



Expulsion Hearing Officer Updates

HB 23-1291

HB 23-1291 Introduction

During the 2023 legislative session, the General Assembly passed and the Governor signed [HB 23-1291](#): Procedures for Expulsion Hearing. The bill pertains to expulsion hearing officers and updates required procedures regarding suspension, expulsion, and denial of admission. This document provides an overview summary of the legislation, which makes changes to the following sections of statute:

- [C.R.S. 22-33-105](#): Suspensions, Expulsions, and Denial of Admissions
- [C.R.S. 22-33-106](#): Grounds for Suspension, Expulsion, and Denial of Admission
- [C.R.S. 22-33-108](#): Judicial Proceedings

Suspension, Expulsion, & Denial of Admission Regulations

HB 23-1291 made several changes to the statute governing suspensions, expulsion, and denial of admission (C.R.S. 22-33-105). Those changes are detailed below.

- If an expulsion hearing is requested, the school district must prove by a preponderance of evidence that the student violated section 22-33-106, C.R.S. and the school district's policy.
- The school district seeking to expel or deny admission to the student shall provide all records that the school district intends to use as supporting evidence for expulsion or denial of admission at least two business days in which school is in session prior to the expulsion hearing. If a record that was not previously provided is found, the school district must provide it immediately.
- Individuals acting as a hearing officer who conduct an expulsion hearing must create a report with findings of fact and recommendations, including specific findings at the conclusion of the expulsion hearing, and forward it to the executive officer. The executive officer must form a written opinion that imposes or refrains from imposing disciplinary action within five business days after an expulsion hearing is conducted. The executive officer must provide the written opinion to the family, as well as report on each case at the subsequent board of education meeting.
- A student who is denied admission or expelled as a result of the hearing has ten business days after the executive officer's decision to appeal the decision to the board of education, and the board of education will decide to grant or deny the appeal. The appeal must include a review of the facts presented at the hearing, arguments relating to the decision, and

Timeline

June 30, 2024: CDE to create and maintain online training program for hearing officers who conduct expulsion hearings.

January 1, 2025: 5-hour initial training program required to be completed by hearing officers within 30 days after the date they start work.

Annually: Hearing officers must complete annual training to stay informed on school discipline updates.



questions or clarification from the board of education. If the board of education upholds the decision made by the executive officer, the student is entitled to a review of the decision of the board of education.

Expulsion Hearing Officer Requirements

The subsequent section of the bill details additional requirements added to section 22-33-105, C.R.S. regarding expulsion hearing officers.

- A hearing officer must not have a conflict of interest with a student who is being considered for expulsion or denial of admission, or toward any alleged victim. A school district must ensure that the hearing officer receives training on how to serve impartially, including avoiding prejudgment of the fact at issue and conflict of interest. This is included in the training information detailed below.
- An executive officer who is involved in investigating or reporting an incident that leads to a hearing must not act as a hearing officer. They must delegate the hearing officer powers to a designee who is not involved in investigating or reporting the incident.

Expulsion Hearing Officer Trainings

A new requirement in the bill is that expulsion hearing officers who conduct expulsion hearings are required, starting in January 2025, to complete an initial five-hour training within thirty days of starting work as a hearing officer, and then annually in order to stay updated on school discipline updates.

A five-hour online training program will be created by Colorado Department of Education covering the following topics that are outlined in legislation:

- Child and adolescent brain development
- Restorative justice
- Alternatives to expulsion
- Trauma-informed practices
- Conflict and bias in discipline, suspension, and expulsion
- The requirements and implementation of applicable federal and state laws

School districts may create their own training program for hearing officers and school administrators, but they must meet or exceed the requirements set forth above.

Expulsion Policy Requirements

In addition to the above changes mentioned as part of section 22-33-105, C.R.S. the bill also included the following new requirements:

- The board of education of each district must adopt a policy that states the following: A student must not be expelled or denied admission unless the school district considers whether alternative remedies are appropriate and whether excluding the student from school is necessary to preserve the learning environment.



Additional Updates

The legislation also updated section 22-33-106, “Grounds for Suspension, Expulsion, and Denial of Admission.” Wording within the introductory portion was changed to “shall” instead of “encouraged to.”

Judicial Proceedings

In addition to the amendments above, changes were made to judicial proceedings under section 22-33-108, C.R.S. The legislation updated the following:

- Within five business days after a board of education’s determination to uphold an expulsion or denial of admission, the board of education shall issue a written order providing notice of the decision.
- If a family desires court review of an order of the board of education issued pursuant to Article 33, the family must notify the board of education in writing within five business days after receiving official notice of action, as opposed to the previous regulation of five days.
- The board of education must issue the family a statement of the reasons for the board of education’s action as well as a complete and accurate copy of the expulsion record within five business days, as opposed to no specified timeline previously.
- After a petition is filed to request that the order of the board of education be set aside, the court has twenty-one calendar days to notify the board of education and hold a hearing on the matter, as opposed to no specified timeline previously.
- Throughout the information stated above, the word “child” was changed to “student.”

If you have questions or would like additional information regarding the updated expulsion hearing officer procedures, please contact us using the information below.

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