

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 there from 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.

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