

Changes in Expulsion/Denial of Admission Procedure - HB23-1291 and SB23-029

TOPIC	PREVIOUS LAW	NEW LAW AS OF JUNE 1, 2023
<i>Appeals of School Expulsion/Denial Decisions</i>	A child denied admission or expelled has ten days to appeal the decision to the board of education.	A child now has ten business days to appeal the decision to the board. ¹
<i>Conflict of Interest for Hearing Officers or Superintendents</i>	N/A	<p>A hearing officer cannot have a conflict of interest toward a student under consideration for expulsion or denial of admission, or toward any alleged victim.²</p> <p>A superintendent cannot serve as a hearing officer if they were involved in investigating or reporting an incident that leads to a hearing. In this situation, the superintendent must delegate their powers to someone who was not involved.³</p>
<i>Training for Hearing Officers or Superintendents</i>	N/A	<p>CDE is required to create an online training program with certain requirements by June 30, 2024.⁴</p> <p>Starting January 1, 2025, school districts must require hearing officers to complete an initial five-hour training program within thirty days after beginning work as a hearing officer, as well as an annual training program.⁵ School districts may utilize CDE’s training program, or may develop their own training program, as long as it is in compliance with the requirements.⁶</p>
<i>Consideration of Factors in Expulsions/Denials</i>	Previous law “encouraged” school districts to consider a list of factors. ⁷	<p>Boards are now required to consider the same list of factors.⁸</p> <p>Boards must adopt a policy that states a student must not be expelled or denied admission unless the district considers whether alternative remedies are appropriate and whether excluding the student from school is necessary to preserve the learning environment.⁹</p>
<i>Burden of Proof in Expulsion/Denial Hearings</i>	N/A	In an expulsion hearing, the school district has the burden of proving by a preponderance of the evidence that the student violated one of the grounds for suspension or expulsion listed in C.R.S. 22-33-106 and the school district’s policy. ¹⁰
<i>Records in Expulsion/Denial Hearings</i>	N/A	<p>School district must provide all records intended to be used as supporting evidence at least two business days in which school is in session prior to the expulsion hearing.</p> <p>Any other records discovered that were not already sent, must be sent immediately upon discovery.¹¹</p>
<i>Written Opinion in Expulsion/Denial Hearings</i>	Superintendent must write a written opinion. The written opinion must be completed within five days of the hearing.	Adds that the written opinion must impose or refrain from imposing disciplinary action, must be sent within five business days of the hearing, and must be provided to the student and parent/guardian. ¹²

¹ HB23-1291, C.R.S. 22-33-105 (2.3)(d)

² HB23-1291, C.R.S. 22-33-105 (2.4)(a)

³ HB23-1291, C.R.S. 22-33-105 (2.4)(b)

⁴ HB23-1291, C.R.S. 22-33-105(2.4)(a) and (c). *Training must include information on child and adolescent brain development; restorative justice; alternatives to expulsion; trauma-informed practices; conflict and bias in discipline, suspension, and expulsion; and requirements of various relevant federal laws. The bill also states that impartiality training will include “avoiding prejudgment of the facts at issue and conflicts of interest.”*

⁵ HB23-1291, C.R.S. 22-33-105(2.4)(c)(II)(A) and (B). *Beginning January 1, 2025, it shall be an abuse of discretion if a hearing officer presides over an expulsion hearing and hasn’t completed the required training. C.R.S. 22-33-105(2.4)(c)(IV).*

⁶ HB23-1291, C.R.S. 22-33-105(2.4)(c)(V)

⁷ C.R.S. 22-33-106: *factors include the student’s age; the student’s disciplinary history; the student’s eligibility as a student with a disability; the seriousness of the violation committed by the student; the threat posed to any student or staff; and the likelihood that a lesser intervention would properly address the violation.*

⁸ SB23-029, C.R.S. 22-33-106: *CASB sample policy JKD/JKE included all these factors and stated that the board “shall” consider them.*

⁹ HB23-1291, C.R.S. 22-33-105(4.5): *CASB sample policy JKD/JKE included alternative remedies already, but has been updated to include the consideration of whether excluding the student from school is necessary.*

¹⁰ HB23-1291, C.R.S. 22-33-105(2.3)(a)

¹¹ HB23-1291, C.R.S. 22-33-105(2.3)(b)

¹² HB23-1291, C.R.S. 22-33-105(2.3)(c)