

(3) The information reported by each district attorney pursuant to subsection (1) of this section shall include, to the extent practicable and to the extent that such information is collected by the district attorney as of May 19, 2012:

(a) The number of offenses that were referred to the district attorney by a law enforcement agency and were not filed in court, including the total number of each type of such offenses; and

(b) The number of offenses for which the district attorney referred an offender to a juvenile diversion program or other alternative program, including the total number of each type of such offenses.

**Requires District Attorneys to report the following to DCJ:**

- Information about alleged offenses to have been committed by a student at school, to include:
  - # of offenses filed in court
  - # of each type of offense
  - Disposition of each case
  - Age, gender, school, and race or ethnicity of each student prosecuted.
  
- By May 2012 if practicable:
  - # of offenses referred by law enforcement that were not filed in court, by number and type of offense
  - # of offenders referred to juvenile diversion or other alternate program, including number and type of offense

**PART 3. PEACE OFFICERS STANDARDS AND TRAINING**

**24-31-303. Duties - powers of the P.O.S.T. board**

(1) The P.O.S.T. board has the following duties:

(i) To promulgate rules and regulations that establish the criteria that shall be applied in determining whether to recommend peace officer status for a group or specific position as provided in [section 16-2.5-201 \(4\)](#), C.R.S.; and

(j) To establish standards for training of school resource officers, as described in [section 24-31-312](#).

**24-31-312. School resource officer training**

(1) On or before January 1, 2014, the P.O.S.T. board shall identify a school resource officer training curriculum to prepare peace officers.

(2) To the extent practicable, the training curriculum described in subsection (1) of this section shall incorporate the suggestions of relevant stakeholders and advocates.

(3) (a) In assigning peace officers to serve as school resource officers pursuant to [section 22-32-146](#), C.R.S., each law enforcement agency is encouraged to ensure that such peace officers have successfully completed the school resource officer training curriculum described in subsection (1) of this section, or will complete said training within six months after beginning the assignment.

(b) On and after January 1, 2015, each county sheriff and each municipal law enforcement agency of the state shall employ at least one peace officer who has successfully completed the training curriculum described in subsection (1) of this section.

(4) For the purposes of [section 22-32-146](#), C.R.S., the training curriculum provided pursuant to subsection (1) of this section shall include a means of recognizing and identifying peace officers who successfully complete the training curriculum.

(5) In providing the training curriculum described in subsection (1) of this section, the P.O.S.T. board may include provisions to allow for the awarding of credit to a peace officer who has successfully completed a school resource officer certification curriculum offered by one or more public or private entities, which entities shall be identified by the P.O.S.T. board.

(6) The P.O.S.T. board may charge a fee to each peace officer who enrolls in the training curriculum described in subsection (1) of this section. The amount of the fee shall not exceed the direct and indirect costs incurred by the P.O.S.T. board in providing the curriculum.

P.O.S.T will work with stakeholders to identify a curriculum by Jan. 2014.

Agencies are encouraged to ensure that newly assigned SROs are trained.

By Jan. 2015, all agencies should have someone trained.

Trained officers should be identifiable.

P.O.S.T. may give credit for completing other acceptable curriculum.

P.O.S.T. can charge a fee.

TITLE 24. GOVERNMENT - STATE  
PRINCIPAL DEPARTMENTS  
ARTICLE 33.5. PUBLIC SAFETY  
**PART 5. DIVISION OF CRIMINAL JUSTICE**

**24-33.5-503. Duties of division**

(z) To provide training on the Colorado risk assessment scale and the administrative release guideline instrument as required by [section 17-22.5-404 \(2\) \(c\)](#), C.R.S.; and

(aa) To receive the information reported to the division by law enforcement agencies pursuant to section 22-32-146, C.R.S., and by district attorneys pursuant to section 20-1-113, C.R.S., and provide the information, as submitted to the division, to any member of the public upon request, in a manner that does not include any identifying information regarding any student. If the division provides the information to a member of the public upon request pursuant to this paragraph (aa), the division may charge a fee to the person, which fee shall not exceed the direct and indirect costs incurred by the division in providing the information.

Authorizes DCJ to receive and release the data that local law enforcement must report regarding school-based offenses.

TITLE 2. LEGISLATIVE  
GENERAL ASSEMBLY  
ARTICLE 2. GENERAL ASSEMBLY  
**PART 12. POST-ENACTMENT REVIEW OF THE IMPLEMENTATION OF BILLS**

**2-2-1201. Accountability clauses - post-enactment review of implementation of bills by legislative service agencies - definitions - repeal**

(8) (a) Notwithstanding any other provision of this section, in conducting the post-enactment review of House Bill 12-1345, enacted in 2012, the legislative service agencies shall not be subject to:

(I) The requirements of subsection (2) of this section; or

(II) The requirement in subsection (3) of this section that the legislative service agencies complete the post-enactment review no later than one hundred eighty days after the two-year or five-year anniversary, as applicable, of the enactment of House Bill 12-1345.

(b) In conducting the post-enactment review of House Bill 12-1345, the legislative service agencies shall submit to the members of the education committees of the house of representatives and senate, or any successor committees, any information reported to the division of criminal justice by school resource officers and other law enforcement officers pursuant to section 22-32-146, C.R.S., and by district attorneys pursuant to section 20-1-113, C.R.S. The committee members are encouraged to consider whether to:

(I) Continue to require school resource officers and other law enforcement officers and district attorneys to report such information to the division of criminal justice; or

(II) Introduce legislation to repeal such reporting requirements.

(c) The legislative service agencies shall complete the post-enactment review of House Bill 12-1345 no later than one hundred eighty days after the four-year anniversary of the enactment of the bill.

(d) This subsection (8) is repealed, effective September 1, 2016.

The post-enactment review of the school discipline-related amendments pertain only to the law enforcement and district attorney data reported to DCJ.

The review will be submitted to members of the house and senate education committees.

The committees are encouraged to consider if the data should continue to be reported or not.

The review is to be completed no later than May, 2016.

**END OF HB12-1345 SCHOOL DISCIPLINE AMENDMENTS**

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