



School Discipline SB12-046, HB12-1345 SYNOPSIS

The content of SB12-046 became an amendment to the School Finance Act (HB12-1345) on the last day of the 2012 Colorado legislative session. Governor Hickenlooper signed this bill into law on May 19, 2012.

The general assembly declared that “zero-tolerance” policies have resulted in unnecessary expulsions, suspensions, and law enforcement referrals. This bill was an effort to allow school administrators and local boards to use their discretion to determine appropriate disciplinary response to each incident with policies that apply equally to all students.

- Definitions amended (22-32-109.1):
 - “Action taken” means a specific type of discipline including but not limited to: in-school suspension, out-of-school suspension, classroom removal, expulsion, referral to law enforcement agency, or any other form of discipline
 - “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.

- Schools are “encouraged to include” in its school conduct and discipline code a policy that states: (Additions to CRS 22-32-109.1)
 - A referral to law enforcement includes any request by a school employee to investigate or have other involvement by a law enforcement agency. This does not include contact with law enforcement that is made for the purpose of education, prevention, or intervention regarding a student’s behavior.

- School requirements in addition to CRS 22-32-109.1; 22-33-105 and CRS 22-33-106:
 - Adopt a mission statement prioritizing student and staff safety
 - Review and revise safe school plan based on discipline data collected. Minimally the plan must comply with applicable federal and state laws and may consult with victims advocacy organizations, school psychologists and local law enforcement agencies and is to include (additions below):
 - A conduct and discipline code that each student is reasonably familiar with
 - A specific policy allowing a teacher to remove a disruptive student from the classroom following the guidelines in the bill including a behavior plan required after the second removal from class
 - Upon the third such removal from a teacher’s class, the teacher may remove the disruptive student from the class for the remainder of the term of the class.
 - A disruptive student shall not be removed from a teacher’s class for the remainder of the term unless a behavior plan has been developed and implemented.
 - The behavior plan may be developed after the first removal, but must be developed after the second removal.
 - The student and parent or legal guardian shall be notified in writing of each disruption counted toward declaring the student as habitually disruptive (22-33-106 (1)(c.5) (III)).
 - Written prohibition of students bringing or **possessing** dangerous weapons, drugs, or other controlled substances to any school vehicle, related place or event
 - Written prohibition of students using or possessing tobacco products on schools grounds, in a school vehicle or at a school activity or sanctioned event



- In creating and enforcing a school conduct and discipline code, each schools district board of education on and after August 1, 2013, **SHALL**:
 - Impose proportionate disciplinary interventions and consequences designed to reduce referrals to law enforcement, except where these referrals are required by law.
 - Include plans for the appropriate use of prevention, intervention, restorative justice, peer mediation, counseling or other approaches to address student misconduct, designed to reduce student's exposure to the justice system. The plans shall state that school administration shall not order a victim's participation in a restorative justice practice or peer mediation if the victim alleges the misconduct involves unlawful sexual behavior, domestic violence, stalking or the violation of a protection order.
 - Ensure that the code complies with all laws concerning the education of students with disabilities.
 - Ensure that Title IX issues are considered with the codes.
 - Safe School Reporting Requirements (additional) –
 - The report shall include the number of violations and the actions taken for each of the types of actions previously listed in CRS 22-32-109.1 with the added language of "commission of an act on school grounds **in a school vehicle, or at a school activity or sanctioned event**".

- **School Use of on-site peace officers as school resource officers – notifications of arrests and notices issued – reporting requirements:** (Additions to CRS 22-32-146)
 - Law enforcement will notify the school's principal or designee of a student's arrest on school grounds, in a school vehicle or at a school event , within twenty-four hours after the arrest
 - Law enforcement notification of the principal or designee of the issuance of a summons, ticket or other notice requiring a court or police station appearance, on school grounds, in a school vehicle or at a school event, within ten days after the issuance of the ticket or summons
 - A school resource officer shall be familiar with the provisions of the conduct and discipline code of their assigned school
 - Beginning August 1, 2013, and continuing each August 1 thereafter, each law enforcement agency that has an officer acting on school grounds or event, shall report to the Division of Criminal Justice, in aggregate form without personal identification, data about the school cases handled by the agency on school grounds or events. Each report shall minimally include the following information relating to the preceding twelve months:
 - # students investigated by the officer for each type of delinquent offense
 - # students arrested by the officer and for which offenses
 - # summonses or tickets issued by the officer
 - The age, gender, school, and race or ethnicity of each student whom the officer arrested or issued a ticket or summons related to school grounds or event

- Amended CRS 22-33-102 to include definitions of dangerous weapons:
 - Any pellet gun, BB gun, or other device, whether operational or not, designed to propel projectiles by spring action or compressed air;
 - A fixed-blade knife with a blade that exceeds three inches in length;
 - A spring-loaded knife or a pocket knife with a blade exceeding three and one-half inches in length or 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.

- **Suspension, expulsion, and denial of admission** (Additions to CRS 22-33-105)
 - Language to allow an expelled or denied student ten days to appeal the decision of the executive officer to the board of education. After this time, the decision to deny or grant the appeal is at the discretion of the board of education.



- Language that states the school district shall provide an opportunity for a student to make up schoolwork during the period of the suspension for full or partial academic credit, to the extent possible. Parent or guardians are responsible for seeing that the pupil complies.
- Amended CRS 22-33-106 designating a number of offenses previously mandated for expulsion, now “may” be grounds for expulsion:
 - declaration as an habitually disruptive student;
 - The definition of “Habitually Disruptive” changed from “student who has been suspended...three times during the school year” to “student who caused a material and substantial disruption...three or more times during the course of the school year.” (22-33-106 (1)(c.5)(III))
 - possession of a dangerous weapon;
 - use, possession, or sale of a drug or controlled substance;
 - commission of an act that would be charged as a robbery or 3rd degree assault if committed by an adult;
 - making a false accusation of criminal activity against an employee or an educational entity to law enforcement authorities or school district officials or personnel.
- School districts are encouraged to consider the following when suspending or expelling a student, or referring a student to law enforcement [22-33-106 (1.2)(Section 21 (III))]:
 - Student’s age; student’s disciplinary history; whether the student has a disability; seriousness of the violation; whether the violation committed threatened the safety of any student or staff member; whether a lesser intervention would properly address the violation committed.
- Bringing or possessing firearms on school property is still mandated for a 1-year expulsion, unless the superintendent modifies this requirement on a case-by-case basis in writing.
- **Reporting of criminal proceedings involving public school students** (Additions to CRS 20-1-113) The District Attorney or designee shall report to the Division of Criminal Justice information about offenses alleged to have been committed by a student on school grounds or event during the past twelve months starting August 1, 2013, and continuing every August 1 thereafter.
 - The information reported by each district attorney shall include:
 - number and type of offenses filed in court;
 - the disposition of each case; and
 - the age, gender, school, and race or ethnicity of each student prosecuted.
 - The information reported by each district attorney shall include, to the extent practicable and to the extent that such information is collected as of the effective date:
 - Number and type of offenses referred to the district attorney by law enforcement that were not filed in court
 - The number and type of offenses for which the district attorney referred an offender to a juvenile diversion program or other alternative program
- **Duties/powers of the P.O.S.T. board** (Additions to CRS 24-31-303)
 - The P.O.S.T. board is to establish standards for training of school resource officers
- **School Resource Officer training** (Additions to CRS 24-31-312)
 - On or before January 2014, the P.O.S.T. Board shall identify a school resource officer training curriculum to prepare peace officers using relevant stakeholders



- Law enforcement agencies are encourage to ensure that peace officers have successfully completed the training program or will complete within six months after beginning school assignments
 - By January 1, 2015, each county sheriff and each municipal law enforcement agency shall employ at least one peace officer who has successfully completed the training program and a means of identifying officers who have completed it
 - The P.O.S.T. board may include provisions to recognize other school resource officer training
 - The P.O.S.T. board may include provisions for awarding credit for an SRO certification curriculum
 - The P.O.S.T. board may charge a fee to each peace officer who enrolls in the training curriculum.
- **Duties of Division of Criminal Justice** (Additions to CRS 24-33.5-503)
- Any member of the public may have access to the information reported by law enforcement agencies and district attorneys to the Division of Criminal Justice, as long as the information does not include any identifying information regarding any student.
- The bill states that a review of this act will be conducted in 2016 that will include law enforcement reports submitted to the Department of Criminal Justice (DCJ).