

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

INTRODUCED

LLS NO. 23-0995.02 Conrad Imel x2313

SENATE BILL 23-296

SENATE SPONSORSHIP

Winter F. and Marchman,

HOUSE SPONSORSHIP

Bacon,

Senate Committees
Education

House Committees

A BILL FOR AN ACT

101 **CONCERNING PROTECTIONS FOR STUDENTS AGAINST DISCRIMINATORY**
102 **PRACTICES AT SCHOOL.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires that a report received by a public school that enrolls students in any of grades kindergarten through 12 (public school) that alleges harassment or discrimination is confidential. The bill requires a public school to:

- Accept reports of harassment or discrimination in writing or in-person; by phone, e-mail, or online form; or through

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

- safe2tell;
- Post notices describing how a student can report harassment or discrimination to the school;
- Adopt procedures for investigating reports of harassment or discrimination;
- Retain harassment or discrimination case files for 7 years;
- Grant an excused absence to a student for certain out-of-school appointments related to the student experiencing harassment or discrimination; and
- Provide accommodations and supportive measures to a student experiencing harassment or discrimination.

The bill requires a public school to adopt a written policy (policy) that protects students experiencing harassment or discrimination. The policy must include the following:

- Information on reporting options for students, including contact information for the school staff member designated to receive reports;
- An explanation of the school's role in responding to reports of harassment or discrimination;
- Information about resources for victims of gender-based violence and sexual violence;
- Amnesty protections for a student who reports, or is a witness to a report of, harassment or discrimination for any school policy violation by the student related to the harassment or discrimination; and
- Information about available accommodations and supportive measures.

A public school shall make the policy available annually to students, students' parents and legal guardians, and school staff.

The bill requires a public school to annually provide training to school staff about harassment and discrimination, including training about the school's policy.

The bill requires public schools to report information about harassment or discrimination to school districts, who report that information to the department of education (department). An institute charter school reports the information directly to the department. The department reports the information to the sexual misconduct advisory committee in the department of higher education.

The bill waives immunity for a public entity for a failure to comply with any requirement concerning harassment or discrimination in public schools described in the bill.

1 **SECTION 1.** In Colorado Revised Statutes, **add 22-1-140** as
2 follows:

3 **22-1-140. Prohibit harassment or discrimination - policy**
4 **required - training and notification - definitions.** (1) AS USED IN THIS
5 SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

6 (a) "HARASSMENT OR DISCRIMINATION" MEANS TO SUBJECT AN
7 INDIVIDUAL TO UNWELCOME VERBAL, WRITTEN, OR PHYSICAL CONDUCT
8 THAT IS RELATED TO THE INDIVIDUAL'S ACTUAL OR PERCEIVED
9 MEMBERSHIP IN A PROTECTED CLASS BASED ON DISABILITY, RACE, CREED,
10 COLOR, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, GENDER
11 EXPRESSION, FAMILY COMPOSITION, RELIGION, AGE, NATIONAL ORIGIN, OR
12 ANCESTRY.

13 (b) "POLICY" MEANS THE POLICY ADOPTED BY A PUBLIC SCHOOL
14 AS REQUIRED IN SUBSECTION (3) OF THIS SECTION.

15 (c) "PUBLIC SCHOOL" MEANS AN ELEMENTARY SCHOOL, MIDDLE
16 SCHOOL, JUNIOR HIGH SCHOOL, HIGH SCHOOL, OR DISTRICT CHARTER
17 SCHOOL OF A SCHOOL DISTRICT THAT ENROLLS STUDENTS IN ANY OF
18 GRADES KINDERGARTEN THROUGH TWELVE OR AN INSTITUTE CHARTER
19 SCHOOL THAT ENROLLS STUDENTS IN ANY OF GRADES KINDERGARTEN
20 THROUGH TWELVE.

21 (d) "RESPONDENT" MEANS THE INDIVIDUAL WHO HAS BEEN
22 REPORTED TO BE THE PERPETRATOR OF ALLEGED HARASSMENT OR
23 DISCRIMINATION.

24 (e) "SAFE2TELL" MEANS THE SAFE2TELL PROGRAM CREATED IN
25 SECTION 24-31-606.

26 (f) "SCHOOL STAFF" MEANS ANY EMPLOYEE OF THE PUBLIC SCHOOL
27 OR SCHOOL DISTRICT OR CONTRACTOR WHO WORKS IN THE PUBLIC

1 SCHOOL, INCLUDING TEACHERS, TEACHER AIDES, BUS DRIVERS, CAFETERIA
2 WORKERS, CUSTODIAL STAFF, ADMINISTRATIVE AND CLERICAL STAFF,
3 SCHOOL MEDICAL STAFF, AND SECURITY STAFF.

4 (g) "TITLE IX" MEANS TITLE IX OF THE FEDERAL "EDUCATION
5 AMENDMENTS OF 1972", 20 U.S.C. SECS. 1681 TO 1688, AS AMENDED.

6 (2) (a) A PUBLIC SCHOOL SHALL ACCEPT REPORTS OF HARASSMENT
7 OR DISCRIMINATION IN WRITING OR IN-PERSON; BY PHONE, E-MAIL, OR
8 ONLINE FORM; OR THROUGH SAFE2TELL.

9 (b) A REPORT OF HARASSMENT OR DISCRIMINATION RECEIVED BY
10 A PUBLIC SCHOOL IS CONFIDENTIAL AND SCHOOL STAFF SHALL KEEP
11 INFORMATION LEARNED DURING AN INVESTIGATION OF HARASSMENT OR
12 DISCRIMINATION CONFIDENTIAL TO THE EXTENT PRACTICABLE; EXCEPT
13 THAT NOTHING IN THIS SECTION PREVENTS SCHOOL STAFF FROM
14 REPORTING KNOWN OR SUSPECTED CHILD ABUSE OR NEGLECT AS REQUIRED
15 PURSUANT TO SECTION 19-3-304.

16 (c) EACH PUBLIC SCHOOL SHALL POST NOTICES IN MULTIPLE
17 PLACES IN THE SCHOOL, WRITTEN IN SIMPLE AND AGE-APPROPRIATE
18 LANGUAGE, DESCRIBING HOW AND TO WHOM A STUDENT CAN REPORT
19 HARASSMENT OR DISCRIMINATION TO THE SCHOOL.

20 (d) EACH PUBLIC SCHOOL SHALL ADOPT PROCEDURES FOR
21 INVESTIGATING REPORTS OF HARASSMENT OR DISCRIMINATION, WHICH
22 MUST BE FAIR, IMPARTIAL, AND PROMPT, AND MUST:

23 (I) REQUIRE THE SCHOOL TO MAKE A GOOD FAITH EFFORT TO
24 COMPLETE AN INVESTIGATION AND MAKE ANY FINDINGS WITHIN SIXTY
25 DAYS AFTER THE REPORT, WITHOUT JEOPARDIZING THE RIGHTS OF THE
26 REPORTING STUDENT OR THE RESPONDENT; EXCEPT THAT THE PUBLIC
27 SCHOOL MAY ADOPT A PROCESS THAT ALLOWS FOR THE EXTENSION OF THE

1 SIXTY-DAY DEADLINE FOR GOOD CAUSE WITH PRIOR WRITTEN NOTICE TO
2 THE REPORTING STUDENT AND TO THE RESPONDENT OF THE DELAY AND
3 THE REASON FOR THE DELAY;

4 (II) INCLUDE PREPONDERANCE OF THE EVIDENCE AS THE
5 EVIDENTIARY STANDARD WHEN A STUDENT IS THE RESPONDENT,
6 NOTWITHSTANDING ANY OTHER EVIDENTIARY STANDARD IN ANY OTHER
7 POLICY OF THE SCHOOL;

8 (III) SPECIFY THAT ALL QUESTIONS RELATED TO THE
9 INVESTIGATION BE DIRECTED TO THE SCHOOL STAFF WHO ARE
10 CONDUCTING THE INVESTIGATION AND THAT THE SCHOOL STAFF
11 CONDUCTING THE INVESTIGATION SHALL CONSIDER PATTERNS OF
12 MISCONDUCT AS RELEVANT EVIDENCE;

13 (IV) PROVIDE THE REPORTING STUDENT AND THE RESPONDENT
14 WITH THE SAME OPPORTUNITY TO HAVE AN ADVISOR OR OTHER PERSON
15 PRESENT DURING ANY PART OF THE INVESTIGATIVE PROCESS; EXCEPT THAT
16 THE ADVISOR OR OTHER PERSON IS NOT ALLOWED TO SPEAK ON BEHALF OF
17 THE REPORTING STUDENT OR RESPONDENT;

18 (V) PROVIDE FOR REGULAR WRITTEN UPDATES TO THE REPORTING
19 STUDENT AND RESPONDENT ON THE STATUS OF AN INVESTIGATION OR
20 PROCEEDING THROUGHOUT THE PROCESS; AND

21 (VI) PROVIDE FOR CONCURRENT NOTIFICATION TO THE REPORTING
22 STUDENT AND RESPONDENT OF THE OUTCOME OF THE INVESTIGATION AND
23 ANY FINDINGS.

24 (e) EACH PUBLIC SCHOOL SHALL RETAIN THE CASE FILE OF A
25 HARASSMENT OR DISCRIMINATION REPORT FOR SEVEN YEARS. THE CASE
26 FILE INCLUDES ALL INFORMATION RELATED TO THE REPORT, INCLUDING
27 DOCUMENTS RELATED TO ANY INVESTIGATION AND THE SCHOOL'S

1 FINDINGS. EACH PUBLIC SCHOOL SHALL ESTABLISH A CASE MANAGEMENT
2 SYSTEM TO MAINTAIN THE CASE FILES.

3 (f) A PUBLIC SCHOOL SHALL GRANT AN EXCUSED ABSENCE TO A
4 STUDENT WHO IS EXPERIENCING HARASSMENT OR DISCRIMINATION FOR
5 ANY TIME THE STUDENT IS OUT OF SCHOOL BECAUSE OF A THERAPY,
6 MEDICAL, LEGAL, OR VICTIM SERVICES APPOINTMENT RELATED TO THE
7 HARASSMENT OR DISCRIMINATION. AN EXCUSED ABSENCE FOR A REASON
8 DESCRIBED IN THIS SUBSECTION (2)(f) DOES NOT COUNT TOWARD A
9 STUDENT'S TRUANCY.

10 (g) (I) A PUBLIC SCHOOL SHALL PROVIDE ACCOMMODATIONS AND
11 SUPPORTIVE MEASURES TO A STUDENT EXPERIENCING HARASSMENT OR
12 DISCRIMINATION THAT ARE DESIGNED TO PROTECT THE SAFETY OF ALL
13 STUDENTS AND THAT PRESERVE EQUAL ACCESS TO EDUCATION FOR THE
14 STUDENT. ACCOMMODATIONS AND SUPPORTIVE MEASURES MAY INCLUDE
15 COUNSELING, EXTENSIONS OF DEADLINES OR OTHER COURSE-RELATED
16 ADJUSTMENTS, EXTRA TIME FOR HOMEWORK OR TESTS, THE OPPORTUNITY
17 TO RESUBMIT HOMEWORK OR RETAKE A TEST, EXCUSED ABSENCES, THE
18 OPPORTUNITY FOR HOME INSTRUCTION, MODIFICATIONS TO CLASS
19 SCHEDULES, AND MUTUAL RESTRICTIONS ON CONTACT BETWEEN THE
20 PARTIES TO A REPORT OF HARASSMENT OR DISCRIMINATION.

21 (II) A PUBLIC SCHOOL SHALL PROVIDE SUPPORTIVE MEASURES
22 REQUIRED PURSUANT TO TITLE IX, AND MAY PROVIDE ANY OTHER
23 SUPPORTIVE MEASURES AS SOON AS IT RECEIVES A REPORT OF
24 HARASSMENT OR DISCRIMINATION AND WITHOUT REQUIRING A STUDENT
25 TO SHARE INFORMATION THAT COULD TRIGGER A MANDATORY REPORT TO
26 POLICE.

27 (III) A PUBLIC SCHOOL SHALL NOT REQUIRE A FINDING OF

1 HARASSMENT OR DISCRIMINATION BEFORE PROVIDING SUPPORTIVE
2 MEASURES.

3 (3) (a) ON OR BEFORE JULY 1, 2024, EACH PUBLIC SCHOOL SHALL
4 ADOPT A WRITTEN POLICY THAT PROTECTS STUDENTS EXPERIENCING
5 HARASSMENT OR DISCRIMINATION. THE POLICY ADOPTED PURSUANT TO
6 THIS SUBSECTION (3) IS SEPARATE FROM AND IN ADDITION TO ANY POLICY
7 THE SCHOOL MUST ADOPT PURSUANT TO TITLE IX. EACH PUBLIC SCHOOL
8 SHALL PERIODICALLY REVIEW AND UPDATE THE POLICY.

9 (b) THE POLICY MUST BE WRITTEN IN PLAIN LANGUAGE AND
10 INCLUDE THE FOLLOWING:

11 (I) INFORMATION ON ALL REPORTING OPTIONS AVAILABLE TO A
12 STUDENT;

13 (II) THE NAME AND CONTACT INFORMATION FOR THE SCHOOL
14 STAFF MEMBER DESIGNATED TO RECEIVE REPORTS OF HARASSMENT OR
15 DISCRIMINATION, WHO MAY BE THE TITLE IX COORDINATOR OR SERVE IN
16 AN EQUIVALENT POSITION IN THE SCHOOL;

17 (III) AN EXPLANATION OF THE SCHOOL'S ROLE IN RESPONDING TO
18 REPORTS OF HARASSMENT OR DISCRIMINATION, PREVENTING RECURRENCE
19 OF HARASSMENT OR DISCRIMINATION, AND REMEDYING EFFECTS OF THE
20 HARASSMENT OR DISCRIMINATION;

21 (IV) THE CONTACT INFORMATION FOR RESOURCES FOR VICTIMS OF
22 GENDER-BASED VIOLENCE AND SEXUAL VIOLENCE, INCLUDING A LOCAL,
23 STATE, OR NATIONAL TWENTY-FOUR-HOUR HELPLINE FOR DOMESTIC
24 VIOLENCE AND SEXUAL VIOLENCE SUPPORT;

25 (V) THE PROTOCOL FOR SCHOOL STAFF TO RESPOND TO REPORTS
26 OF HARASSMENT OR DISCRIMINATION, INCLUDING:

27 (A) THE PROCEDURES ADOPTED PURSUANT TO SUBSECTION (2)(d)

1 OF THIS SECTION FOR INVESTIGATING REPORTS OF HARASSMENT OR
2 DISCRIMINATION AND MAKING FINDINGS THAT ARE FAIR, IMPARTIAL, AND
3 PROMPT; AND

4 (B) PROHIBITING RELIANCE ON A CRIMINAL INVESTIGATION BY A
5 LAW ENFORCEMENT AGENCY IN LIEU OF RESPONDING TO A REPORT OF
6 HARASSMENT OR DISCRIMINATION PROMPTLY AND EFFECTIVELY;

7 (VI) AMNESTY PROTECTIONS FOR A STUDENT WHO REPORTS, OR IS
8 A WITNESS TO A REPORT OF, HARASSMENT OR DISCRIMINATION FOR ANY
9 SCHOOL POLICY VIOLATION BY THE STUDENT RELATED TO THE INCIDENT,
10 INCLUDING, BUT NOT LIMITED TO, POLICY VIOLATIONS FOR ENGAGING IN
11 REASONABLE SELF-DEFENSE AGAINST THE RESPONDENT OR TALKING
12 PUBLICLY ABOUT THE ALLEGED HARASSMENT OR DISCRIMINATION; AND

13 (VII) INFORMATION ABOUT AVAILABLE ACCOMMODATIONS AND
14 SUPPORTIVE MEASURES DESCRIBED IN SUBSECTION (2)(g) OF THIS SECTION,
15 INCLUDING INFORMATION ABOUT HOW A STUDENT CAN REQUEST
16 SUPPORTIVE MEASURES AND AN EXPLANATION OF ACCOMMODATIONS
17 AVAILABLE FOR STUDENTS WITH DISABILITIES.

18 (c) EACH PUBLIC SCHOOL SHALL MAKE THE POLICY AVAILABLE TO
19 STUDENTS, STUDENTS' PARENTS AND LEGAL GUARDIANS, AND SCHOOL
20 STAFF BY:

21 (I) PROMINENTLY DISPLAYING THE POLICY ON ITS WEBSITE;

22 (II) ANNUALLY DISTRIBUTING THE POLICY THROUGH ELECTRONIC
23 MEANS TO PARENTS AND LEGAL GUARDIANS OF STUDENTS ENROLLED AT
24 THE PUBLIC SCHOOL AND SEPARATELY TO STUDENTS ENROLLED IN SIXTH
25 THROUGH TWELFTH GRADE. THE COPY OF THE POLICY DISTRIBUTED
26 PURSUANT TO THIS SUBSECTION (3)(c)(II) MUST BE DISTRIBUTED
27 SEPARATELY FROM ANY OTHER DOCUMENT.

1 (III) PROVIDING A PHYSICAL COPY OF THE POLICY TO ALL
2 INCOMING STUDENTS; AND

3 (IV) ANNUALLY DISTRIBUTING THE POLICY TO SCHOOL STAFF.

4 (4) ON OR BEFORE JULY 1, 2024, AND ANNUALLY BY EACH JULY 1
5 THEREAFTER, EACH PUBLIC SCHOOL SHALL PROVIDE ANNUAL TRAINING TO
6 ALL SCHOOL STAFF ABOUT HARASSMENT AND DISCRIMINATION. THE
7 TRAINING MUST INCLUDE, AT A MINIMUM, INSTRUCTION ON THE
8 FOLLOWING:

9 (a) RECOGNIZING HARASSMENT OR DISCRIMINATION, INCLUDING
10 INDICATORS OF GROOMING AND CHILD SEXUAL ABUSE;

11 (b) THE APPROPRIATE IMMEDIATE RESPONSE WHEN HARASSMENT
12 OR DISCRIMINATION IS REPORTED TO OR WITNESSED BY A SCHOOL STAFF
13 MEMBER;

14 (c) REPORTING HARASSMENT OR DISCRIMINATION TO THE PUBLIC
15 SCHOOL OR SCHOOL DISTRICT;

16 (d) THE PUBLIC SCHOOL'S PROCEDURE FOR RESPONDING TO
17 ALLEGATIONS OF HARASSMENT OR DISCRIMINATION;

18 (e) THE DIFFERENCE BETWEEN THE PUBLIC SCHOOL'S HARASSMENT
19 OR DISCRIMINATION POLICY ADOPTED PURSUANT TO THIS SECTION;
20 OBLIGATIONS REQUIRED BY FEDERAL LAW IN TITLE IX AND IN TITLE VII
21 OF THE FEDERAL "CIVIL RIGHTS ACT OF 1964", 42 U.S.C. SEC. 2000e ET
22 SEQ.; AND MANDATORY REPORTING REQUIREMENTS IN STATE LAW;

23 (f) AVOIDING VICTIM-BLAMING; THE EFFECT OF TRAUMA ON
24 VICTIMS OF HARASSMENT OR DISCRIMINATION; COMMUNICATING WITH
25 VICTIMS SENSITIVELY, COMPASSIONATELY, AND IN A GENDER-INCLUSIVE
26 AND CULTURALLY RESPONSIVE MANNER; AND THE IMPACT OF
27 HARASSMENT OR DISCRIMINATION ON STUDENTS WITH DISABILITIES; AND

1 (g) THE TYPES OF SUPPORTIVE MEASURES AVAILABLE TO
2 STUDENTS AND THE PROVISION OF EFFECTIVE ACADEMIC, MENTAL HEALTH,
3 AND SAFETY ACCOMMODATIONS FOR STUDENTS WHO REPORT
4 HARASSMENT OR DISCRIMINATION.

5 (5) (a) ON OR BEFORE JULY 1, 2024, AND ON OR BEFORE JULY 1 OF
6 EACH YEAR THEREAFTER, EACH PUBLIC SCHOOL OF A SCHOOL DISTRICT
7 SHALL REPORT TO THE SCHOOL DISTRICT THE FOLLOWING INFORMATION
8 FROM THE PRIOR TWELVE MONTHS:

9 (I) THE NUMBER OF HARASSMENT OR DISCRIMINATION REPORTS
10 RECEIVED BY THE SCHOOL AND THE TYPE OF BIAS REPORTED; AND

11 (II) THE TIME TO COMPLETE EACH INVESTIGATION AND TO MAKE
12 FINDINGS RELATED TO EACH REPORT.

13 (b) ON OR BEFORE AUGUST 1, 2024, AND ON OR BEFORE AUGUST
14 1 OF EACH YEAR THEREAFTER, EACH INSTITUTE CHARTER SCHOOL SHALL
15 REPORT TO THE DEPARTMENT OF EDUCATION THE INFORMATION
16 DESCRIBED IN SUBSECTION (5)(a) OF THIS SECTION, AND EACH SCHOOL
17 DISTRICT SHALL REPORT TO THE DEPARTMENT OF EDUCATION THE
18 INFORMATION IT RECEIVED FROM EACH SCHOOL PURSUANT TO SUBSECTION
19 (5)(a) OF THIS SECTION.

20 (c) ON OR BEFORE SEPTEMBER 1, 2024, AND ON OR BEFORE
21 SEPTEMBER 1 OF EACH YEAR THEREAFTER, THE DEPARTMENT SHALL
22 REPORT THE INFORMATION RECEIVED PURSUANT TO THIS SECTION TO THE
23 SEXUAL MISCONDUCT ADVISORY COMMITTEE CREATED IN SECTION
24 23-5-147.

25 **SECTION 2.** In Colorado Revised Statutes, 24-10-106, **amend**
26 (1)(i) and (1)(j); and **add** (1)(k) as follows:

27 **24-10-106. Immunity and partial waiver.** (1) A public entity

1 shall be immune from liability in all claims for injury which lie in tort or
2 could lie in tort regardless of whether that may be the type of action or the
3 form of relief chosen by the claimant except as provided otherwise in this
4 section. Sovereign immunity is waived by a public entity in an action for
5 injuries resulting from:

- 6 (i) An action brought pursuant to section 13-21-128; ~~or~~
- 7 (j) An action brought pursuant to part 12 of article 20 of title 13,
8 whether the conduct alleged occurred before, on, or after January 1, 2022;
- 9 OR

10 (k) FAILURE TO COMPLY WITH ANY REQUIREMENT CONCERNING
11 HARASSMENT OR DISCRIMINATION IN PUBLIC SCHOOLS SET FORTH IN
12 SECTION 22-1-140.

13 **SECTION 3. Act subject to petition - effective date.** This act
14 takes effect at 12:01 a.m. on the day following the expiration of the
15 ninety-day period after final adjournment of the general assembly; except
16 that, if a referendum petition is filed pursuant to section 1 (3) of article V
17 of the state constitution against this act or an item, section, or part of this
18 act within such period, then the act, item, section, or part will not take
19 effect unless approved by the people at the general election to be held in
20 November 2024 and, in such case, will take effect on the date of the
21 official declaration of the vote thereon by the governor.