

Colorado Revised Statutes

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

(1) No child who has attained the age of six years and is under the age of twenty-one shall be suspended or expelled from or be denied admission to the public schools, except as provided by this article.

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

(a) Delegate to any school principal within the school district or to a person designated in writing by the principal the power to suspend a pupil in his school for not more than five school days on the grounds stated in section [22-33-106](#) (1) (a), (1) (b), (1) (c), or (1) (e) or not more than ten school days on the grounds stated in section [22-33-106](#) (1) (d), unless expulsion is mandatory pursuant to such provision;

(b) Suspend, on the grounds stated in section [22-33-106](#), a pupil from school for not more than another ten school days, or may delegate such power to its executive officer; except that the latter may extend a suspension to an additional ten school days if necessary in order to present the matter to the next meeting of the board of education, but the total period of suspension pursuant to this paragraph (b) and paragraph (a) of this subsection (2) shall not exceed twenty-five school days; and

(c) Deny admission to, or expel for any period not extending beyond one year, any child whom the board of education, in accordance with the limitations imposed by this article, shall determine does not qualify for admission to, or continued attendance at, the public schools of the district. A board of education may delegate such powers to its executive officer or to a designee who shall serve as a hearing officer. If the hearing is conducted by a designee acting as a hearing officer, the hearing officer shall forward findings of fact and recommendations to the executive officer at the conclusion of the hearing. The executive officer shall render a written opinion within five days after a hearing conducted by the executive officer or by a hearing officer. The executive officer shall report on each case acted upon at the next meeting of the board of education, briefly describing the circumstances and the reasons for the executive officer's action. When delegated, an appeal may be taken from the decision of the executive officer 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. If the child is denied admission or expelled, the child shall be entitled to a review of the decision of the board of education in accordance with section [22-33-108](#).

(2.5) Each board of education shall annually report to the state board the number of students expelled from schools within the district pursuant to this section and pursuant to section [25-4-907](#), C.R.S. Any pupil who is expelled pursuant to this section shall not be included in calculating the dropout rate for the school from which such student is expelled or in calculating the dropout rate for the school district in which such pupil was enrolled prior to being expelled.

(3) (a) If a pupil is suspended pursuant to subsection (2) of this section, the suspending authority shall immediately notify the parent, guardian, or legal custodian of the pupil that the pupil has been suspended and of the grounds for the suspension, the period of the suspension, and the time and place for the parent, guardian, or legal custodian to meet with the suspending authority to review the suspension.

(b) Except as provided in paragraph (c) of this subsection (3), a suspended pupil shall:

(I) Be required to leave the school building and the school grounds immediately, following a determination by the parent, guardian, or legal custodian and the school of the best way to transfer custody of the pupil to the parent, guardian, or legal custodian; and

(II) Not be readmitted to a public school until a meeting between the parent, guardian, or legal custodian and the suspending authority has taken place or until, in the discretion of the suspending authority, the parent, guardian, or legal custodian of the suspended pupil has substantially agreed to review the suspension with such suspending authority; except that, if the suspending authority cannot contact the parent, guardian, or legal custodian of such pupil or if such parent, guardian, or legal custodian repeatedly fails to appear for scheduled meetings, the suspending authority may readmit the pupil. The meeting shall address whether there is a need to develop a remedial discipline plan for the pupil in an effort to prevent further disciplinary action.

(c) A pupil suspended for a period of ten days or less shall receive an informal hearing by the school principal or the principal's designee prior to the pupil's removal from school, unless an emergency requires immediate removal from school, in which case an informal hearing shall follow as soon after the pupil's removal as practicable. Any pupil suspended for more than ten days shall be given the opportunity to request a review of the suspension before an appropriate official of the school district.

(d) The suspending authority shall:

(I) Make every reasonable effort to meet with the parent, guardian, or legal custodian of the pupil during the period of suspension;

(II) Not extend a period of suspension because of the failure of the suspending authority to meet with the parent, guardian, or legal custodian during the period of suspension;

(III) Provide an opportunity for a pupil to make up school work during the period of suspension. The intent of this provision is to provide an opportunity for the pupil to reintegrate into the educational program of the district following the period of suspension which the school district should take into consideration when determining the amount of credit a student will receive for this makeup work.

(4) The board of education of each district shall establish, as an alternative to suspension, a policy that allows the pupil to remain in school by encouraging the parent, guardian, or legal custodian, with the consent of the pupil's teacher or teachers, to attend class with the pupil for a period of time specified by the suspending authority. If the parent, guardian, or legal custodian does not agree to attend class with the pupil or fails to attend class with the pupil, the pupil shall be suspended in accordance with the conduct and discipline code of the district.

(5) (a) Whenever a petition filed in juvenile court alleges that a child at least twelve years of age but under eighteen years of age has committed an offense that would constitute unlawful sexual behavior, as defined in section [16-22-102](#) (9), C.R.S., or a crime of violence, as defined in section [18-1.3-406](#), C.R.S., if committed by an adult or whenever charges filed in district court allege that a child has committed such an offense, basic identification information concerning such child and the details of the alleged delinquent act or offense shall be provided immediately to the school district in which the child is enrolled in accordance with the provisions of section [19-1-304](#) (5), C.R.S. Upon receipt of such information, the board of education of the school district or its designee shall determine whether the student has exhibited behavior that is detrimental to the safety, welfare, and morals of the other students or of school personnel in the school and whether educating the student in the school may disrupt the learning environment in the school, provide a negative example for other students, or create a dangerous and unsafe environment for students, teachers, and other school personnel. The determination may be made in executive session to the extent allowed by section [24-6-402](#) (4) (h), C.R.S. If the board of education or its designee, in accordance with the provisions of this subsection (5), makes a determination that the student should not be educated in the school, it may proceed with suspension or expulsion in accordance with subsection (2) of this section and section [22-33-106](#). Alternatively, the board of education or its designee may determine that it will wait until the conclusion of the juvenile proceedings to consider the expulsion matter, in which case it shall be the responsibility of the district to provide the student with an appropriate alternate education program, including but not limited to an on-line program authorized pursuant to article 30.7 of this title, or a home-based education program during the period pending the resolution of the juvenile proceedings. Information made available to the school district and not otherwise available to the public pursuant to the provisions of section [19-1-304](#), C.R.S., shall remain confidential.

(b) No student who is being educated in an alternate education program or a home-based education program pursuant to paragraph (a) of this subsection (5) shall be allowed to return to the education program in the public school until there has been a disposition of the charge. If the student pleads guilty, is found guilty, or is adjudicated a delinquent juvenile, the school district may proceed in accordance with section [22-33-106](#) to expel the student. The time that a student spends in an alternate education program pursuant to paragraph (a) of this subsection (5) shall not be considered a period of expulsion.

(c) No court which has jurisdiction over the charges against a student who is subject to the provisions of this subsection (5) shall issue an order requiring the student to be educated in the education program in the school in contradiction of the provisions of this subsection (5).

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

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

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

(b) The state charter school institute created in part 5 of article 30.5 of this title may carry out the functions of a school district and its board of education with respect to the suspension, expulsion, or denial of admission of a student to an institute charter school.

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

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

(a) Continued willful disobedience or open and persistent defiance of proper authority;

(b) Willful destruction or defacing of school property;

(c) Behavior on or off school property that is detrimental to the welfare or safety of other pupils or of school personnel, including behavior that creates a threat of physical harm to the child or to other children; except that, if the child who creates the threat is a child with a disability pursuant to section [22-20-103](#) (5), the child may not be expelled if the actions creating the threat are a manifestation of the child's disability. However, the child shall be removed from the classroom to an appropriate alternative setting within the district in which the child is enrolled for a length of time that is consistent with federal law, during which time the school in which the student is enrolled shall give priority to and arrange within ten days for a reexamination of the child's individual education plan to amend his or her plan as necessary to ensure that the needs of the child are addressed in a more appropriate manner or setting that is less disruptive to other students and is in accordance with the provisions of article 20 of this title. Nothing in this paragraph (c) shall be construed to limit a school district's authority to suspend a child with a disability for a length of time that is consistent with federal law.

(c.5) (I) Declaration as an habitually disruptive student pursuant to the provisions of this paragraph (c.5), which expulsion shall be mandatory.

(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 a material and substantial disruption in the classroom, on school grounds, on school vehicles, or at school activities or events, because of behavior that was initiated, willful, and overt on the part of the child. Any student who is enrolled in a public school may be subject to being declared an habitually disruptive student.

(III) The student and the parent, legal guardian, or legal custodian shall have been notified in writing of each suspension 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" and the mandatory expulsion of such students.

(IV) (Deleted by amendment, L. 2000, p. 1971, § 12, effective June 2, 2000.)

(d) (I) Serious violations in a school building or in or on school property, which suspension or expulsion shall be mandatory; except that expulsion shall be mandatory for the following violations: Carrying, bringing, using, or possessing a dangerous weapon without the authorization of the school or the school district; the sale of a drug or controlled substance as defined in section [12-22-303](#), C.R.S.; or the commission of an act which 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.

(II) As used in this paragraph (d), "dangerous weapon" means:

(A) A firearm, whether loaded or unloaded, or a firearm facsimile that could reasonably be mistaken for an actual firearm;

(B) Any pellet or 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 measures longer than three inches in length or a spring loaded knife or a pocket knife with a blade longer than three and one-half inches; or

(D) Any object, device, instrument, material, or substance, whether animate or inanimate, used or intended to be used to inflict death or serious bodily injury.

(III) Notwithstanding the provisions of subparagraph (I) of this paragraph (d), carrying, bringing, or possessing a dangerous weapon without the authorization of the school or the school district shall not require mandatory expulsion if, when the student discovers that he or she has carried, brought, or is in possession of a dangerous weapon, the student notifies a teacher, administrator, or other authorized person in the school district as soon as possible and delivers the dangerous weapon to the teacher, administrator, or other authorized person. Nothing in this subparagraph (III) shall be construed as prohibiting a school district from expelling a student under the circumstances specified in this subparagraph (III) if such expulsion would be in accordance with the school district's discipline code.

(e) Repeated interference with a school's ability to provide educational opportunities to other students.

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

(a) Physical or mental disability such that the child cannot reasonably benefit from the programs available;

(b) Physical or mental disability or disease causing the attendance of the child suffering therefrom to be inimical to the welfare of other pupils.

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

(a) Graduation from the twelfth grade of any school or receipt of any document evidencing completion of the equivalent of a secondary curriculum;

(b) Failure to meet the requirements of age, by a child who has reached the age of six at a time after the beginning of the school year, as fixed by the board of education of the district in which the child applies for enrollment, as provided in section [22-1-115](#);

(c) Having been expelled from any school district during the preceding twelve months;

(d) Not being a resident of the district, unless otherwise entitled to attend under the provisions of article 23, 32, or 36 of this title;

(e) Failure to comply with the provisions of part 9 of article 4 of title 25, C.R.S. Any suspension, expulsion, or denial of admission for such failure to comply shall not be recorded as a disciplinary action but may be recorded with the student's immunization record with an appropriate explanation.

(f) Behavior in another school district during the preceding twelve months that is detrimental to the welfare or safety of other pupils or of school personnel.

(4) (a) Except as provided in paragraph (b) of this subsection (4), a school district shall prohibit any student who is expelled from a public school of the school district pursuant to paragraph (c) or (d) of subsection (1) of this section from enrolling or reenrolling in the same school in which the victim of the offense or member of a victim's immediate family is enrolled or employed. If the school district has no actual knowledge of the name of the victim of the offense for which the student was expelled, the provisions of this subsection (4) shall be implemented only upon request of the victim or a member of the victim's immediate family.

(b) In any school district that has only one school in which the expelled student can enroll, the school district shall either:

(I) Prohibit the student expelled from the school district pursuant to paragraph (c) or (d) of subsection (1) of this section from enrolling or reenrolling in the same school in which the victim of the offense or member of a victim's immediate family is enrolled or employed; or

(II) Design a schedule for the expelled student that, to the extent possible, avoids contact between the expelled student and the victim or a member of the victim's immediate family.

(c) The provisions of this subsection (4) shall not apply to an offense that constitutes a crime against property.

(d) The provisions of this subsection (4) shall apply only if the expelled student is convicted, is adjudicated a juvenile delinquent, receives a deferred judgment, or is placed in a diversion program as a result of committing the offense for which the student was expelled. Prior to implementation of the provisions of this subsection (4), the school district shall contact the appropriate court to determine whether the provisions of this subsection (4) apply to an expelled student. The school district shall be authorized by the provisions of section [19-1-303](#) (1) (b), C.R.S., to obtain such information.

(e) (I) Notwithstanding any other provision of law to the contrary, any county or district court shall have original concurrent jurisdiction to issue a temporary or permanent civil restraining order that enjoins the expelled student from enrolling or reenrolling in the same school in which the victim of the offense or member of a victim's immediate family is enrolled or employed.

(II) A motion for a temporary civil restraining order pursuant to this paragraph (e) shall be set for hearing, which hearing shall be ex parte, at the earliest possible time and shall take precedence over all matters except those matters of the same character that have been on the court docket for a longer period of time. The court shall hear all such motions as expeditiously as possible.