

First Regular Session
Seventieth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 15-0694.01 Julie Pelegrin x2700

HOUSE BILL 15-1196

HOUSE SPONSORSHIP

Lundeen,

SENATE SPONSORSHIP

Hill,

House Committees
Education

Senate Committees

A BILL FOR AN ACT

101 CONCERNING PARENT CONTROL OF EDUCATION EXPENDITURES FOR
102 ELIGIBLE STUDENTS ENROLLED IN KINDERGARTEN THROUGH
103 GRADE TWELVE, AND, IN CONNECTION THEREWITH, CREATING
104 THE "COLORADO FLEXIBLE LIFETIME LEARNING
105 EXPENDITURES ACCOUNT ACT".

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://www.leg.state.co.us/billsummaries>.)

The bill creates the Colorado flexible lifetime learning expenditures account program (C-FLEX program) to enable a parent, by

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

directing the use of public moneys deposited to a savings account (C-FLEX account), to select the educational programs and services that most effectively meet the needs of the parent's child who is an eligible student.

A student is eligible to participate in the C-FLEX program if the student:

- ! Is a resident of Colorado;
- ! Is eligible to enroll in kindergarten or one of grades one through 12;
- ! Was enrolled in a public school in Colorado or was not enrolled in a public school or a private school or participating in a nonpublic home-based educational program during the school year preceding the first year in which the student participates in the C-FLEX program; and
- ! Is a child with a disability or a gifted child or one of the first 5,000 students to apply to the program.

There are circumstances under which a student is disqualified from the C-FLEX program, including enrolling in a public school, accepting any form of rebate from a purchase using C-FLEX moneys, or being suspended from the program due to misuse of C-FLEX moneys.

The department of education (department) must issue a request for proposals for, and the state board of education (state board) must select and contract with, an entity to administer the program, referred to as the C-FLEX facilitator. The entity must have experience managing financial accounts and implementing a system for payment by electronic funds transfer. The C-FLEX facilitator is responsible for implementing the C-FLEX program, which includes:

- ! Marketing the program;
- ! Reviewing applications and agreement forms for the program;
- ! Creating and maintaining a C-FLEX account for the parent of each eligible student who participates in the program;
- ! Explaining the program to participating parents, including the requirements and restrictions that apply to the use of the C-FLEX moneys;
- ! Implementing an electronic funds transfer system for distributing moneys from the C-FLEX accounts;
- ! Monitoring the parents' participation in the program to ensure that each parent meets specified requirements and uses C-FLEX money only for authorized purposes;
- ! Creating and publicizing a list of approved learner advocates and approved providers; and
- ! Enforcing the program requirements.

The C-FLEX facilitator must create a list of approved learner advocates, who are persons with experience in supporting students and

working in education and who assist parents and eligible students in selecting educational services, providers, and materials. The C-FLEX facilitator places a learner advocate on the approved list only if the learner advocate meets specified criteria, including completing a criminal history background check. If the C-FLEX facilitator denies a learner advocate's application to the approved list, the learner advocate may appeal to the state board.

The C-FLEX facilitator must create a list of approved providers, which includes specialized instructional services providers, supplemental education services providers, private schools, private on-line educational programs, and postsecondary institutions. A provider must meet specified criteria, including completing a criminal history background check or ensuring that all of its employees who have contact with students complete a criminal history background check. If the C-FLEX facilitator denies a provider's application to the approved list, the provider may appeal to the state board.

If a parent wants to purchase services from a learner advocate or a provider that is not on the approved list, the parent may request permission to do so from the C-FLEX facilitator. If the C-FLEX facilitator denies the request, the parent may appeal to the state board. In making determinations concerning learner advocates and providers, the C-FLEX facilitator and the state board must ensure that the determination provides the widest degree of parental choice and protects the best interests of eligible students, and the C-FLEX facilitator and the state board must not unreasonably deny a learner advocate's or provider's application or a parent's request.

The department annually calculates the amount that each eligible student should receive in C-FLEX moneys and forwards the amount to the C-FLEX facilitator. The department distributes the moneys from a combination of moneys that the general assembly specifically appropriates for the C-FLEX accounts and moneys that the general assembly appropriates for special education, gifted and talented programs, and English language proficiency programs.

The C-FLEX facilitator annually deposits to each eligible student's C-FLEX account an amount equal to:

- ! The statewide average per pupil revenues for the applicable budget year; plus
- ! If the student is a child with disabilities, a portion of the amount appropriated for special education that is attributable to the eligible student; plus
- ! If the student is a gifted child, a portion of the amount appropriated for gifted and talented programs that is attributable to the eligible student; plus
- ! If the student is an English language learner, a portion of the amount appropriated for English language proficiency

- programs that is attributable to the eligible student; minus
- ! Three percent of the amount received from the department for the eligible student, which percent the C-FLEX facilitator uses to offset the costs of implementing the C-FLEX program.

In addition to the state moneys deposited in the C-FLEX account, the parent may deposit up to \$10,000 into the account in each school year that the parent is participating in the program and the student has not completed twelfth grade. The amounts that the parent deposits are deductible from state income tax, and any interest earned on the C-FLEX account is not taxable by the state.

The parent of an eligible student may spend C-FLEX moneys, including any moneys that the parent deposits in the C-FLEX account, only for specific purposes, which include purchasing educational materials and curriculum, purchasing the services of an approved learner advocate, purchasing educational services from an approved provider, paying assessment fees, and paying tuition and fees at an approved postsecondary institution. Each year, the parent of an eligible student must spend at least 70% of the state moneys deposited in the C-FLEX account for that year. In the first 2 years of the C-FLEX program, each parent must use at least 5% of the state moneys in the C-FLEX account to purchase the services of a learner advocate. Each eligible student receives moneys deposited in his or her C-FLEX account in each year in which the eligible student participates in the C-FLEX program, until he or she completes twelfth grade. If a parent withdraws from the C-FLEX program during the middle of a school year, the C-FLEX facilitator transfers any amount remaining of the state moneys that were deposited in the C-FLEX account for that school year to the state treasurer who credits it to the general fund. After a parent withdraws from the C-FLEX program or an eligible student completes twelfth grade, the parent, or the eligible student after he or she reaches 18 years of age, may continue spending for authorized purposes any money that remains in the C-FLEX account until the entire amount is withdrawn.

When a parent applies to participate in the C-FLEX program, he or she must sign an agreement that includes several conditions that the parent agrees to meet, including enrolling the eligible student in a private school or in a nonpublic home-based education program and ensuring that the eligible student makes sufficient academic progress. Each school year, the parent must ensure that the eligible student is evaluated using a national norm-referenced assessment, the statewide assessments that the department administers, or an evaluation by a person that the parent selects and who meets specified qualifications. If the student's assessment scores or evaluation indicate that the student is not making sufficient academic progress, the parent must spend at least 5% of the amount annually deposited in the C-FLEX account to purchase the services of a

learner advocate in each school year until the student begins making sufficient academic progress.

The C-FLEX facilitator must monitor each parent's use of the C-FLEX moneys to ensure that the parent complies with the agreement. The facilitator may require a parent to provide receipts for certain purchases. In addition, each parent must maintain a log that includes the parent's use of the moneys, and the C-FLEX facilitator may require the parent to produce the log for review.

If the C-FLEX facilitator has reason to believe that a parent is out of compliance with any of the conditions in the agreement, the facilitator must investigate, during which time the parent cannot access the state moneys in the C-FLEX account. If the facilitator determines that the parent has violated the agreement, the facilitator must give the parent 30 days to cure the violation, which may include refunding moneys to the C-FLEX account. If the parent fails to cure the violation or commits a subsequent violation that involves a misuse of C-FLEX moneys, the facilitator must permanently suspend the parent and the eligible student from the C-FLEX program. The parent may appeal the suspension to the state board. Thirty days after the facilitator's decision to suspend a parent from the C-FLEX program, if the parent does not appeal the decision, or as soon as practicable after the state board affirms the facilitator's decision, the facilitator shall transfer the balance of the state moneys deposited in the C-FLEX account and any interest earned on the state moneys to the state treasurer who will credit the moneys to the general fund, and the facilitator will transfer any remaining moneys in the account to the parent.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **add** article 59 to title 22 as follows:

ARTICLE 59

Colorado Flexible Lifetime Learning Expenditures Accounts

22-59-101. Short title. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "COLORADO FLEXIBLE LIFETIME LEARNING EXPENDITURES ACCOUNT ACT" OR "C-FLEX ACT".

22-59-102. Legislative declaration. (1) THE GENERAL ASSEMBLY FINDS THAT:

1 (a) ENSURING THAT ALL PARENTS MAY EXERCISE AND ENJOY THEIR
2 BASIC RIGHT TO EDUCATE THEIR CHILDREN AS THEY SEE FIT IS A VALID
3 PUBLIC PURPOSE THAT THE GENERAL ASSEMBLY SHOULD PROMOTE USING
4 ITS PLENARY POWER TO APPROPRIATE STATE MONEYS;

5 (b) EXPANDING STUDENTS' EDUCATIONAL OPPORTUNITIES AND
6 SUPPORTING THE HEALTHY COMPETITION THAT A RANGE OF
7 OPPORTUNITIES PROMOTES ARE CRITICAL TO IMPROVING THE QUALITY OF
8 EDUCATION IN THE STATE AND TO ENSURING THAT ALL CHILDREN RECEIVE
9 THE HIGH-QUALITY EDUCATION TO WHICH THEY ARE ENTITLED;

10 (c) IT IS ESPECIALLY IMPORTANT TO ENSURE THAT PARENTS OF
11 CHILDREN WITH DISABILITIES AND GIFTED CHILDREN HAVE ACCESS TO A
12 WIDE RANGE OF EDUCATIONAL SERVICES AND OPPORTUNITIES FOR THEIR
13 CHILDREN TO ENSURE THAT THEIR CHILDREN RECEIVE THE EDUCATIONAL
14 SERVICES THAT WILL MOST EFFECTIVELY MAXIMIZE THEIR POTENTIAL; AND

15 (d) A PROGRAM THAT ENABLES A PARENT TO USE PUBLIC MONEYS
16 TO PURCHASE THE EDUCATIONAL MATERIALS AND SERVICES THAT WILL
17 BEST MEET THE EDUCATIONAL NEEDS OF THE PARENT'S CHILD
18 APPROPRIATELY COMPLEMENTS AND WILL STRENGTHEN THE THOROUGH
19 AND UNIFORM STATEWIDE SYSTEM OF FREE PUBLIC EDUCATION THAT THE
20 STATE HAS CREATED AND MAINTAINS.

21 (2) THE GENERAL ASSEMBLY THEREFORE FINDS THAT IT IS IN THE
22 BEST INTERESTS OF THE STATE AND OF THE PARENTS AND STUDENTS IN THE
23 STATE TO CREATE THE COLORADO FLEXIBLE LIFETIME LEARNING
24 EXPENDITURES ACCOUNT PROGRAM TO ENABLE PARENTS, BY DIRECTING
25 THE MONEYS APPROPRIATED FOR THEIR CHILDREN'S EDUCATION, TO
26 CHOOSE THE EDUCATIONAL MATERIALS, SERVICES, AND PROVIDERS THAT
27 WILL MOST EFFECTIVELY ADVANCE THEIR CHILDREN'S EDUCATIONAL

1 GROWTH.

2 (3) THE GENERAL ASSEMBLY DECLARES THAT, FOR PURPOSES OF
3 SECTION 17 OF ARTICLE IX OF THE STATE CONSTITUTION, THE COLORADO
4 FLEXIBLE LIFETIME LEARNING EXPENDITURES ACCOUNT PROGRAM IS A
5 PROGRAM OF ACCOUNTABLE EDUCATION REFORM AND MAY THEREFORE
6 RECEIVE FUNDING FROM THE STATE EDUCATION FUND CREATED IN SECTION
7 17 (4) OF ARTICLE IX OF THE STATE CONSTITUTION.

8 **22-59-103. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
9 CONTEXT OTHERWISE REQUIRES:

10 (1) "C-FLEX ACCOUNT" OR "ACCOUNT" MEANS A SAVINGS
11 ACCOUNT CREATED AND MAINTAINED BY THE C-FLEX FACILITATOR AS
12 PROVIDED IN SECTIONS 22-59-105 AND 22-59-108.

13 (2) "C-FLEX FACILITATOR" OR "FACILITATOR" MEANS THE
14 ORGANIZATION THAT THE STATE BOARD CONTRACTS WITH AS PROVIDED
15 IN SECTION 22-59-105 TO CREATE AND ADMINISTER THE C-FLEX
16 ACCOUNTS.

17 (3) "C-FLEX PROGRAM" MEANS THE COLORADO FLEXIBLE
18 LIFETIME LEARNING EXPENDITURES ACCOUNT PROGRAM CREATED IN THIS
19 ARTICLE.

20 (4) "CHILD WITH A DISABILITY" MEANS A PERSON FROM THREE TO
21 TWENTY-ONE YEARS OF AGE WHO, BY REASON OF ONE OR MORE OF THE
22 CONDITIONS LISTED IN SECTION 22-20-103 (5) (a), IS UNABLE TO RECEIVE
23 REASONABLE BENEFIT FROM GENERAL EDUCATION.

24 (5) "CHILD WITH MULTIPLE DISABILITIES" MEANS A CHILD WHO HAS
25 ONE OR MORE OF THE DISABILITIES SPECIFIED IN SECTION 22-20-114 (1) (c)
26 (II).

27 (6) "CONVICTED" MEANS CONVICTED BY A JURY VERDICT OR BY

1 ENTRY OF A VERDICT OR ACCEPTANCE OF A GUILTY PLEA OR A PLEA OF
2 NOLO CONTENDERE BY A COURT.

3 (7) "DEPARTMENT" MEANS THE DEPARTMENT OF EDUCATION
4 CREATED AND EXISTING PURSUANT TO SECTION 24-1-115, C.R.S.

5 (8) "ELIGIBLE STUDENT" MEANS A STUDENT WHO MEETS THE
6 REQUIREMENTS SPECIFIED IN SECTION 22-59-104.

7 (9) "GIFTED CHILD" HAS THE SAME MEANING AS PROVIDED IN
8 SECTION 22-20-202.

9 (10) "LOCAL EDUCATION PROVIDER" HAS THE SAME MEANING AS
10 PROVIDED IN SECTION 22-24-103.

11 (11) "NONPUBLIC HOME-BASED EDUCATIONAL PROGRAM" HAS THE
12 SAME MEANING AS PROVIDED IN SECTION 22-33-104.5 (2).

13 (12) "PARENT" MEANS A BIOLOGICAL PARENT, ADOPTIVE PARENT,
14 OR LEGAL GUARDIAN.

15 (13) "PROVIDER" INCLUDES A SPECIALIZED INSTRUCTIONAL
16 SERVICES PROVIDER, SUPPLEMENTAL EDUCATION SERVICES PROVIDER,
17 PRIVATE SCHOOL, PRIVATE ON-LINE EDUCATIONAL PROGRAM, AND
18 POSTSECONDARY INSTITUTION, WHICH MAY INCLUDE A CAREER AND
19 TECHNICAL EDUCATION CERTIFICATE PROGRAM, AN AREA VOCATIONAL
20 SCHOOL, A DISTRICT JUNIOR COLLEGE, AND AN APPRENTICESHIP PROGRAM.

21 (14) "SCHOOL DISTRICT OF RESIDENCE" MEANS THE DISTRICT OF
22 RESIDENCE OF A CHILD WITH A DISABILITY AS DETERMINED PURSUANT TO
23 SECTION 22-20-107.5 OR THE DISTRICT OF RESIDENCE OF A GIFTED CHILD.

24 (15) "STATE BOARD" MEANS THE STATE BOARD OF EDUCATION
25 CREATED IN SECTION 1 OF ARTICLE IX OF THE STATE CONSTITUTION.

26 (16) "SUPPLEMENTAL EDUCATION SERVICES" MEANS TUTORING
27 SERVICES AND OTHER ACADEMIC ENRICHMENT SERVICES.

1 **22-59-104. Colorado flexible lifetime learning expenditures**
2 **account program - created - eligibility - amount of deposit - use of**
3 **moneys.** (1) THERE IS CREATED THE COLORADO FLEXIBLE LIFETIME
4 LEARNING EXPENDITURES ACCOUNT PROGRAM TO ENABLE PARENTS, BY
5 DIRECTING THE USE OF MONEYS DEPOSITED TO A C-FLEX ACCOUNT, TO
6 SELECT THE EDUCATIONAL PROGRAMS AND SERVICES THAT MOST
7 EFFECTIVELY MEET THE NEEDS OF THEIR CHILDREN WHO ARE ELIGIBLE
8 STUDENTS.

9 (2) (a) A PARENT MAY APPLY TO PARTICIPATE IN THE C-FLEX
10 PROGRAM AND RECEIVE A C-FLEX ACCOUNT TO BE USED FOR THE
11 PURPOSES LISTED IN SUBSECTION (5) OF THIS SECTION IF THE PARENT'S
12 CHILD:

- 13 (I) RESIDES IN COLORADO;
- 14 (II) IS ELIGIBLE TO ENROLL IN KINDERGARTEN THROUGH TWELFTH
15 GRADE IN A PUBLIC SCHOOL IN THE STATE;
- 16 (III) DURING THE SCHOOL YEAR PRECEDING THE FIRST SCHOOL
17 YEAR IN WHICH THE STUDENT WOULD PARTICIPATE IN THE PROGRAM, WAS
18 ENROLLED IN A PUBLIC SCHOOL IN THE STATE OR WAS NOT ENROLLED IN A
19 PUBLIC SCHOOL OR A PRIVATE SCHOOL AND WAS NOT PARTICIPATING IN A
20 NONPUBLIC HOME-BASED EDUCATIONAL PROGRAM; AND
- 21 (IV) (A) IS IDENTIFIED AS A CHILD WITH A DISABILITY AS
22 PROVIDED IN PART 1 OF ARTICLE 20 OF THIS TITLE; OR
- 23 (B) IS IDENTIFIED AS A GIFTED CHILD AS PROVIDED IN PART 2 OF
24 ARTICLE 20 OF THIS TITLE.

25 (b) IN ADDITION TO THE PARENTS DESCRIBED IN PARAGRAPH (a) OF
26 THIS SUBSECTION (2), A PARENT WHOSE CHILD MEETS THE REQUIREMENTS
27 SPECIFIED IN SUBPARAGRAPHS (I) TO (III) OF PARAGRAPH (a) OF THIS

1 SUBSECTION (2) MAY APPLY TO PARTICIPATE IN THE C-FLEX PROGRAM
2 AND RECEIVE A C-FLEX ACCOUNT. THE C-FLEX FACILITATOR SHALL
3 CREATE AN ACCOUNT FOR EACH OF THE FIRST FIVE THOUSAND PARENTS
4 WHO APPLY PURSUANT TO THIS PARAGRAPH (b) AND WHOSE CHILDREN
5 MEET THE REQUIREMENTS. AS ACCOUNTS ARE CLOSED IN SUBSEQUENT
6 YEARS, THE FACILITATOR SHALL OPEN NEW ACCOUNTS FOR APPLYING
7 PARENTS OF CHILDREN WHO MEET THE REQUIREMENTS SPECIFIED IN
8 SUBPARAGRAPHS (I) TO (III) OF PARAGRAPH (a) OF THIS SUBSECTION (2),
9 IN THE ORDER OF APPLICATION, TO MAINTAIN APPROXIMATELY FIVE
10 THOUSAND ACCOUNTS PURSUANT TO THIS PARAGRAPH (b).

11 (3) NOTWITHSTANDING ANY PROVISION OF SUBSECTION (2) OF THIS
12 SECTION TO THE CONTRARY, A STUDENT IS NOT ELIGIBLE TO PARTICIPATE
13 IN THE C-FLEX PROGRAM:

14 (a) WHILE THE STUDENT IS:

15 (I) ENROLLED IN A PUBLIC SCHOOL IN THE STATE; OR

16 (II) ENROLLED IN AN APPROVED FACILITY SCHOOL, AS DEFINED IN
17 SECTION 22-2-402, OR IN A SCHOOL OPERATED BY A JUVENILE DETENTION
18 FACILITY;

19 (b) IF THE STUDENT OR THE STUDENT'S PARENT ACCEPTS ANY
20 PAYMENT, REFUND, OR REBATE, IN ANY MANNER OR FORM, FROM A
21 PROVIDER OR LEARNER ADVOCATE FROM WHICH THE PARENT PURCHASED
22 MATERIALS, RESOURCES, OR SERVICES USING MONEYS DEPOSITED IN A
23 C-FLEX ACCOUNT; OR

24 (c) IF THE C-FLEX FACILITATOR SUSPENDS THE PARENT'S AND THE
25 STUDENT'S PARTICIPATION IN THE C-FLEX PROGRAM AS PROVIDED IN
26 SECTION 22-59-108.

27 (4) (a) FOR EACH SCHOOL YEAR IN WHICH A PARENT PARTICIPATES

1 IN THE C-FLEX PROGRAM, THE C-FLEX FACILITATOR SHALL DEPOSIT IN
2 THE PARENT'S C-FLEX ACCOUNT THE FOLLOWING AMOUNT, AS
3 CALCULATED BY THE DEPARTMENT:

4 (I) AN AMOUNT EQUAL TO THE STATE AVERAGE PER PUPIL
5 REVENUES, AS DEFINED IN SECTION 22-54-103, FOR THE APPLICABLE
6 SCHOOL YEAR PLUS:

7 (II) IF THE PARENT'S ELIGIBLE STUDENT IS A CHILD WITH A
8 DISABILITY:

9 (A) ONE THOUSAND TWO HUNDRED FIFTY DOLLARS, AS SPECIFIED
10 IN SECTION 22-20-114 (1) (b); AND

11 (B) THE PER PUPIL AMOUNT FOR CHILDREN WITH MULTIPLE
12 DISABILITIES THAT THE DEPARTMENT CALCULATES PURSUANT TO SECTION
13 22-59-110 FOR THE ELIGIBLE STUDENT'S SCHOOL DISTRICT OF RESIDENCE
14 FOR THE APPLICABLE SCHOOL YEAR, IF THE ELIGIBLE STUDENT IS A CHILD
15 WITH MULTIPLE DISABILITIES; PLUS

16 (III) IF THE PARENT'S ELIGIBLE STUDENT IS GIFTED AND TALENTED,
17 THE PER PUPIL AMOUNT FOR GIFTED AND TALENTED CHILDREN THAT THE
18 DEPARTMENT CALCULATES PURSUANT TO SECTION 22-59-110 FOR THE
19 ELIGIBLE STUDENT'S SCHOOL DISTRICT OF RESIDENCE FOR THE APPLICABLE
20 SCHOOL YEAR; PLUS

21 (IV) IF THE PARENT'S ELIGIBLE STUDENT IS AN ENGLISH LANGUAGE
22 LEARNER, AS DEFINED IN SECTION 22-24-103:

23 (A) AN ADDITIONAL TWENTY PERCENT OF THE STATE AVERAGE
24 PER PUPIL REVENUES FOR THE APPLICABLE SCHOOL YEAR PLUS AN AMOUNT
25 EQUAL TO THE PER PUPIL AMOUNT DISTRIBUTED TO LOCAL EDUCATION
26 PROVIDERS PURSUANT TO SECTION 22-24-108 (2) (a) (I) FOR THE
27 APPLICABLE BUDGET YEAR, IF THE ELIGIBLE STUDENT SPEAKS A LANGUAGE

1 OTHER THAN ENGLISH AND DOES NOT COMPREHEND OR SPEAK ENGLISH OR
2 THE ELIGIBLE STUDENT COMPREHENDS OR SPEAKS SOME ENGLISH BUT HIS
3 OR HER PRIMARY COMPREHENSION OR SPEECH IS IN A LANGUAGE OTHER
4 THAN ENGLISH; OR

5 (B) AN ADDITIONAL TEN PERCENT OF THE STATE AVERAGE PER
6 PUPIL REVENUES FOR THE APPLICABLE SCHOOL YEAR PLUS AN AMOUNT
7 EQUAL TO THE PER PUPIL AMOUNT DISTRIBUTED TO LOCAL EDUCATION
8 PROVIDERS PURSUANT TO SECTION 22-24-108 (2) (a) (II) FOR THE
9 APPLICABLE BUDGET YEAR, IF THE ELIGIBLE STUDENT'S ENGLISH
10 LANGUAGE DEVELOPMENT AND COMPREHENSION IS AT OR BELOW THE
11 MEAN OR EQUIVALENT ON A NATIONALLY STANDARDIZED TEST OR BELOW
12 THE ACCEPTABLE PROFICIENCY LEVEL BASED ON THE ASSESSMENTS
13 IDENTIFIED BY THE DEPARTMENT PURSUANT TO SECTION 22-24-106(1) (a);
14 MINUS

15 (V) THREE PERCENT OF THE SUM OF THE AMOUNTS DESCRIBED IN
16 SUBPARAGRAPHS (I) TO (IV) OF THIS PARAGRAPH (a), WHICH THE C-FLEX
17 FACILITATOR RETAINS TO OFFSET THE COSTS OF ADMINISTERING THE
18 C-FLEX PROGRAM.

19 (b) NOTWITHSTANDING ANY PROVISION OF SUBPARAGRAPH (IV)
20 OF PARAGRAPH (a) OF THIS SUBSECTION (4) TO THE CONTRARY, A PARENT
21 MAY RECEIVE THE AMOUNT SPECIFIED IN SUBPARAGRAPH (IV) OF
22 PARAGRAPH (a) OF THIS SUBSECTION (4) FOR NO MORE THAN FIVE SCHOOL
23 YEARS, INCLUDING ANY SCHOOL YEARS IN WHICH THE PARENT'S ELIGIBLE
24 STUDENT WAS ENROLLED IN A PUBLIC SCHOOL AND THE LOCAL EDUCATION
25 PROVIDER THAT ENROLLED THE STUDENT RECEIVED MONEYS ON THE
26 STUDENT'S BEHALF PURSUANT TO SECTION 22-24-104.

27 (5) (a) IN ADDITION TO THE STATE MONEYS THAT THE C-FLEX

1 FACILITATOR ANNUALLY DEPOSITS INTO THE C-FLEX ACCOUNT PURSUANT
2 TO SUBSECTION (4) OF THIS SECTION, A PARENT MAY DEPOSIT INTO THE
3 ACCOUNT UP TO TEN THOUSAND DOLLARS PER SCHOOL YEAR SO LONG AS
4 THE PARENT PARTICIPATES IN THE C-FLEX PROGRAM.

5 (b) THE STATE MONEYS THAT ARE DEPOSITED TO A PARENT'S
6 C-FLEX ACCOUNT AND ANY INTEREST EARNED ON MONEYS IN THE
7 ACCOUNT DO NOT CONSTITUTE TAXABLE INCOME TO THE PARENT. THE
8 AMOUNT THAT A PARENT DEPOSITS INTO THE ACCOUNT PURSUANT TO
9 PARAGRAPH (a) OF THIS SUBSECTION (5) IS DEDUCTIBLE FROM THE
10 PARENT'S STATE INCOME TAX.

11 (6) (a) A PARENT IS DEEMED TO PARTICIPATE IN THE C-FLEX
12 PROGRAM UNTIL ONE OF THE FOLLOWING EVENTS OCCURS:

13 (I) THE PARENT'S ELIGIBLE STUDENT COMPLETES TWELFTH GRADE;

14 (II) THE PARENT'S STUDENT BECOMES INELIGIBLE TO PARTICIPATE
15 AS PROVIDED IN SUBSECTION (3) OF THIS SECTION; OR

16 (III) THE PARENT NOTIFIES THE C-FLEX FACILITATOR, AS
17 PROVIDED IN SECTION 22-59-108, THAT THE PARENT IS WITHDRAWING
18 FROM THE PROGRAM.

19 (b) IF A PARENT WITHDRAWS FROM THE C-FLEX PROGRAM
20 DURING A SCHOOL YEAR AFTER STATE MONEYS HAVE BEEN DEPOSITED IN
21 THE PARENT'S C-FLEX ACCOUNT, THE C-FLEX FACILITATOR SHALL
22 WITHDRAW FROM THE PARENT'S ACCOUNT ANY PORTION OF THE AMOUNT
23 OF STATE MONEYS DEPOSITED FOR THE SCHOOL YEAR THAT REMAINS AS OF
24 THE DATE THE PARENT WITHDRAWS AND TRANSFER THE WITHDRAWN
25 AMOUNT TO THE STATE TREASURER. THE STATE TREASURER SHALL CREDIT
26 THE TRANSFERRED AMOUNT TO THE GENERAL FUND. THE PARENT MAY
27 CONTINUE USING ANY OTHER MONEYS REMAINING IN THE PARENT'S

1 ACCOUNT AS PROVIDED IN PARAGRAPH (c) OF THIS SUBSECTION (6).

2 (c) A PARENT, AND HIS OR HER ELIGIBLE STUDENT AFTER THE
3 STUDENT REACHES EIGHTEEN YEARS OF AGE, MAY CONTINUE TO USE
4 MONEYS FROM THE C-FLEX ACCOUNT AS PROVIDED IN SUBSECTION (7) OF
5 THIS SECTION AFTER THE PARENT IS NO LONGER PARTICIPATING IN THE
6 C-FLEX PROGRAM UNTIL THE ACCOUNT IS FULLY DEPLETED. AT ANY TIME
7 AFTER A PARENT IS NO LONGER PARTICIPATING IN THE C-FLEX PROGRAM,
8 THE PARENT MAY CHOOSE TO CLOSE THE C-FLEX ACCOUNT BY NOTIFYING
9 THE C-FLEX FACILITATOR. UPON RECEIVING THE NOTICE TO CLOSE THE
10 ACCOUNT, THE FACILITATOR SHALL AS SOON AS PRACTICABLE:

11 (I) TRANSFER TO THE PARENT THE BALANCE, AS OF THE DATE THE
12 FACILITATOR RECEIVES THE NOTICE, OF ANY MONEYS THAT THE PARENT
13 DEPOSITS INTO THE C-FLEX ACCOUNT AND ANY INTEREST EARNED ON THE
14 MONEYS; AND

15 (II) TRANSFER TO THE STATE TREASURER THE REMAINING
16 BALANCE OF THE C-FLEX ACCOUNT. THE STATE TREASURER SHALL
17 CREDIT THE AMOUNT OF THE TRANSFERRED MONEYS TO THE GENERAL
18 FUND.

19 (d) NOTWITHSTANDING ANY PROVISION OF PARAGRAPH (c) OF THIS
20 SUBSECTION (6) TO THE CONTRARY, THE C-FLEX FACILITATOR SHALL
21 CLOSE A PARENT'S C-FLEX ACCOUNT AS PROVIDED IN SECTION 22-59-108
22 (7) (d) IF THE PARENT IS PERMANENTLY SUSPENDED FROM THE C-FLEX
23 PROGRAM.

24 (7) (a) A PARENT MAY USE THE MONEYS DEPOSITED INTO THE
25 PARENT'S C-FLEX ACCOUNT FOR THE FOLLOWING PURPOSES:

- 26 (I) SERVICES PROVIDED BY AN APPROVED LEARNER ADVOCATE;
- 27 (II) INSTRUCTIONAL MATERIALS, INCLUDING DIGITAL DEVICES,

1 DIGITAL PERIPHERY DEVICES, AND ASSISTIVE TECHNOLOGY DEVICES THAT
2 ALLOW A STUDENT TO ACCESS INSTRUCTION OR INSTRUCTIONAL CONTENT;

3 (III) A COMPLETE COURSE OF STUDY FOR A PARTICULAR CONTENT
4 AREA OR GRADE LEVEL, INCLUDING ANY REQUIRED SUPPLEMENTAL
5 MATERIALS;

6 (IV) SPECIALIZED INSTRUCTIONAL SERVICES PURCHASED FROM
7 APPROVED PROVIDERS THAT THE PARENT SELECTS. SPECIALIZED
8 INSTRUCTIONAL SERVICES MAY INCLUDE, BUT ARE NOT LIMITED TO:

9 (A) APPLIED BEHAVIOR ANALYSIS SERVICES;

10 (B) SERVICES PROVIDED BY A SPEECH-LANGUAGE PATHOLOGIST OR
11 A SCHOOL SPEECH-LANGUAGE PATHOLOGIST, AS BOTH ARE DEFINED IN
12 SECTION 12-43.7-103, C.R.S.;

13 (C) SERVICES PROVIDED BY A LICENSED OCCUPATIONAL
14 THERAPIST, AS DEFINED IN SECTION 12-40.5-103, C.R.S., OR A LICENSED
15 PHYSICAL THERAPIST, AS DEFINED IN SECTION 12-41-103, C.R.S.; AND

16 (D) SERVICES PROVIDED BY LISTENING AND SPOKEN LANGUAGE
17 SPECIALISTS AND AN APPROPRIATE ACOUSTICAL ENVIRONMENT FOR AN
18 ELIGIBLE STUDENT WHO IS DEAF OR HARD OF HEARING AND WHO HAS
19 RECEIVED AN IMPLANT OR ASSISTIVE HEARING DEVICE.

20 (V) ENROLLMENT IN, OR TUITION, FEES, OR COSTS OF BOOKS
21 ASSOCIATED WITH ENROLLMENT IN, AN APPROVED PRIVATE SCHOOL OR AN
22 APPROVED PRIVATE ON-LINE PROGRAM; AN APPROVED POSTSECONDARY
23 INSTITUTION; OR AN APPROVED PRIVATE TUTORING PROGRAM;

24 (VI) FEES FOR NATIONALLY STANDARDIZED, NORM-REFERENCED
25 ACHIEVEMENT TESTS, ADVANCED PLACEMENT EXAMINATIONS, INDUSTRY
26 CERTIFICATION EXAMINATIONS, ASSESSMENTS RELATED TO
27 POSTSECONDARY EDUCATION, OR OTHER ASSESSMENTS; AND

1 (VII) CONTRACTED SERVICES PROVIDED BY A PUBLIC SCHOOL OR
2 BY A SCHOOL DISTRICT, INCLUDING CLASSES. A STUDENT WHO RECEIVES
3 SERVICES UNDER A CONTRACT AS DESCRIBED IN THIS SUBPARAGRAPH (VII)
4 IS NOT CONSIDERED ENROLLED IN A PUBLIC SCHOOL FOR ELIGIBILITY
5 PURPOSES AS SPECIFIED IN SUBSECTION (3) OF THIS SECTION.

6 (b) A PARENT MAY APPLY TO THE STATE BOARD FOR PERMISSION
7 TO USE THE MONEYS DEPOSITED IN THE PARENT'S C-FLEX ACCOUNT FOR
8 A PURPOSE THAT IS NOT LISTED IN PARAGRAPH (a) OF THIS SUBSECTION (7)
9 BUT THAT WILL ADVANCE THE ELIGIBLE STUDENT'S EDUCATIONAL
10 ATTAINMENT. THE STATE BOARD, IN DETERMINING WHETHER TO GRANT
11 THE PARENT'S REQUEST, SHALL ENSURE THAT THE DETERMINATION
12 PROVIDES THE WIDEST DEGREE OF PARENTAL CHOICE AND PROTECTS THE
13 BEST INTERESTS OF ELIGIBLE STUDENTS, AND THE STATE BOARD SHALL
14 NOT UNREASONABLY DENY THE PARENT'S REQUEST.

15 (c) IN THE 2016-17 AND 2017-18 SCHOOL YEARS, EACH PARENT
16 SHALL USE AT LEAST FIVE PERCENT OF THE STATE MONEYS DEPOSITED
17 INTO THE PARENT'S C-FLEX ACCOUNT EACH YEAR TO PURCHASE SERVICES
18 FROM AN APPROVED LEARNER ADVOCATE. IN SUBSEQUENT SCHOOL YEARS,
19 A PARENT MAY USE UP TO FIVE PERCENT OF THE STATE MONEYS DEPOSITED
20 INTO THE PARENT'S C-FLEX ACCOUNT EACH YEAR TO PURCHASE SERVICES
21 FROM AN APPROVED LEARNER ADVOCATE; EXCEPT THAT, IN ANY YEAR IN
22 WHICH IT IS DETERMINED PURSUANT TO SECTION 22-59-109 THAT THE
23 PARENT'S ELIGIBLE STUDENT IS NOT MAKING SUFFICIENT ACADEMIC
24 PROGRESS, THE PARENT SHALL USE AT LEAST FIVE PERCENT OF THE STATE
25 MONEYS DEPOSITED INTO THE PARENT'S C-FLEX ACCOUNT FOR THAT
26 SCHOOL YEAR TO PURCHASE SERVICES FROM AN APPROVED LEARNER
27 ADVOCATE.

1 (d) IN EACH SCHOOL YEAR IN WHICH THE C-FLEX FACILITATOR
2 DEPOSITS STATE MONEYS INTO A PARENT'S ACCOUNT, THE PARENT MUST
3 SPEND AT LEAST SEVENTY PERCENT OF THE AMOUNT OF STATE MONEYS
4 DEPOSITED FOR THAT SCHOOL YEAR.

5 (8) A PROVIDER, A LEARNER ADVOCATE, A PUBLIC SCHOOL, OR ANY
6 OTHER ENTITY FROM WHICH A PARENT PURCHASES MATERIALS,
7 RESOURCES, OR SERVICES USING MONEYS WITHDRAWN FROM A C-FLEX
8 ACCOUNT SHALL NOT, IN ANY MANNER, SHARE WITH, OR REFUND OR
9 REBATE TO, THE PARENT OR ELIGIBLE STUDENT ANY MONEYS THAT IT
10 RECEIVES FROM A C-FLEX ACCOUNT.

11 (9) A PARENT THAT PARTICIPATES IN THE C-FLEX PROGRAM IS
12 RESPONSIBLE FOR PROCURING THE MATERIAL, RESOURCES, AND SERVICES
13 NECESSARY TO EDUCATE THE PARENT'S ELIGIBLE STUDENT. A SCHOOL
14 DISTRICT OF RESIDENCE IS NOT OBLIGATED TO PROVIDE A FREE
15 APPROPRIATE PUBLIC EDUCATION TO AN ELIGIBLE STUDENT WHO IS
16 PARTICIPATING IN THE C-FLEX PROGRAM. FOR PURPOSES OF ARTICLE 20
17 OF THIS TITLE AND THE FEDERAL "INDIVIDUALS WITH DISABILITIES
18 EDUCATION ACT", 20 U.S.C. SEC. 1400 ET SEQ., AS AMENDED, AN
19 ELIGIBLE STUDENT WHO PARTICIPATES IN THE C-FLEX PROGRAM HAS
20 ONLY THOSE RIGHTS THAT APPLY TO ALL OTHER UNILATERALLY
21 PARENTALLY PLACED STUDENTS; EXCEPT THAT, WHEN REQUESTED BY THE
22 PARENT, PERSONNEL OF THE ELIGIBLE STUDENT'S SCHOOL DISTRICT OF
23 RESIDENCE MUST DEVELOP AN INDIVIDUAL EDUCATION PLAN FOR THE
24 ELIGIBLE STUDENT.

25 **22-59-105. C-FLEX facilitator - selection - duties.** (1) NO
26 LATER THAN SEPTEMBER 1, 2015, THE DEPARTMENT SHALL ISSUE A
27 REQUEST FOR PROPOSALS FOR AN ORGANIZATION THAT THE STATE BOARD

1 MUST CONTRACT WITH TO ACT AS THE C-FLEX FACILITATOR. THE STATE
2 BOARD SHALL SELECT AN ORGANIZATION THAT HAS DEMONSTRATED
3 SUCCESS IN ADMINISTERING FINANCIAL ACCOUNTS AND IS CAPABLE OF
4 EFFICIENTLY IMPLEMENTING A SYSTEM FOR PAYMENT BY ELECTRONIC
5 FUNDS TRANSFER OF MONEYS FROM C-FLEX ACCOUNTS. THE STATE
6 BOARD SHALL SELECT THE C-FLEX FACILITATOR AND ENTER INTO A
7 CONTRACT WITH THE C-FLEX FACILITATOR NO LATER THAN JANUARY 1,
8 2016, WHICH CONTRACT IS SUBJECT TO ANNUAL REVIEW AND RENEWAL.

9 (2) THE C-FLEX FACILITATOR MAY RETAIN FROM EACH C-FLEX
10 ACCOUNT UP TO THREE PERCENT OF THE AMOUNT THAT IT ANNUALLY
11 RECEIVES FROM THE DEPARTMENT FOR EACH ACCOUNT TO OFFSET THE
12 COSTS THAT THE C-FLEX FACILITATOR INCURS IN ADMINISTERING THE
13 C-FLEX PROGRAM. THE CONTRACT BETWEEN THE C-FLEX FACILITATOR
14 AND THE STATE BOARD MUST NOT INCLUDE ANY ADDITIONAL AMOUNT OF
15 REMUNERATION TO THE C-FLEX FACILITATOR FROM THE STATE.

16 (3) IN ADDITION TO ANY OTHER DUTIES SPECIFIED IN THIS ARTICLE,
17 THE C-FLEX FACILITATOR HAS THE FOLLOWING DUTIES:

18 (a) PUBLICIZING THE C-FLEX PROGRAM;

19 (b) CREATING AND PUBLICIZING THE LISTS OF APPROVED LEARNER
20 ADVOCATES AND APPROVED PROVIDERS;

21 (c) CREATING AND DISTRIBUTING THE AGREEMENT FORM
22 DESCRIBED IN SECTION 22-59-108 (3);

23 (d) ACCEPTING AND REVIEWING APPLICATIONS AND AGREEMENT
24 FORMS THAT PARENTS SUBMIT PURSUANT TO SECTION 22-59-108,
25 NOTIFYING PARENTS WHO ARE ACCEPTED INTO THE C-FLEX PROGRAM,
26 AND CREATING AND MAINTAINING A SEPARATE C-FLEX ACCOUNT FOR
27 EACH APPLICANT WHO QUALIFIES PURSUANT TO SECTION 22-59-104;

1 (e) EXPLAINING TO PARENTS WHO PARTICIPATE IN THE C-FLEX
2 PROGRAM THE REQUIREMENTS IMPOSED ON PARENTS PURSUANT TO THIS
3 ARTICLE, INCLUDING THE AUTHORIZED PURPOSES FOR WHICH MONEYS MAY
4 BE SPENT, HOW TO WITHDRAW MONEYS FROM THEIR C-FLEX ACCOUNTS,
5 THE AGREEMENT FORM DESCRIBED IN SECTION 22-59-108 (3), AND THE
6 PROCESS FOR ENFORCING THE REQUIREMENTS OF THIS ARTICLE DESCRIBED
7 IN SECTION 22-59-108 (7);

8 (f) DEVELOPING AND IMPLEMENTING A SYSTEM FOR DISTRIBUTING
9 MONEYS FROM C-FLEX ACCOUNTS, WHICH SYSTEM MAY INCLUDE BUT IS
10 NOT LIMITED TO DEBIT CARDS, ELECTRONIC PAYMENT CARDS, OR ANY
11 OTHER MEANS OF ELECTRONIC PAYMENT THAT THE C-FLEX FACILITATOR
12 FINDS TO BE COMMERCIALY VIABLE OR COST-EFFECTIVE;

13 (g) DEPOSITING MONEYS RECEIVED FROM THE DEPARTMENT AND
14 ANY MONEYS RECEIVED FROM THE PARENT TO C-FLEX ACCOUNTS,
15 DISBURSING MONEYS FROM C-FLEX ACCOUNTS, AND INVESTING UNUSED
16 MONEYS AS PROVIDED IN SUBSECTION (4) OF THIS SECTION;

17 (h) MONITORING PARENTS' USE OF MONEYS DISBURSED FROM
18 C-FLEX ACCOUNTS AS PROVIDED IN SECTION 22-59-108; AND

19 (i) SUSPENDING A PARENT FROM THE C-FLEX PROGRAM,
20 TRANSFERRING TO THE STATE TREASURER ANY MONEYS REMAINING IN THE
21 PARENT'S ACCOUNT, AND NOTIFYING THE DEPARTMENT OF THE
22 SUSPENSION, AS PROVIDED IN SECTION 22-59-108.

23 (4) WITH THE CONSENT OF THE PARENT, THE C-FLEX FACILITATOR
24 MAY INVEST ANY MONEYS IN A C-FLEX ACCOUNT THAT ARE NOT
25 IMMEDIATELY REQUIRED TO BE DISBURSED USING THE INVESTMENTS
26 AUTHORIZED FOR THE STATE TREASURER IN SECTION 24-36-113, C.R.S.
27 THE FACILITATOR SHALL CREDIT THE AMOUNT OF INVESTMENT INCOME

1 EARNED ON THE MONEYS IN EACH C-FLEX ACCOUNT TO THE ACCOUNT.

2 (5) THE C-FLEX FACILITATOR SHALL POST AND MAINTAIN A
3 SURETY BOND OR LETTER OF CREDIT IN THE AMOUNT THAT THE
4 DEPARTMENT ESTIMATES THE C-FLEX FACILITATOR WILL RECEIVE TO
5 DEPOSIT IN C-FLEX ACCOUNTS IN A SCHOOL YEAR. THE BOND MUST BE
6 CONDITIONED TO PROVIDE INDEMNIFICATION TO THE STATE IN CASE OF THE
7 LOSS OF THE STATE MONEYS DEPOSITED IN THE C-FLEX ACCOUNTS AND
8 PROVIDE INDEMNIFICATION TO A PARENT IN CASE OF THE LOSS OF ANY
9 MONEYS THE PARENT MAY DEPOSIT IN HIS OR HER C-FLEX ACCOUNT.

10 **22-59-106. Learner advocates - approved list.** (1) A LEARNER
11 ADVOCATE IS A PERSON WHO ASSISTS A PARENT AND HIS OR HER ELIGIBLE
12 STUDENT IN SELECTING EDUCATIONAL SERVICES, PROVIDERS, AND
13 MATERIALS AND HELPS TO ENSURE THAT THE EDUCATIONAL SERVICES,
14 PROVIDERS, AND MATERIALS THAT THE PARENT PURCHASES ARE LIKELY TO
15 EFFECTIVELY MEET THE NEEDS OF THE PARENT'S ELIGIBLE STUDENT.

16 (2) A LEARNER ADVOCATE MUST DEMONSTRATE:

17 (a) SUCCESSFUL EXPERIENCE IN SUPPORTING STUDENTS AS AN
18 ADVOCATE, COUNSELOR, MENTOR, OR TEACHER OR BY SERVING IN
19 ANOTHER SIMILAR CAPACITY;

20 (b) THE LEARNER ADVOCATE'S FAMILIARITY WITH THE DIVERSITY
21 OF LEARNING OPPORTUNITIES AND PROVIDERS THAT ARE AVAILABLE
22 LOCALLY AND ON-LINE THAT THE PARENT AND ELIGIBLE STUDENT MAY
23 ACCESS USING THE C-FLEX MONEYS;

24 (c) THAT THE LEARNER ADVOCATE DOES NOT HAVE A DIRECT
25 RELATIONSHIP OR CURRENT EMPLOYMENT WITH AN APPROVED PROVIDER;
26 AND

27 (d) THAT THE LEARNER ADVOCATE FOLLOWS PROCEDURES THAT

1 ARE DESIGNED TO PROTECT STUDENT PRIVACY.

2 (3) (a) BY JULY 1, 2016, THE C-FLEX FACILITATOR SHALL CREATE
3 AND MAINTAIN A LIST OF APPROVED LEARNER ADVOCATES AND ANNUALLY
4 MAKE THE LIST AVAILABLE TO THE PUBLIC. A PERSON WHO SEEKS TO BE
5 LISTED AS AN APPROVED LEARNER ADVOCATE MUST APPLY TO THE
6 C-FLEX FACILITATOR BY PROVIDING DOCUMENTATION THAT
7 DEMONSTRATES THE PERSON MEETS THE REQUIREMENTS SPECIFIED IN
8 SUBSECTION (2) OF THIS SECTION. BEFORE SUBMITTING AN APPLICATION,
9 THE PERSON MUST SUBMIT TO THE COLORADO BUREAU OF INVESTIGATION
10 A COMPLETE SET OF THE PERSON'S FINGERPRINTS TAKEN BY A QUALIFIED
11 LAW ENFORCEMENT AGENCY. THE APPLICANT MUST SUBMIT THE
12 FINGERPRINTS TO OBTAIN A FINGERPRINT-BASED CRIMINAL HISTORY
13 RECORD CHECK THROUGH THE COLORADO BUREAU OF INVESTIGATION AND
14 THE FEDERAL BUREAU OF INVESTIGATION TO DETERMINE WHETHER THE
15 PERSON HAS A CRIMINAL HISTORY. THE PERSON MUST PAY TO THE
16 COLORADO BUREAU OF INVESTIGATION THE FEE THAT THE BUREAU
17 ESTABLISHES FOR CONDUCTING THE CRIMINAL HISTORY RECORD CHECK.
18 UPON COMPLETING THE CRIMINAL HISTORY RECORD CHECK, THE BUREAU
19 SHALL FORWARD THE RESULTS TO THE DEPARTMENT, AND THE
20 DEPARTMENT SHALL FORWARD THE RESULTS TO THE C-FLEX
21 FACILITATOR.

22 (b) THE C-FLEX FACILITATOR SHALL NOT INCLUDE A PERSON ON
23 THE LIST OF APPROVED LEARNER ADVOCATES IF THE CRIMINAL HISTORY
24 RECORD CHECK DEMONSTRATES THAT:

25 (I) THE PERSON HAS BEEN CONVICTED OF:

26 (A) FELONY CHILD ABUSE, AS DESCRIBED IN SECTION 18-6-401,
27 C.R.S.;

1 (B) A CRIME OF VIOLENCE, AS DEFINED IN SECTION 18-1.3-406,
2 C.R.S.;

3 (C) A FELONY OFFENSE INVOLVING UNLAWFUL SEXUAL BEHAVIOR,
4 AS DEFINED IN SECTION 16-22-102 (9), C.R.S.; OR

5 (D) A FELONY OFFENSE IN ANOTHER STATE, THE UNITED STATES,
6 OR A TERRITORY SUBJECT TO THE JURISDICTION OF THE UNITED STATES,
7 THE ELEMENTS OF WHICH ARE SUBSTANTIALLY SIMILAR TO THE ELEMENTS
8 OF ONE OF THE OFFENSES DESCRIBED IN SUB-SUBPARAGRAPHS (A) TO (C)
9 OF THIS SUBPARAGRAPH (I);

10 (II) THE PERSON HAS BEEN CONVICTED OF INDECENT EXPOSURE, AS
11 DESCRIBED IN SECTION 18-7-302, C.R.S., OR OF A CRIME UNDER THE LAWS
12 OF ANOTHER STATE, A MUNICIPALITY OF THIS OR ANOTHER STATE, THE
13 UNITED STATES, OR A TERRITORY SUBJECT TO THE JURISDICTION OF THE
14 UNITED STATES, THE ELEMENTS OF WHICH ARE SUBSTANTIALLY SIMILAR
15 TO THE OFFENSE OF INDECENT EXPOSURE DESCRIBED IN THIS
16 SUBPARAGRAPH (II); OR

17 (III) THE PERSON HAS RECEIVED A DISPOSITION OR AN
18 ADJUDICATION FOR AN OFFENSE THAT WOULD CONSTITUTE FELONY
19 UNLAWFUL SEXUAL BEHAVIOR, AS DEFINED IN SECTION 16-22-102 (9),
20 C.R.S., IF COMMITTED BY AN ADULT.

21 (c) THE C-FLEX FACILITATOR SHALL REVIEW EACH APPLICATION
22 AND, UPON DETERMINING THAT THE APPLICANT MEETS THE REQUIREMENTS
23 SPECIFIED IN SUBSECTION (2) OF THIS SECTION AND IS NOT DISQUALIFIED
24 UNDER THE PROVISIONS OF PARAGRAPH (b) OF THIS SUBSECTION (3),
25 INCLUDE THE APPLICANT ON THE LIST OF APPROVED LEARNER ADVOCATES.
26 THE C-FLEX FACILITATOR SHALL REMOVE A LEARNER ADVOCATE FROM
27 THE LIST IF THE C-FLEX FACILITATOR HAS REASON TO BELIEVE THAT THE

1 LEARNER ADVOCATE NO LONGER MEETS THE CRITERIA SPECIFIED IN
2 SUBSECTION (2) OF THIS SECTION, IF THE LEARNER ADVOCATE VIOLATES
3 THE PROVISIONS OF SECTION 22-59-104 (8), OR IF THE LEARNER ADVOCATE
4 IS CONVICTED OF AN OFFENSE SPECIFIED THIS SUBSECTION (3). IF THE
5 C-FLEX FACILITATOR FINDS THAT A LEARNER ADVOCATE DOES NOT MEET
6 THE REQUIREMENTS OR REMOVES A LEARNER ADVOCATE FROM THE
7 APPROVED LIST, THE APPLICANT MAY APPEAL THE C-FLEX FACILITATOR'S
8 ACTION TO THE STATE BOARD. THE C-FLEX FACILITATOR AND THE STATE
9 BOARD, IN DETERMINING WHETHER TO INCLUDE A LEARNER ADVOCATE ON
10 THE LIST OF APPROVED LEARNER ADVOCATES, SHALL ENSURE THAT THE
11 DETERMINATION PROVIDES THE WIDEST DEGREE OF PARENTAL CHOICE AND
12 PROTECTS THE BEST INTERESTS OF ELIGIBLE STUDENTS. THE C-FLEX
13 FACILITATOR AND THE STATE BOARD SHALL NOT UNREASONABLY REFUSE
14 TO INCLUDE A LEARNER ADVOCATE ON THE LIST OF APPROVED LEARNER
15 ADVOCATES.

16 (4) (a) A PARENT MAY APPLY TO THE C-FLEX FACILITATOR TO
17 PURCHASE SERVICES FROM A LEARNER ADVOCATE WHO IS NOT ON THE
18 APPROVED LIST. THE C-FLEX FACILITATOR SHALL REVIEW THE LEARNER
19 ADVOCATE'S QUALIFICATIONS AND SHALL NOT UNREASONABLY DENY THE
20 PARENT'S REQUEST. IF THE C-FLEX FACILITATOR DENIES A PARENT'S
21 REQUEST, THE PARENT MAY APPEAL THE DENIAL TO THE STATE BOARD.
22 THE STATE BOARD SHALL REVIEW THE LEARNER ADVOCATE'S
23 QUALIFICATIONS AND SHALL NOT UNREASONABLY DENY THE PARENT'S
24 REQUEST. THE C-FLEX FACILITATOR AND THE STATE BOARD, IN
25 DETERMINING WHETHER TO GRANT A PARENT'S REQUEST TO PURCHASE
26 SERVICES FROM A LEARNER ADVOCATE WHO IS NOT ON THE APPROVED
27 LIST, SHALL ENSURE THAT THE DETERMINATION PROVIDES THE WIDEST

1 DEGREE OF PARENTAL CHOICE AND PROTECTS THE BEST INTERESTS OF
2 ELIGIBLE STUDENTS.

3 (b) NOTWITHSTANDING ANY PROVISION OF PARAGRAPH (a) OF THIS
4 SUBSECTION (4) TO THE CONTRARY, THE C-FLEX FACILITATOR AND THE
5 STATE BOARD SHALL NOT APPROVE A REQUEST TO PURCHASE SERVICES
6 FROM A LEARNER ADVOCATE WHO HAS BEEN CONVICTED OF OR RECEIVED
7 A DISPOSITION OR AN ADJUDICATION FOR AN OFFENSE LISTED IN
8 PARAGRAPH (b) OF SUBSECTION (3) OF THIS SECTION.

9 **22-59-107. Providers - approved list.** (1) BY JULY 1, 2016, THE
10 C-FLEX FACILITATOR SHALL PREPARE AND MAINTAIN A LIST OF
11 APPROVED PROVIDERS THAT A PARENT MAY USE IN PURCHASING
12 EDUCATIONAL SERVICES USING MONEYS DEPOSITED IN THE PARENT'S
13 C-FLEX ACCOUNT. THE C-FLEX FACILITATOR SHALL ANNUALLY MAKE
14 THE LIST OF APPROVED PROVIDERS AVAILABLE TO THE PUBLIC.

15 (2) TO BE INCLUDED ON THE LIST OF APPROVED PROVIDERS:

16 (a) A SPECIALIZED INSTRUCTIONAL SERVICES PROVIDER WHO IS A
17 MEMBER OF A REGULATED PROFESSION MUST BE CREDENTIALLED AND IN
18 GOOD STANDING;

19 (b) A SPECIALIZED INSTRUCTIONAL SERVICES PROVIDER WHO IS A
20 MEMBER OF A PROFESSION THAT IS NOT REGULATED MUST DEMONSTRATE
21 THAT HE OR SHE HAS THE NECESSARY EDUCATION AND EXPERIENCE TO
22 PROVIDE EFFECTIVE SERVICES THAT WILL ADVANCE AN ELIGIBLE
23 STUDENT'S EDUCATIONAL ATTAINMENT;

24 (c) A SUPPLEMENTAL EDUCATION SERVICES PROVIDER, PRIVATE
25 SCHOOL, OR PRIVATE ON-LINE EDUCATIONAL PROGRAM THAT SERVES
26 STUDENTS ENROLLED IN KINDERGARTEN OR IN ANY OF GRADES ONE
27 THROUGH TWELVE MUST DEMONSTRATE THAT IT HAS BEEN IN OPERATION

1 FOR AT LEAST TWO YEARS AND THAT EACH EMPLOYEE WHO HAS CONTACT
2 WITH STUDENTS HAS OBTAINED A FINGERPRINT-BASED CRIMINAL HISTORY
3 RECORD CHECK AND HAS NOT BEEN CONVICTED OF OR RECEIVED A
4 DISPOSITION OR ADJUDICATION FOR AN OFFENSE LISTED IN SECTION
5 22-59-106 (3) (b); AND

6 (d) A POSTSECONDARY INSTITUTION MUST BE ACCREDITED BY A
7 REGIONAL OR NATIONAL ACCREDITING BODY THAT IS RECOGNIZED BY THE
8 FEDERAL DEPARTMENT OF EDUCATION.

9 (3) (a) A PROVIDER MAY APPLY TO THE C-FLEX FACILITATOR TO
10 BE INCLUDED ON THE LIST OF APPROVED PROVIDERS BY SUBMITTING
11 DOCUMENTATION THAT DEMONSTRATES THAT THE APPLICANT MEETS THE
12 APPLICABLE REQUIREMENTS SPECIFIED IN SUBSECTION (2) OF THIS
13 SECTION. BEFORE SUBMITTING AN APPLICATION, A SPECIALIZED
14 INSTRUCTIONAL SERVICES PROVIDER MUST SUBMIT TO THE COLORADO
15 BUREAU OF INVESTIGATION A COMPLETE SET OF THE PERSON'S
16 FINGERPRINTS TAKEN BY A QUALIFIED LAW ENFORCEMENT AGENCY. THE
17 APPLICANT MUST SUBMIT THE FINGERPRINTS TO OBTAIN A
18 FINGERPRINT-BASED CRIMINAL HISTORY RECORD CHECK THROUGH THE
19 COLORADO BUREAU OF INVESTIGATION AND THE FEDERAL BUREAU OF
20 INVESTIGATION TO DETERMINE WHETHER THE PERSON HAS A CRIMINAL
21 HISTORY. THE PERSON MUST PAY TO THE COLORADO BUREAU OF
22 INVESTIGATION THE FEE THAT THE BUREAU ESTABLISHES FOR CONDUCTING
23 THE CRIMINAL HISTORY RECORD CHECK. UPON COMPLETING THE CRIMINAL
24 HISTORY RECORD CHECK, THE BUREAU SHALL FORWARD THE RESULTS TO
25 THE C-FLEX FACILITATOR.

26 (b) THE C-FLEX FACILITATOR SHALL NOT INCLUDE A SPECIALIZED
27 INSTRUCTIONAL SERVICES PROVIDER ON THE LIST OF APPROVED PROVIDERS

1 IF THE CRIMINAL HISTORY RECORD CHECK DEMONSTRATES THAT THE
2 SPECIALIZED INSTRUCTIONAL SERVICES PROVIDER HAS BEEN CONVICTED
3 OF, OR RECEIVED A DISPOSITION OR BEEN ADJUDICATED FOR, AN OFFENSE
4 LISTED IN SECTION 22-59-106 (3) (b).

5 (c) THE C-FLEX FACILITATOR SHALL REVIEW EACH APPLICATION
6 AND, UPON DETERMINING THAT THE APPLICANT MEETS THE APPLICABLE
7 REQUIREMENTS SPECIFIED IN SUBSECTION (2) OF THIS SECTION AND IS NOT
8 DISQUALIFIED UNDER THE PROVISIONS OF PARAGRAPH (b) OF THIS
9 SUBSECTION (3), INCLUDE THE APPLICANT ON THE LIST OF APPROVED
10 PROVIDERS. THE C-FLEX FACILITATOR MAY REMOVE A PROVIDER FROM
11 THE LIST IF THE C-FLEX FACILITATOR HAS REASON TO BELIEVE THAT THE
12 PROVIDER NO LONGER MEETS THE APPLICABLE REQUIREMENTS SPECIFIED
13 IN SUBSECTION (2) OF THIS SECTION, IF THE PROVIDER VIOLATES THE
14 PROVISIONS OF SECTION 22-59-104 (8), OR IF THE PROVIDER OR AN
15 EMPLOYEE OF THE PROVIDER IS CONVICTED OF AN OFFENSE SPECIFIED IN
16 SECTION 22-59-106 (3) (b). IF THE C-FLEX FACILITATOR FINDS THAT A
17 PROVIDER DOES NOT MEET THE REQUIREMENTS OR REMOVES A PROVIDER
18 FROM THE APPROVED LIST, THE PROVIDER MAY APPEAL THE C-FLEX
19 FACILITATOR'S ACTION TO THE STATE BOARD. THE C-FLEX FACILITATOR
20 AND THE STATE BOARD, IN DETERMINING WHETHER TO INCLUDE A
21 PROVIDER ON THE LIST OF APPROVED PROVIDERS, SHALL ENSURE THAT THE
22 DETERMINATION PROVIDES THE WIDEST DEGREE OF PARENTAL CHOICE AND
23 PROTECTS THE BEST INTERESTS OF ELIGIBLE STUDENTS.

24 (4) (a) A PARENT MAY APPLY TO THE C-FLEX FACILITATOR TO
25 PURCHASE SERVICES FROM A PROVIDER THAT IS NOT ON THE APPROVED
26 LIST. THE C-FLEX FACILITATOR SHALL REVIEW THE PROVIDER'S
27 QUALIFICATIONS AND SHALL NOT UNREASONABLY DENY THE PARENT'S

1 REQUEST. IF THE C-FLEX FACILITATOR DENIES A PARENT'S REQUEST, THE
2 PARENT MAY APPEAL THE DENIAL TO THE STATE BOARD. THE STATE
3 BOARD SHALL REVIEW THE PROVIDER'S QUALIFICATIONS AND SHALL NOT
4 UNREASONABLY DENY THE PARENT'S REQUEST. THE C-FLEX FACILITATOR
5 AND THE STATE BOARD, IN DETERMINING WHETHER TO GRANT A PARENT'S
6 REQUEST TO PURCHASE SERVICES FROM A PROVIDER THAT IS NOT ON THE
7 APPROVED LIST, SHALL ENSURE THAT THE DETERMINATION PROVIDES THE
8 WIDEST DEGREE OF PARENTAL CHOICE AND PROTECTS THE BEST INTERESTS
9 OF ELIGIBLE STUDENTS.

10 (b) NOTWITHSTANDING ANY PROVISION OF PARAGRAPH (a) OF THIS
11 SUBSECTION (4) TO THE CONTRARY, THE C-FLEX FACILITATOR AND THE
12 STATE BOARD SHALL NOT APPROVE A REQUEST TO PURCHASE SERVICES
13 FROM A PROVIDER WHO HAS BEEN CONVICTED OF OR RECEIVED A
14 DISPOSITION OR AN ADJUDICATION FOR AN OFFENSE LISTED IN SECTION
15 22-59-106 (3) (b) OR THAT EMPLOYS, IN POSITIONS THAT INVOLVE
16 CONTACT WITH STUDENTS, PERSONS WHO HAVE BEEN CONVICTED OF OR
17 RECEIVED A DISPOSITION OR AN ADJUDICATION FOR AN OFFENSE LISTED IN
18 SECTION 22-59-106 (3) (b).

19 **22-59-108. C-FLEX program - administration.** (1) A PARENT
20 WHO APPLIES TO PARTICIPATE IN THE C-FLEX PROGRAM IS EXERCISING HIS
21 OR HER PARENTAL AUTHORITY TO DETERMINE THE APPROPRIATE
22 EDUCATIONAL PLACEMENT OR EDUCATIONAL SERVICES THAT BEST MEET
23 THE NEEDS OF THE PARENT'S ELIGIBLE STUDENT.

24 (2) (a) TO PARTICIPATE IN THE C-FLEX PROGRAM IN A SCHOOL
25 YEAR THAT BEGINS ON OR AFTER JULY 1, 2016, A PARENT MUST APPLY TO
26 THE C-FLEX FACILITATOR NO LATER THAN FEBRUARY 1 IMMEDIATELY
27 PRECEDING THE FIRST SCHOOL YEAR IN WHICH THE PARENT'S ELIGIBLE

1 STUDENT WOULD PARTICIPATE IN THE C-FLEX PROGRAM OR BY AN
2 ALTERNATIVE DATE SET BY THE FACILITATOR FOR ANY VACANT, FUNDED
3 POSITIONS. THE PARENT MUST SUBMIT THE APPLICATION DIRECTLY TO THE
4 FACILITATOR IN A MANNER THAT CREATES A WRITTEN OR ELECTRONIC
5 RECORD OF THE APPLICATION AND THE DATE THE FACILITATOR RECEIVES
6 THE APPLICATION.

7 (b) AT A MINIMUM, THE APPLICATION MUST DEMONSTRATE THAT
8 THE PARENT'S CHILD MEETS THE REQUIREMENTS SPECIFIED IN SECTION
9 22-59-104 TO PARTICIPATE IN THE C-FLEX PROGRAM AND MUST INCLUDE
10 THE SIGNED AGREEMENT FORM DESCRIBED IN SUBSECTION (3) OF THIS
11 SECTION. IF APPLICABLE, THE PARENT MUST ALSO SUBMIT WITH THE
12 APPLICATION DOCUMENTATION THAT DEMONSTRATES THAT THE PARENT'S
13 CHILD IS A CHILD WITH A DISABILITY, A GIFTED CHILD, OR AN ENGLISH
14 LANGUAGE LEARNER. THE SCHOOL DISTRICT OR PUBLIC SCHOOL IN WHICH
15 THE CHILD WAS ENROLLED IN THE SCHOOL YEAR PRECEDING THE SCHOOL
16 YEAR IN WHICH THE CHILD PARTICIPATES IN THE C-FLEX PROGRAM SHALL
17 PROVIDE THE DOCUMENTATION AT THE PARENT'S REQUEST.

18 (3) A PARENT WHO ENROLLS AN ELIGIBLE STUDENT IN THE
19 C-FLEX PROGRAM MUST, BY SUBMITTING A SIGNED, WRITTEN FORM
20 PROVIDED BY THE C-FLEX FACILITATOR, AGREE TO:

21 (a) ENSURE THAT THE ELIGIBLE STUDENT IS EXEMPT FROM THE
22 COMPULSORY ATTENDANCE REQUIREMENTS BY MAINTAINING THE
23 ELIGIBLE STUDENT'S ENROLLMENT IN A PRIVATE SCHOOL OR
24 PARTICIPATION IN A NONPUBLIC HOME-BASED EDUCATIONAL PROGRAM, AS
25 AUTHORIZED IN SECTION 22-33-104 (2) (b) AND (2) (i), SO LONG AS THE
26 PARENT PARTICIPATES IN THE C-FLEX PROGRAM UNTIL THE STUDENT
27 COMPLETES TWELFTH GRADE;

1 (b) IF THE ELIGIBLE STUDENT IS PARTICIPATING IN A NONPUBLIC
2 HOME-BASED EDUCATIONAL PROGRAM, NOTIFY THE SCHOOL DISTRICT
3 THAT THE ELIGIBLE STUDENT IS PARTICIPATING IN THE C-FLEX PROGRAM;

4 (c) IF THE ELIGIBLE STUDENT ENROLLS WITH AN APPROVED
5 PROVIDER, AFFIRM THAT THE ELIGIBLE STUDENT REMAINS IN GOOD
6 STANDING WITH THE APPROVED PROVIDER AT WHICH THE ELIGIBLE
7 STUDENT IS ENROLLED;

8 (d) COMPLY WITH THE REQUIREMENTS SPECIFIED IN SECTION
9 22-59-109 TO DEMONSTRATE THAT THE ELIGIBLE STUDENT IS MAKING
10 SUFFICIENT ACADEMIC PROGRESS;

11 (e) COMPLY WITH THE REQUIREMENTS SPECIFIED IN SECTION
12 22-59-104 (7) REGARDING USE OF THE MONEYS DEPOSITED IN THE
13 PARENT'S C-FLEX ACCOUNT;

14 (f) AFFIRM THAT THE PARENT WILL NOT TRANSFER OR USE ANY
15 MONEYS DEPOSITED IN THE C-FLEX ACCOUNT FOR THE BENEFIT OF ANY
16 PERSON OTHER THAN THE ELIGIBLE STUDENT;

17 (g) MAINTAIN A PORTFOLIO OF RECORDS AND MATERIALS AS
18 REQUIRED IN SUBSECTION (5) OF THIS SECTION;

19 (h) ANNUALLY NOTIFY THE C-FLEX FACILITATOR AS PROVIDED IN
20 SUBSECTION (4) OF THIS SECTION WHETHER THE PARENT WILL PARTICIPATE
21 IN THE C-FLEX PROGRAM FOR THE NEXT SCHOOL YEAR OR WITHDRAW
22 FROM THE PROGRAM; AND

23 (i) IMMEDIATELY NOTIFY THE C-FLEX FACILITATOR IF THE
24 PARENT CHOOSES TO WITHDRAW FROM THE C-FLEX PROGRAM DURING A
25 SCHOOL YEAR.

26 (4) (a) BY FEBRUARY 1 OF EACH YEAR, EACH PARENT WHO IS
27 PARTICIPATING IN THE C-FLEX PROGRAM MUST NOTIFY THE FACILITATOR

1 THAT HE OR SHE WILL PARTICIPATE IN THE PROGRAM IN THE NEXT SCHOOL
2 YEAR OR WILL WITHDRAW FROM THE PROGRAM. IF A PARENT CHOOSES TO
3 CONTINUE PARTICIPATING IN THE PROGRAM, THE FACILITATOR MUST
4 CONFIRM THAT THE PARENT'S ELIGIBLE STUDENT CONTINUES TO MEET THE
5 PARTICIPATION REQUIREMENTS SPECIFIED IN SECTION 22-59-104, AND THE
6 PARENT MUST SUBMIT A NOTARIZED, SWORN STATEMENT THAT HE OR SHE
7 IS IN COMPLIANCE WITH THE AGREEMENT DESCRIBED IN SUBSECTION (3) OF
8 THIS SECTION.

9 (b) AFTER A PARENT IS NO LONGER PARTICIPATING IN THE C-FLEX
10 PROGRAM BUT IS STILL USING MONEYS FROM THE C-FLEX ACCOUNT, THE
11 PARENT, OR THE ELIGIBLE STUDENT AFTER HE OR SHE REACHES EIGHTEEN
12 YEARS OF AGE, MUST ANNUALLY SUBMIT TO THE C-FLEX FACILITATOR A
13 NOTARIZED, SWORN STATEMENT THAT HE OR SHE IS IN COMPLIANCE WITH
14 THE PORTIONS OF THE AGREEMENT DESCRIBED IN PARAGRAPHS (e) TO (g)
15 OF SUBSECTION (3) OF THIS SECTION.

16 (5) (a) EACH PARENT WHO PARTICIPATES IN THE C-FLEX
17 PROGRAM MUST MAINTAIN A PORTFOLIO OF RECORDS AND MATERIALS
18 DURING THE ENTIRE PERIOD THAT THE PARENT OR THE ELIGIBLE STUDENT
19 PURCHASES MATERIALS, RESOURCES, OR SERVICES USING MONEYS
20 WITHDRAWN FROM THE C-FLEX ACCOUNT. THE PORTFOLIO MUST
21 INCLUDE THE FOLLOWING:

22 (I) A LOG OF THE EDUCATIONAL INSTRUCTION AND SERVICES THAT
23 THE PARENT OR THE ELIGIBLE STUDENT PURCHASES USING MONEYS
24 WITHDRAWN FROM THE C-FLEX ACCOUNT. THE PARENT SHALL CREATE
25 THE LOG CONTEMPORANEOUSLY WITH DELIVERY OF THE INSTRUCTION AND
26 SERVICES, AND THE LOG MUST DESIGNATE BY TITLE ANY READING
27 MATERIALS THAT THE ELIGIBLE STUDENT USES.

1 (II) SAMPLES OF ANY WRITINGS, WORKSHEETS, WORKBOOKS, OR
2 CREATIVE MATERIALS THAT THE ELIGIBLE STUDENT USES OR DEVELOPS;
3 AND

4 (III) RECEIPTS FOR THE MATERIALS, RESOURCES, AND SERVICES
5 THAT THE PARENT OR THE ELIGIBLE STUDENT PURCHASES USING MONEYS
6 WITHDRAWN FROM THE C-FLEX ACCOUNT.

7 (b) THE PARENT MUST MAINTAIN THE ITEMS IN THE PORTFOLIO FOR
8 AT LEAST TWO YEARS FOLLOWING THE DATE OF CREATION OR PURCHASE
9 AND MAKE THE PORTFOLIO AVAILABLE FOR INSPECTION BY THE C-FLEX
10 FACILITATOR UPON FIFTEEN DAYS' WRITTEN NOTICE.

11 (6) (a) NO LATER THAN MARCH 15, 2016, AND NO LATER THAN
12 MARCH 15 EACH YEAR THEREAFTER, THE C-FLEX FACILITATOR SHALL
13 REPORT TO THE DEPARTMENT FOR EACH ELIGIBLE STUDENT WHO
14 PARTICIPATES IN THE C-FLEX PROGRAM FOR THE NEXT SCHOOL YEAR:

15 (I) THE ELIGIBLE STUDENT'S NAME, ADDRESS, AND SCHOOL
16 DISTRICT OF RESIDENCE;

17 (II) IF THE ELIGIBLE STUDENT DID NOT PARTICIPATE IN THE
18 C-FLEX PROGRAM IN THE PRECEDING SCHOOL YEAR, THE NAME OF THE
19 PUBLIC SCHOOL IN WHICH THE ELIGIBLE STUDENT WAS ENROLLED IN THE
20 PRECEDING SCHOOL YEAR OR THAT THE ELIGIBLE STUDENT HAS NOT
21 PREVIOUSLY ENROLLED IN A PUBLIC SCHOOL OR A PRIVATE SCHOOL OR
22 PARTICIPATED IN A NONPUBLIC HOME-BASED EDUCATIONAL PROGRAM;

23 (III) WHETHER THE ELIGIBLE STUDENT IS A CHILD WITH A
24 DISABILITY, INCLUDING WHETHER THE CHILD HAS ONE OR MORE OF THE
25 DISABILITIES LISTED IN SECTION 22-20-114 (2) (c);

26 (IV) WHETHER THE ELIGIBLE STUDENT IS A GIFTED CHILD; AND

27 (V) WHETHER THE ELIGIBLE STUDENT IS AN ENGLISH LANGUAGE

1 LEARNER, INCLUDING WHETHER THE CHILD MEETS THE REQUIREMENTS OF
2 SECTION 22-59-103 (4) (d) (I) OR (4) (d) (II).

3 (b) IF A PARENT WITHDRAWS FROM THE PROGRAM DURING A
4 SCHOOL YEAR, THE C-FLEX FACILITATOR SHALL REPORT THE NAME AND
5 ADDRESS OF THE WITHDRAWN ELIGIBLE STUDENT TO THE DEPARTMENT AS
6 SOON AS PRACTICABLE AFTER RECEIVING NOTICE FROM THE PARENT.

7 (7) (a) THE C-FLEX FACILITATOR SHALL MONITOR EACH PARENT'S
8 USE OF THE MONEYS DEPOSITED IN THE PARENT'S C-FLEX ACCOUNT TO
9 ENSURE THAT THE PARENT COMPLIES WITH THE AGREEMENT DESCRIBED IN
10 SUBSECTION (3) OF THIS SECTION. THE FACILITATOR MAY REQUIRE EACH
11 PARENT TO SUBMIT RECEIPTS FOR THE PURCHASES DESCRIBED IN SECTION
12 22-59-104 (7) (a) (II) AND (7) (a) (III).

13 (b) IF THE C-FLEX FACILITATOR RECEIVES A WRITTEN COMPLAINT
14 ALLEGING THAT A PARENT IS IN VIOLATION OF THE AGREEMENT OR IF THE
15 FACILITATOR HAS REASON TO BELIEVE THAT A PARENT IS IN VIOLATION OF
16 THE AGREEMENT, THE C-FLEX FACILITATOR SHALL INVESTIGATE AND
17 DETERMINE WHETHER THE PARENT HAS VIOLATED THE AGREEMENT. THE
18 FACILITATOR SHALL PROHIBIT THE PARENT FROM WITHDRAWING MONEYS
19 FROM THE C-FLEX ACCOUNT DURING THE INVESTIGATION AND UNTIL THE
20 FACILITATOR DETERMINES WHETHER THE PARENT HAS VIOLATED THE
21 AGREEMENT. IF THE FACILITATOR DETERMINES THAT THE PARENT HAS
22 VIOLATED THE AGREEMENT, THE FACILITATOR SHALL GIVE THE PARENT
23 THIRTY DAYS TO CURE THE VIOLATION, WHICH MAY INCLUDE REFUNDING
24 MONEYS TO THE PARENT'S C-FLEX ACCOUNT. IF THE PARENT FAILS TO
25 CURE THE VIOLATION OR COMMITS A SUBSEQUENT VIOLATION THAT
26 INVOLVES A MISUSE OF THE MONEYS DEPOSITED IN THE PARENT'S C-FLEX
27 ACCOUNT, THE FACILITATOR SHALL PERMANENTLY SUSPEND THE PARENT

1 AND THE ELIGIBLE STUDENT FROM PARTICIPATING IN THE C-FLEX
2 PROGRAM, AND THE PARENT MAY NOT REAPPLY TO PARTICIPATE IN THE
3 PROGRAM AT A LATER DATE. THE FACILITATOR SHALL REPORT THE NAME
4 AND ADDRESS OF THE ELIGIBLE STUDENT WHO IS SUSPENDED FROM THE
5 PROGRAM TO THE DEPARTMENT.

6 (c) A PARENT WHO IS SUSPENDED FROM PARTICIPATING IN THE
7 C-FLEX PROGRAM MAY APPEAL THE SUSPENSION BY SUBMITTING A
8 NOTICE OF APPEAL TO THE STATE BOARD WITHIN THIRTY DAYS AFTER THE
9 FACILITATOR'S DECISION. THE FACILITATOR SHALL PROHIBIT THE PARENT
10 FROM WITHDRAWING MONEYS FROM THE C-FLEX ACCOUNT WHILE THE
11 SUSPENSION IS ON APPEAL. THE STATE BOARD SHALL REVIEW THE
12 FINDINGS OF THE FACILITATOR'S INVESTIGATION AND GIVE THE PARENT AN
13 OPPORTUNITY TO PRESENT EVIDENCE CONCERNING THE ALLEGED
14 VIOLATION OF THE AGREEMENT. BASED ON THE FACILITATOR'S
15 INVESTIGATION AND THE EVIDENCE PRESENTED, THE STATE BOARD SHALL
16 DECIDE WHETHER TO PERMANENTLY SUSPEND THE PARENT'S AND THE
17 ELIGIBLE STUDENT'S PARTICIPATION IN THE C-FLEX PROGRAM.

18 (d) THIRTY DAYS AFTER THE FACILITATOR'S DECISION TO
19 PERMANENTLY SUSPEND A PARENT AND AN ELIGIBLE STUDENT FROM
20 PARTICIPATING IN THE PROGRAM IF THE PARENT DOES NOT APPEAL THE
21 SUSPENSION AS PROVIDED IN PARAGRAPH (c) OF THIS SUBSECTION (7), OR
22 AS SOON AS PRACTICABLE AFTER THE STATE BOARD AFFIRMS THE
23 FACILITATOR'S DECISION, THE FACILITATOR SHALL:

24 (I) TRANSFER TO THE STATE TREASURER THE BALANCE, AS OF THE
25 DATE OF SUSPENSION, OF THE STATE MONEYS DEPOSITED IN THE PARENT'S
26 ACCOUNT AND ANY INTEREST EARNED ON THE MONEYS. THE STATE
27 TREASURER SHALL CREDIT THE TRANSFERRED MONEYS TO THE GENERAL

1 FUND.

2 (II) TRANSFER TO THE PARENT THE BALANCE, AS OF THE DATE OF
3 SUSPENSION, OF ANY MONEYS THAT THE PARENT DEPOSITED IN THE
4 ACCOUNT PURSUANT TO SECTION 22-59-104 (5) AND ANY INTEREST
5 EARNED ON THE MONEYS.

6 **22-59-109. Accountability for student learning - definitions.**

7 (1) THE PARENT OF EACH ELIGIBLE STUDENT WHO PARTICIPATES IN THE
8 C-FLEX PROGRAM MUST ENSURE THAT THE STUDENT IS ANNUALLY
9 EVALUATED TO DETERMINE WHETHER HE OR SHE IS MAKING SUFFICIENT
10 ACADEMIC PROGRESS. THE ANNUAL EVALUATION MAY CONSIST OF, AT THE
11 PARENT'S DISCRETION:

12 (a) TAKING A NATIONAL NORM-REFERENCED ASSESSMENT OR
13 TAKING THE STATEWIDE ASSESSMENTS THAT THE DEPARTMENT AND LOCAL
14 EDUCATION PROVIDERS ADMINISTER PURSUANT TO PART 10 OF ARTICLE 7
15 OF THIS TITLE; OR

16 (b) EVALUATION BY A PERSON SELECTED BY THE PARENT, WHICH
17 PERSON IS A TEACHER WHO IS LICENSED PURSUANT TO ARTICLE 60.5 OF
18 THIS TITLE, A TEACHER WHO IS EMPLOYED BY A PRIVATE SCHOOL, A
19 LICENSED PSYCHOLOGIST, OR A PERSON WITH A GRADUATE DEGREE IN
20 EDUCATION.

21 (2) (a) IF A PARENT CHOOSES TO EVALUATE HIS OR HER ELIGIBLE
22 STUDENT'S ACADEMIC PROGRESS USING AN ASSESSMENT AND THE ELIGIBLE
23 STUDENT IS ENROLLED IN A PRIVATE SCHOOL OR A PRIVATE ON-LINE
24 EDUCATIONAL PROGRAM, THE PRIVATE SCHOOL OR PROGRAM SHALL
25 ADMINISTER THE NATIONAL NORM-REFERENCED ASSESSMENT OR THE
26 STATEWIDE ASSESSMENTS. THE DEPARTMENT SHALL COOPERATE WITH THE
27 PRIVATE SCHOOL OR PRIVATE ON-LINE EDUCATIONAL PROGRAM IN

1 ADMINISTERING THE STATEWIDE ASSESSMENTS. THE PRIVATE SCHOOL OR
2 PRIVATE ON-LINE EDUCATIONAL PROGRAM SHALL REPORT THE ELIGIBLE
3 STUDENT'S SCORES TO THE PARENT.

4 (b) IF A PARENT CHOOSES TO EVALUATE HIS OR HER ELIGIBLE
5 STUDENT'S ACADEMIC PROGRESS USING AN ASSESSMENT, AND THE
6 ELIGIBLE STUDENT IS PARTICIPATING IN A NONPUBLIC HOME-BASED
7 EDUCATIONAL PROGRAM, THE DEPARTMENT SHALL PROVIDE A LOCATION
8 AT WHICH THE ELIGIBLE STUDENT MAY TAKE THE NATIONAL
9 NORM-REFERENCED ASSESSMENT OR THE STATEWIDE ASSESSMENTS. THE
10 DEPARTMENT SHALL REPORT THE ELIGIBLE STUDENT'S SCORES TO THE
11 PARENT.

12 (3) IF AN ELIGIBLE STUDENT'S EVALUATION DEMONSTRATES THAT
13 THE STUDENT IS NOT MAKING SUFFICIENT ACADEMIC PROGRESS, THE
14 PARENT SHALL ANNUALLY USE AT LEAST FIVE PERCENT OF THE STATE
15 MONEYS ANNUALLY DEPOSITED IN THE PARENT'S C-FLEX ACCOUNT TO
16 PURCHASE THE SERVICES OF AN APPROVED LEARNER ADVOCATE UNTIL THE
17 STUDENT'S EVALUATION DEMONSTRATES THAT THE STUDENT IS MAKING
18 SUFFICIENT ACADEMIC PROGRESS.

19 (4) FOR PURPOSES OF THIS SECTION, "SUFFICIENT ACADEMIC
20 PROGRESS" MEANS THAT AN ELIGIBLE STUDENT IS SCORING IN AT LEAST
21 THE FIFTIETH PERCENTILE IF THE EVALUATION IS BASED ON AN
22 ASSESSMENT OR THAT THE PERSON WHO EVALUATES THE STUDENT
23 CONCLUDES THAT THE STUDENT HAS ATTAINED A LEVEL OF CONTENT
24 KNOWLEDGE THAT IS APPROPRIATE FOR THE STUDENT'S AGE AND LEVEL OF
25 DEVELOPMENT, TAKING INTO ACCOUNT ANY DISABILITY THAT THE
26 STUDENT MAY HAVE.

27 **22-59-110. C-FLEX program - funding - department - state**

1 **board - duties.** (1) (a) BASED ON THE INFORMATION THAT THE
2 DEPARTMENT RECEIVES FROM THE C-FLEX FACILITATOR PURSUANT TO
3 SECTION 22-59-108 (6) CONCERNING EACH ELIGIBLE STUDENT THAT
4 PARTICIPATES IN THE C-FLEX PROGRAM, THE DEPARTMENT SHALL
5 ANNUALLY CALCULATE THE AMOUNT TO BE DISTRIBUTED TO THE C-FLEX
6 FACILITATOR FOR EACH ELIGIBLE STUDENT'S C-FLEX ACCOUNT AS
7 PROVIDED IN SECTION 22-59-104 (4) (a) (I) TO (4) (a) (IV), INCLUDING THE
8 STATE AVERAGE PER PUPIL REVENUES FOR THE APPLICABLE BUDGET YEAR
9 AND, IF APPLICABLE, SPECIAL EDUCATION FUNDING, GIFTED AND TALENTED
10 FUNDING, AND ENGLISH LANGUAGE LEARNER FUNDING.

11 (b) THE DEPARTMENT SHALL ANNUALLY CALCULATE THE PER
12 PUPIL FUNDING AMOUNT FOR AN ELIGIBLE STUDENT WHO IS A CHILD WITH
13 MULTIPLE DISABILITIES. THE DEPARTMENT SHALL DIVIDE THE TOTAL
14 AMOUNT THAT THE SCHOOL DISTRICT OF RESIDENCE OF THE ELIGIBLE
15 STUDENT RECEIVES PURSUANT TO SECTION 22-20-114 (1) (c) FOR THE
16 APPLICABLE SCHOOL YEAR BY THE SUM OF THE TOTAL NUMBER OF
17 CHILDREN WITH MULTIPLE DISABILITIES ENROLLED IN THE SCHOOL
18 DISTRICT PLUS THE NUMBER OF CHILDREN WITH MULTIPLE DISABILITIES
19 WHO RESIDE IN THE SCHOOL DISTRICT AND PARTICIPATE IN THE PROGRAM
20 FOR THE APPLICABLE SCHOOL YEAR.

21 (c) THE DEPARTMENT SHALL ANNUALLY CALCULATE THE PER PUPIL
22 FUNDING AMOUNT FOR AN ELIGIBLE STUDENT WHO IS A GIFTED CHILD. THE
23 DEPARTMENT SHALL DIVIDE THE TOTAL AMOUNT THAT THE SCHOOL
24 DISTRICT OF RESIDENCE OF THE GIFTED CHILD RECEIVES PURSUANT TO
25 SECTION 22-20-205 (1) FOR GIFTED AND TALENTED PROGRAMS FOR THE
26 APPLICABLE SCHOOL YEAR BY THE SUM OF THE TOTAL NUMBER OF GIFTED
27 CHILDREN ENROLLED IN THE SCHOOL DISTRICT PLUS THE NUMBER OF

1 GIFTED CHILDREN WHO RESIDE IN THE SCHOOL DISTRICT WHO PARTICIPATE
2 IN THE C-FLEX PROGRAM, FOR THE APPLICABLE SCHOOL YEAR.

3 (2) BASED ON THE CALCULATIONS THAT THE DEPARTMENT
4 COMPLETES PURSUANT TO SUBSECTION (1) OF THIS SECTION, THE
5 DEPARTMENT SHALL ANNUALLY FORWARD TO THE C-FLEX FACILITATOR
6 THE MONEYS TO BE DEPOSITED IN EACH C-FLEX ACCOUNT THAT THE
7 FACILITATOR MAINTAINS FOR THE APPLICABLE BUDGET YEAR. THE
8 DEPARTMENT SHALL ALLOCATE THE MONEYS FROM THE FOLLOWING
9 APPROPRIATIONS TO THE DEPARTMENT FOR THE APPLICABLE BUDGET
10 YEAR:

11 (a) THE AMOUNT APPROPRIATED TO THE DEPARTMENT PURSUANT
12 TO SUBSECTION (4) OF THIS SECTION;

13 (b) THE AMOUNT APPROPRIATED TO THE DEPARTMENT FOR
14 DISTRIBUTION AS SPECIAL EDUCATION FUNDING PURSUANT TO SECTION
15 22-20-114 (1) (b) AND (1) (c) FOR ELIGIBLE STUDENTS WHO ARE CHILDREN
16 WITH DISABILITIES;

17 (c) THE AMOUNT APPROPRIATED TO THE DEPARTMENT FOR
18 DISTRIBUTION AS GIFTED AND TALENTED FUNDING PURSUANT TO SECTION
19 22-20-205 (1) FOR ELIGIBLE STUDENTS WHO ARE GIFTED CHILDREN; AND

20 (d) THE AMOUNT APPROPRIATED TO THE DEPARTMENT FOR
21 DISTRIBUTION AS ENGLISH LANGUAGE PROFICIENCY PROGRAM FUNDING
22 PURSUANT TO SECTIONS 22-24-104 AND 22-24-108 FOR ELIGIBLE
23 STUDENTS WHO ARE ENGLISH LANGUAGE LEARNERS.

24 (3) THE DEPARTMENT SHALL ANNUALLY COMPARE THE LIST OF
25 ELIGIBLE STUDENTS WHO ARE PARTICIPATING IN THE C-FLEX PROGRAM
26 WITH THE LISTS OF STUDENTS ENROLLED IN SCHOOL DISTRICTS AND
27 INSTITUTE CHARTER SCHOOLS TO AVOID DUPLICATE PAYMENTS.

1 (4) THE GENERAL ASSEMBLY SHALL ANNUALLY APPROPRIATE TO
2 THE DEPARTMENT AN AMOUNT EQUAL TO THE STATE AVERAGE PER PUPIL
3 REVENUES FOR THE APPLICABLE BUDGET YEAR MULTIPLIED BY THE
4 NUMBER OF ELIGIBLE STUDENTS WHO ARE PARTICIPATING IN THE C-FLEX
5 PROGRAM FOR THE APPLICABLE BUDGET YEAR.

6 **SECTION 2.** In Colorado Revised Statutes, 39-22-104, **add** (4)
7 (u) as follows:

8 **39-22-104. Income tax imposed on individuals, estates, and**
9 **trusts - single rate - definitions - repeal.** (4) There shall be subtracted
10 from federal taxable income:

11 (u) FOR INCOME TAX YEARS COMMENCING ON OR AFTER JANUARY
12 1, 2016, AN AMOUNT EQUAL TO THE AMOUNT THAT A TAXPAYER DEPOSITS
13 INTO A C-FLEX ACCOUNT, AS DEFINED IN SECTION 22-59-103 (1), C.R.S.,
14 UP TO TEN THOUSAND DOLLARS PER INCOME TAX YEAR.

15 **SECTION 3. Legislative declaration.** The general assembly
16 finds and declares that the intended purpose of the tax expenditure in
17 section 2 of this act is to provide tax relief to parents who use C-FLEX
18 accounts created pursuant to the "Colorado Flexible Lifetime Learning
19 Expenditures Accounts Act", article 59 of title 22, Colorado Revised
20 Statutes, to set aside moneys to purchase educational programs and
21 services that most effectively meet the needs of the parent's child.

22 **SECTION 4. Act subject to petition - effective date.** This act
23 takes effect at 12:01 a.m. on the day following the expiration of the
24 ninety-day period after final adjournment of the general assembly (August
25 5, 2015, if adjournment sine die is on May 6, 2015); except that, if a
26 referendum petition is filed pursuant to section 1 (3) of article V of the
27 state constitution against this act or an item, section, or part of this act

1 within such period, then the act, item, section, or part will not take effect
2 unless approved by the people at the general election to be held in
3 November 2016 and, in such case, will take effect on the date of the
4 official declaration of the vote thereon by the governor.