

DEPARTMENT OF EDUCATION

Colorado State Board of Education

PARENTAL NOTIFICATION UPON AN ARREST MADE OR CHARGES BROUGHT AGAINST SCHOOL EMPLOYEE

1 CCR 301-83

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

Authority: Article IX, Section 1, Colorado Constitution, § 22-2-106(1) (a) and (c); 22-2-107(1) (c).

STATEMENT OF BASIS AND PURPOSE

Basis for Rulemaking Authority: 22-2-107(1)(c) C.R.S. provides that the State Board has the power to promulgate and adopt policies, rules, and regulations concerning general supervision of the public schools, the department, and the educational programs maintained and operated by all state governmental agencies for persons who have not completed the twelfth-grade level of instruction.

In order to provide a learning environment that is safe and conducive to the learning process, these rules require that parents are notified when an arrest is made or charges are brought against an employee or former employee of a school, if the charges are based on offenses set forth in these rules.

1.00 Definitions

- 1.01 "Department" means the Department of Education created and existing pursuant to § 24-1-115, C.R.S.
- 1.02 "Parent" means a student's biological or adoptive parent or the student's legal guardian or legal custodian.
- 1.03 "State Board" means the State Board of Education created and existing pursuant to Section 1 of Article IX of the State Constitution.
- 1.04 "School District" means any public school district organized under the laws of Colorado, except a junior college district.
- 1.05 "Local Board of Education" means the school district board of education.
- 1.06 "Charter School Board" means the board of a public school that enters into a charter contract pursuant to the provisions of § 22-30.5-101 et seq., C.R.S.
- 1.07 "BOCES" means a board of cooperative services pursuant to Article 5 of Title 22, C.R.S.

2.00 Parental Notification

- 2.01 The Local Board of Education, Charter School Board, Board of Cooperative Educational Services or its designee (the "Notifying Party"), after consulting with the charging or arresting criminal justice agency, shall notify all parents of the students enrolled in a school when an employee or former employee of the Local Board of Education, Charter School Board or Board of Cooperative Educational Services is arrested or is charged, as that term is defined in § 16-1-104(6), C.R.S., with an offense as set forth in Rule 4.00 of these rules. The duty to notify shall apply to

employees or former employees whose employment required them to be in contact with students enrolled in the school. The parents to be notified shall be the parents of the students currently enrolled in the school.

- 2.02 The Notifying Party shall have no affirmative obligation under these rules to request from any law enforcement agency information relating to whether an employee or former employee has been arrested or charged with any criminal misconduct, including but not limited to the offenses specified in Rule 4.00, below.
- 2.03 The notification required by these rules shall be sent by electronic means or by first-class United States mail within twenty-four hours based on a business-day calendar from the time the Notifying Party becomes aware of the arrest or charge, whichever occurs earlier, or upon such later date, if a delay in notification is requested by the charging or arresting criminal justice agency.

3.00 Notification Requirements

3.01 Notification of an Arrest.

The notification of an arrest to parents shall state:

- A. The name of the employee;
- B. His or her position at the school;
- C. Whether the employee continues to be employed at the school;
- D. The length of his or her employment; and
- E. A statement providing that under state and federal laws, a person is innocent until proven guilty.

3.02 Notification of a Charge.

The notification of a charge to parents shall state:

- A. The name of the employee;
- B. His or her position at the school;
- C. Whether the employee continues to be employed at the school;
- D. The length of his or her employment;
- E. The alleged offense as set forth in the charge, i.e., violation of statute or code; and
- F. A statement providing that under state and federal laws, a person is innocent until proven guilty.

- 3.03 The notification shall not describe the underlying facts of the case, and shall not disclose the identity of the alleged victim if the alleged victim is a student in the school.

4.00 List of Offenses Requiring Notification

- 4.01 Parental notification shall be required only when the employee is arrested or charged on any of the

following offenses:

- A. Any felony offense;
 - B. A misdemeanor offense or municipal ordinance violation involving unlawful sexual behavior;
 - C. A misdemeanor offense or municipal ordinance violation involving children;
 - D. A misdemeanor offense or municipal ordinance violation involving indecent exposure;
 - E. Driving Under the Influence or Driving While Ability Impaired as defined in § 42-4-1301, C.R.S., if the employee's employment with the district includes transporting students via motor vehicles;
 - F. Misdemeanor domestic violence, as defined in Section 18-6-800.3 (1), C.R.S.;
 - G. Misdemeanor sexual assault, as described in Section 18-3-402, C.R.S.;
 - H. Misdemeanor unlawful sexual conduct, as described in Section 18-3-404, C.R.S.;
 - I. Misdemeanor child abuse, as described in Section 18-6-401, C.R.S.;
 - J. Misdemeanor sexual exploitation of children, as described in Section 18-6-403, C.R.S.;
 - K. Misdemeanor or municipal ordinance violation of any law of this state, any municipality of this state, or the United States involving the illegal sale or possession of controlled substances, as defined in Section 12-22-303 (7), C.R.S., excluding an arrest or charge for simple marijuana possession;
 - L. A crime of violence, as defined in Section 18-1.3-406, C.R.S.;
 - M. Indecent exposure, as described in Section 18-7-302 (2) (b), C.R.S.; or
 - N. A felony offense in another state, the United States, or territory subject to the jurisdiction of the United States, the elements of which are substantially similar to the elements of one of the offenses described above.
- 4.02 Notification to parents shall be made whether the actions giving rise to the arrest or charge were undertaken while the employee or former employee was acting within the scope of his or her employment with the school.
- 4.03 With regard to the offenses set forth in Rule 4.00 of these Rules, if the Notifying Party learns that the prosecutor formally declined to file any charges, or all charges were dismissed, it shall notify all parents of the students enrolled in a school of this fact within three days based on a business day calendar.
- 4.04 Parental notification shall be incorporated into the school district's safe school plan pursuant to 22-32-109.1.
- 4.05 Parental notification shall be incorporated into any written agreements with law enforcement officials, the juvenile justice system, and social services, as allowed under state and federal law pursuant to 22-32-109.1(3).
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Editor's Notes**History**

Entire Rule eff. 05/31/2011.