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# **CURRICULUM TRANSPARENCY: A MUST FOR EFFECTIVE PARENT-TEACHER PARTNERSHIPS**

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# KEY POINTS

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- The COVID-19 pandemic and related challenges have led to an increase in parental demand for access to K-12 educational materials used in the classroom.
- With some very specific exceptions, existing Colorado law is unclear about whether and when educational materials like textbooks, worksheets, or digital resources must be made available to members of the public.
- Local school districts, through their locally elected boards of education, can and do set their own policies related to the review, adoption, and challenging of educational materials. However, these policies vary widely in terms of their strength, breadth, and usefulness to parents.
- Colorado state law could be strengthened by clarifying that educational materials are included as public records subject to inspection under the Colorado Open Records Act, which has provided transparency in state and local government for more than 50 years.
- Local school districts can and should adopt stronger policies allowing for clear, easy, convenient opportunities for parents, families, and the public to inspect educational materials.

# INTRODUCTION

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The United States has experienced an unprecedented level of disruption in its K-12 education system in recent years. Political division, social strife, and the COVID-19 pandemic have radically altered both what and how students learn in public schools. Due to extended periods of virtual learning, heightened social tensions, and extensive media coverage of a variety of hot-button issues, parents have taken a keener interest in the business of their children's education than at any other time in recent memory.

In particular, parents have demanded more access to information regarding which curricula schools adopt, which educational materials are utilized in the classroom, and how educators are trained to handle difficult or controversial subjects.<sup>1</sup> The ever-increasing use of digital materials—often locked behind

portals and passwords—has led to new sources of friction and technological hurdles for families to overcome as they strive to be more involved in their children's education.

Parental requests for information in the post-COVID era have highlighted an interesting challenge: that existing state laws and local district policies governing the cataloging and disclosure of curricula and materials were not designed to provide the level of transparency modern parents demand.

Instead of finding the proverbial “open book” when it comes to what and how their children are taught, which one might expect from a taxpayer-funded enterprise like public education, many parents have found themselves needing to navigate refusals to provide information,

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complex bureaucratic processes, and disagreements about to what extent current law and policy allows them access to educational materials and other information.

Colorado's current laws and local policies could be strengthened to equip parents with the information they need to make good educational choices and act as full partners in their children's education.

This paper examines the issue of curriculum transparency in Colorado through several lenses, including how

## THE CURRENT STATE OF CURRICULUM TRANSPARENCY IN COLORADO

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The Colorado State Constitution provides that locally elected school board members “shall have control of instruction in the public schools of their respective districts.”<sup>2</sup> This language, often called the Local Control Clause, provides wide latitude to school districts when it comes to determining what and how they teach. It has been interpreted by the courts as extending to everything from the selection of textbooks to financial decisions to questions of personnel and employment.<sup>3</sup>

While the independence of school districts regarding curricular content and the act of instruction itself is well established, the requirements surrounding the particular issue of disclosing that content or instruction are murkier. These local policies create a patchwork of allowances and restrictions that vary based on geography, materials requested, and even basic reading and interpretation of existing state law on the subject. The following is a summary of various levels of policy regarding the right of parents and community members to review educational materials.

### LOCAL POLICY

Each locally elected school board has the authority to adopt policies that govern the operation of its school district, including the selection and handling of educational materials. In many cases, the level of public review and input on these materials depends on their type and nature.

Most school districts draw a distinction between textbooks and other direct instructional materials and supplementary materials. Processes for reviewing and approving each type of material vary widely, as outlined in the sections that follow.

#### Library Books

Many school districts have adopted standalone policies governing the selection and review of library books. These materials range from hard-copy books to digital materials accessed either remotely or at school.

These policies typically outline the process for selecting and reviewing library materials on a regular basis, but they do not always include clear allowances for parents, family members, or the public

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to review these materials. For instance, Jefferson County Public Schools' policy on the topic lays out the criteria and process by which library materials are to be selected and requires that an opportunity be provided for citizen input prior to book approval, but does not specifically address the issue of how, when, or under what circumstances the materials can be reviewed by members of the public.<sup>4</sup>

Typically, a challenge or dispute about a library resource that cannot be resolved at the school or district level will be referred to the board of education for review and decision.

### Direct Instructional materials

Direct instructional materials are often subject to the review and approval of the local board of education after being evaluated and recommended by the superintendent, chief academic officer, district employees, or committees to whom this task has been delegated. Once recommended, these policies typically require that the approval process include input from educators, curriculum specialists, community members, and parents.<sup>5</sup>

The specific processes by which direct instructional materials are approved vary widely across school districts. These processes typically involve the use of review committees made up of district employees and a limited number of parents, community members, or even students in some cases. They also include opportunities for public comment, usually after these committees have finished their initial work and made their recommendations.<sup>6</sup> Once all these steps have been completed, the board of education makes the final decision about whether to approve the learning resources under consideration.

While these review and approval processes include opportunities for input by parents and the public, it is important to note that their usefulness is limited when it comes to providing full transparency to families and community members for several key reasons:

- The processes only occur when districts decide to make substantial alterations to their curricula or materials, which is done infrequently due to both the complexity and expense of reviewing, adopting, purchasing, and implementing new resources. Thus, parents whose children enter the district after the adoption of these materials have little to no say in their use.
- Direct public participation in the formal review process is often limited. Jefferson County's process, for instance, only requires the participation of one community member designated by each board of education member to the district's Resource Review Committee. The same is true of the district's Content Review Committee.<sup>7</sup> Douglas County School District's policy says only that the process, which is established by the superintendent, must include "appropriate" input from parents and community members.<sup>8</sup>
- Public review of and comment on the materials is limited—often to only a matter of weeks—and the review committees are under no policy obligation to revisit their decisions based upon public comment received.
- These policies do not, as a general rule, include clear processes by which a parent or community member can review materials once adopted.

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Many school districts also maintain separate policies governing public complaints about learning resources, usually in Board File K covering



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community relations. For instance, Denver outlines a process requiring that concerns be first raised with a teacher, then escalated to a building principal, then the operational superintendent, then the superintendent, and finally to the district board of education.<sup>9</sup> The policy does not, however, provide further recourse to parents or others who cannot achieve their desired ends through this process.

Douglas County School District applies a looser process that is largely left to the superintendent through regulations enacted below the board policy level. While the policy does require that this process be fairly applied and allows for complaints not resolved at the building level to be escalated to a Challenged Materials Committee, it provides no specific guardrails beyond a general statement that it should “provide

channels of communication and a fair process for citizens to follow.” The policy specifically states that materials shall not be altered or removed due to “partisan or doctrinal disapproval.”<sup>10</sup>

Douglas County’s actual process for challenging materials is instead found in Superintendent File KEC-R and involves the direct engagement of the district superintendent and the appointment of a Challenged Materials Committee that includes a variety of members appointed from the District Accountability Committee (DAC), School Advisory Committee (SAC) at the school where the complaint arose, educators, and a high school student. Notably, this committee does not include parents or community members outside of those already serving on a district committee like the DAC or SAC, and input from the public is limited only to the person making the complaint.<sup>11</sup>

Finally, some school districts have adopted policies specifically related to the teaching of “controversial topics.” However, these topics are often not clearly defined, and district policies do not always include a process by which the public can review these materials. Instead, these policies are often limited to general statements about the need for teachers to evaluate the materials they use in conjunction with principals or other school administrators.<sup>12</sup> Some districts, like Douglas County, have adopted more expansive policies governing the selection and use of controversial learning resources, but these policies are the exception rather than the rule.<sup>13</sup>

Parents with concerns about the materials used to teach controversial topics typically must raise those concerns through established complaint procedures like those outlined above.

### Supplemental Learning Materials

The processes by which supplemental materials can be adopted and utilized is significantly less stringent than those governing the approval of direct instructional materials and curricula. The definitions of these materials vary, but they are most often defined as non-textbook books or materials that are not on the local school district’s list of approved or recommended instructional resources.

District policies regarding supplementary learning materials can be highly limited. For instance, the policy governing the selection of these materials in Cherry Creek School District consists of only two general sentences.<sup>14</sup> Others provide general guidelines around the selection of these materials. In Jefferson County, for instance, teachers must select supplemental materials that are “appropriate for the developmental

level of the students” and are supposed to provide a rationale for the selection of those materials to the building principals.<sup>15</sup>

A handful of districts provide an opt-out provision in their supplemental materials policy that allows parents to request alternative materials if they disagree with the selections made by the teacher.<sup>16</sup> However, in most cases, these policies do not provide a clear process through which parents or community members can request access to these materials either before or after they are utilized, nor do they typically include a clear requirement for teachers to make these materials available to parents upon such request.

## STATE STATUTE

As of the writing of this paper, Colorado state law does not contain a single, well-formed requirement that K-12 educational materials, regardless of subject or nature, be made available for inspection by parents or the public at large. The lack of a “single point of truth” creates a situation in which interpretations of state law vary widely between schools districts. These varied interpretations, in turn, lead to a sort of transparency patchwork under which the right and ability of families or the public to access educational materials is governed more by local policies, practices, and politics than by clear, explicit legal requirements applied equally across the state.

For obvious reasons, the resulting inconsistency can create a significant barrier for many parents, families, and community members who reasonably expect that they should have access to such information.

### Colorado Open Records Act

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known and most widely used statute governing government transparency in Colorado. The legislative declaration of the act states that it is the policy of the state “that all public records shall be open for inspection by any person at reasonable times,” except as otherwise provided by law.<sup>17</sup> Indeed, the law’s coverage is both broad and deep, and it affects every government in Colorado to some extent, including local education providers like school districts, district schools, and public charter schools.

CORA includes a significant list of items that constitute “public records” for the purpose of the law, including “all books, papers, maps, photographs, cards, tapes, recordings, or other documentary materials, regardless of physical form or characteristics,” as well as digitally stored data, work product, and written communications.<sup>18</sup> It requires that these records be available for inspection at reasonable times except as otherwise provided by law and subject to any reasonable rules deemed necessary to limit interference with the regular discharge of the custodian’s duties.

CORA also includes a variety of exceptions and exclusions. For example, certain records related to criminal justice and those whose release would “violate the terms of any copyright or licensing agreement between the custodian and a third party or result in the release of a third party’s proprietary information.”<sup>19</sup>

In general, CORA creates an objective, consistent framework through which the public can access many records. The law and its related caselaw cover all government entities in Colorado, and it is typically clear what constitutes a public record, which records are not subject to CORA, and when denials may be issued for these entities. State statute does not, for instance, leave significant

ambiguity when it comes to local police departments must or must not release records related to policing. Instead, these records are defined, contemplated, and covered under CORA.

Schools and districts are a notable exception. These entities are also covered under CORA, but the law includes no specific language about whether or when educational materials are considered public records.<sup>20</sup> In fact, aside from language regarding the release of academic tests and confidential information related to students, the law does not include language particular to PK-12 education at all.

While one could argue that various provisions in CORA, as well as the overall spirit of the law, hint at the inclusion of educational materials under the umbrella of public records, the statute does not explicitly contemplate or answer the question of whether classroom materials like textbooks, worksheets, videos, or digital content are subject to inspection.

### Other State Provisions

Despite the lack of an obvious single reference point, Colorado law does include a handful of other provisions that could affect parental or community requests for educational materials directly or indirectly in certain circumstances. In most cases, however, these disclosures are limited to certain subject areas, and their intent is less to provide overarching transparency to the public than to navigate inherent complexities involved in teaching those subjects.

For instance, a law enacted in 2021 requires local education providers to provide to the Colorado Department of Education their core and supplemental reading curricula and instructional programs. The Department of Education then publishes this information on its



public website for review. Local education providers must also provide a link to this online state resource on their own websites.<sup>21</sup>

Similarly, Colorado law requires that public schools provide parents or guardians with “a detailed, substantive outline of the topics and materials to be presented in that portion of the planned curriculum related to comprehensive human sexuality education.”<sup>22</sup> The law further requires that parents be made aware of the ability to opt their children out of such education without penalty or additional assignment.<sup>23</sup> The public can inspect the curriculum and materials to be used for this instruction at “reasonable times and reasonable hours,” and a public comment must be allowed on the materials.<sup>24</sup>

More obliquely, state statute requires a certain degree of transparency and accountability when it comes to

school district budgets, purchases, and financial records. Most commonly, this transparency takes the form of cumulative annual financial reports (CAFRs) issued by every government in the state following an independent audit.<sup>25</sup> These reports, and the financial tracking and disclosure that comes along with them, may provide windows through which parents and community members can discover how school districts spend their money on educational or other instructional materials. Parents can also refer to the state’s PK-12 financial transparency website.<sup>26</sup>

Enterprising parents and families can use financial information to dig more deeply into the specific materials purchased using CORA or other district policies. However, obtaining highly specific information about the exact nature of the materials purchased—for instance, serial or ISBN numbers—can be difficult. And the process of navigating the complexities

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of school district financial arrangements can be daunting for those not familiar with the complex procedures involved.

### Federal Provisions

United States law contains a provision requiring that materials that will be “used in connection with any survey, analysis, or evaluation as part of any applicable program” will be available for inspection by parents and guardians.<sup>27</sup> The same section of U.S. code contains the more widely known requirements of the Family Educational Rights and Privacy Act (FERPA), which governs the handling and disclosure of student data and educational records.

State law echoes these requirements with general statements that school districts “shall comply” with the various applicable federal provisions, including provisions requiring that surveys, analyses, and evaluations be made available for inspection. Colorado law also requires that schools or districts mandating participation in certain surveys or analyses obtain written parental consent before administering them.<sup>28</sup> Surveys covered under this section of state law are those that request information regarding the parents’ or guardians’:

- Political affiliations
- Mental and psychological conditions
- Sexual behavior and attitudes
- Critical appraisals of close family relationships

- Privileged relationships, such as those with attorneys or doctors
- Income, except as otherwise required by law
- Social security numbers
- Religious practices, affiliations, and beliefs

These survey documents must be available for inspection and review for at least two weeks before they are administered.<sup>29</sup>

There has been significant controversy in Colorado surrounding the Healthy Kids Colorado Survey in particular, which asks students for a variety of information clearly covered under the disclosure requirements in both state and federal law. The state argues in its official documentation on the survey that the requirement for parental consent is met “when parents/guardians are informed that their student has been asked to participate in a survey and given the option to opt the child out of participation.”<sup>30</sup>

However, there have been scattered reports of instances where parents are not properly notified or provided with a chance to review the survey or opt their children out of the survey before it is administered.

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## THE NEED FOR INCREASED TRANSPARENCY

Opponents of increased transparency in the realm of K-12 educational materials have often argued that proposed reforms are solutions in search of a problem. For instance, during a committee hearing on a 2022 bill seeking to create standalone

ability for parents to request access to educational materials in Colorado, both lawmakers and opponent testifiers made the argument that families already have access to this information through their local teachers and schools.<sup>31</sup>



These arguments may be true in the hyper-specific instances that framed the perspective of these opponents. One consequence of Colorado's current patchwork of unclear and highly varied policies regarding curriculum transparency is that the experience of two families requesting identical information in different schools or districts—or even in different classrooms—could be substantially different.

Proponents of the same curriculum transparency legislation, however, testified that their experiences had been far different. One mother, for instance, testified that the school refused to share information related to sexual harassment instruction her daughter was scheduled to receive that included a discussion of boundaries, consent, and sexual assault. She was concerned that the subject matter might be presented in a way that would be disturbing to her daughter. However, when she requested access to the materials used, she was told that policy prevented the school from sharing

curriculum with parents. The same parent stated that she has had other requests for more innocuous materials denied, such as one regarding the teaching of Russian history.<sup>32</sup>

Another parent testified that her twelve-year-old daughter was exposed to emotionally damaging materials related to gender and sexuality when an outside presenter was invited to speak at a teacher-sanctioned art club meeting. According to her daughter, the discussion included suggestions about her sexuality and identity that caused significant stress and mental harm. In this instance, the mother testified, participating students were told by the guest instructor not to tell their parents what they heard during the session and to contact the instructor secretly afterward if needed. When she later requested the materials, including a PowerPoint presentation, she was told they could not be shared because they were presented by an outside presenter.<sup>33</sup> Because processes are so widely varied and open to interpretation, it is difficult

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to find data about what percentage of parental requests for access to educational materials are denied and why those denials are issued. However, the fact that such denials occur at all should be concerning for parents, taxpayers, and citizens generally—particularly in light of Colorado’s longstanding history of open, transparent government.

A single statutory provision clarifying that educational materials, specifically defined, are considered public records subject to review and inspection upon request would alleviate many denials and provide a clear, universally agreed upon legal framework on which those denials could be challenged.

## A WAY FORWARD – EXPANDING TRANSPARENCY

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Expanding transparency around educational materials has been a topic of great—and often highly political discussion—nationwide. Thirty-six states, including Colorado, have considered or adopted legislation touching upon the content and/or disclosure of curricula used in schools.<sup>34</sup>

In many cases, these proposals include requirements for education providers to create and publicly post lists and/or descriptions of their curricula online on an ongoing basis, even in the absence of a specific request for that information.

This approach aligns with model legislation supported by conservative groups and would likely create the greatest possible level of transparency and availability of information.<sup>35</sup> However, it is also the most politically difficult to achieve—especially in battleground states like Colorado. There are two reasons for these difficulties, one practical and one political.

First, the requirement to post all materials as a matter of course may create significant new burdens and increase the workload for teachers, principals, and school administrators. These materials must be aggregated, summarized, digitized in some cases, and posted online on an ongoing basis. While it is difficult

to ascertain the exact costs of these requirements monetarily or in terms of staff time, it is inarguable that these costs do exist at some level—and that level may vary widely across districts based on staffing levels, district infrastructure, and general operation.

This first problem gives rise to a second, more political problem: Because they trigger often fierce debates over the nature and extent of the increased work for teachers and schools, these public-posting requirements may muddy the waters on the overall issue of curriculum transparency by allowing the conversation to shift toward the impact on educational systems and away from the rights of parents, families, and community members to access information about taxpayer-funded educational materials. For instance, during a committee hearing on HB22-1066, Colorado’s most recent curriculum transparency bill, numerous teachers testified against the bill on the basis that it would create additional work for them or cause overworked teachers to exit the profession.

### MAKE EDUCATIONAL MATERIALS “PUBLIC RECORDS” UNDER STATE LAW

Combined, the two problems outlined above present a significant hurdle to

adopting policy that would increase transparency in Colorado schools. They demand a solution that can increase access to educational materials while minimizing the burden on schools and teachers as much as possible, as well as a thoughtful framework that can accommodate the complexities of making a wide body of material available to the largest possible group of people in the most efficient way.

The Colorado Open Records Act, discussed earlier in this paper, provides just such a vehicle. The act has been in effect for more than five decades, during which time it has encountered and navigated myriad complaints, questions, and problems too numerous to list. It is already a part of the everyday life of both school and district operations because these entities are already subject to CORA requests of information, documents, and materials ranging from financial documents to email correspondence to contracts. In fact, many larger school districts already employ public information officers who are tasked with navigating and complying with open records requests.

CORA includes a number of provisions that allow governments to charge reasonable fees for the production of requested information, as well as built-in protections and exclusions for private data, proprietary information, and other materials. These protections and exclusions may be challenged in court by requesters under a well-established system of caselaw underlying the act.

Some may argue that such changes are unnecessary because educational materials are arguably already included under CORA. This argument may be accurate. However, because this issue has not been well litigated and the law contains no explicit declaration that

such materials are included, varying interpretations across schools and districts could lead to significant hurdles for parents seeking access to these materials. Clarifying that educational materials are, in fact, included under CORA would remove these barriers and allow parents, taxpayers, and community members to review them under the same framework as they can review other public records—all without the need for time-consuming and potentially costly disagreements with local officials about what is or is not covered.

## POTENTIAL CHALLENGES

While CORA provides the easiest and most efficient means to increase PK-12 educational transparency for parents and citizens statewide, the approach does present some challenges.

First, CORA and its associated request requirements can be confusing for those who have never navigated the system before. While this problem is partially corrected by free online resources providing information about how to request public records under CORA, more widespread use of the law for the purpose of requesting educational materials will require significant outreach to and education for parents, families, and community members about the law's processes, requirements, exclusions, and timelines.

Second, CORA requests are not always a panacea. Stories of citizens being denied information, enduring long waits for certain records, subjected to unreasonably high fees to produce the requested information are not uncommon. However, the decades of caselaw surrounding CORA has already answered many common questions and disputes that arise during the request process, and existing processes provide

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Clarifying that educational materials are, in fact, included under CORA would remove these barriers and allow parents, taxpayers, and community members to review them under the same framework as they can review other public records—all without the need for time-consuming and potentially costly disagreements with local officials about what is or is not covered.

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an established process through which challenges can be considered and resolved. For these reasons, CORA is still preferable to the creation of a another, newer system that would require years of implementation work, refinement, and litigation to reach the same level of stability and accessibility.

Finally, CORA's exclusion of licensed or proprietary materials in some instances may be used to deny access to some educational materials provided by third-party vendors under licensing agreements. Disputes over this issue will vary widely on a case-by-case basis, and in some cases further litigation may be needed to reach a resolution. However, the fact that materials are copyrighted or licensed does not necessarily mean they are excluded from CORA, and the fact remains that the vast majority of educational materials should still be covered under the law after the recommended changes are made.<sup>36</sup>

Please see Appendix A for a model statutory change to the Colorado Open Records Act.

## LOCAL SOLUTIONS

In the absence of a statewide statutory change, school boards should utilize their existing authority to adopt new policies or modify existing policies to clarify that educational materials, as defined, are always available for review and inspection by parents and members of the public and for any reason.

Please see Appendix B for model district policy language.

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By removing the ambiguity surrounding how open records requirements interact with educational materials, Colorado can pave the way toward a more transparent K-12 landscape in which no family feels that they are being denied access to the materials used to educate their children.

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## CONCLUSION

Colorado's current landscape surrounding curriculum transparency is a patchwork of widely varied local policies, disjointed state laws covering only certain subjects, and a generally ambiguous relationship between educational materials and other public records. The policy environment lacks a single point of truth when it comes to when, how, and under what circumstances parents, families, and community members can access and review what is being taught in their children's classrooms. And this lack of clarity subsequently and unavoidably leads to frustration as too many parents are forced to navigate a difficult policy structure in which there are no clear answers to what they rightly view as a

simple question: What is my child being taught?

By removing the ambiguity surrounding how open records requirements interact with educational materials, Colorado can pave the way toward a more transparent K-12 landscape in which no family feels that they are being denied access to the materials used to educate their children. This, in turn, will allow families to act as better partners with educators, foster greater trust between schools and parents, and allow families to make well-informed decisions about their children's education.

# APPENDIX A:

## MODEL STATUTORY CHANGE TO THE COLORADO OPEN RECORDS ACT

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**SECTION 1.** In Colorado Revised Statutes, 24-72-202, add (V) to (6)(a)(I) and add (9) as follows:

**24-72-202. Definitions.** As used in this part 2, unless the context otherwise requires:

(V) “PUBLIC RECORDS” INCLUDES EDUCATIONAL MATERIALS as defined in this part 2.

(9) “EDUCATIONAL MATERIALS” MEANS ALL WRITTEN MATERIALS AND ELECTRONIC RESOURCES THAT ARE MADE, MAINTAINED, OR KEPT IN CONNECTION WITH TEACHING IN PRESCHOOL,

KINDERGARTEN, OR GRADES ONE THROUGH FIVE OR IN TEACHING A COURSE IN GRADES SIX THROUGH TWELVE, INCLUDING BUT NOT LIMITED TO TEXTBOOKS, SUPPLEMENTAL WORKSHEETS OR TEXTS, ASSIGNED OR RECOMMENDED READING MATERIALS, ELECTRONIC OR DIGITAL MATERIALS, AND COURSE SYLLABUSES, BUT DOES NOT INCLUDE TESTS OR STUDENT ASSIGNMENTS DEVELOPED BY EDUCATORS BUT NOT YET DISTRIBUTED TO STUDENTS.

## APPENDIX B: MODEL SCHOOL DISTRICT POLICY

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It is the policy of the school district to provide open, transparent access to educational materials utilized within the school district. To that end, educational materials shall be made available for inspection to members of the public at reasonable times upon request for any reason.

### Definitions

For the purposes of this policy:

“Educational Materials” means all written materials and electronic resources that an educator for a local education provider uses in teaching in preschool, kindergarten, or grades one through five or in teaching a course in grades six through twelve, including but

not limited to textbooks, supplemental worksheets or texts, assigned or recommended reading materials, electronic or digital materials or other resources, and course syllabuses, but does not include tests or student assignments developed by educators but not yet distributed to students.

“Educator” means a classroom teacher, a person employed by the local education provider to provide professional services to students in support of the education instructional program, and includes a school administrator, contractor or volunteer.

# ENDNOTES

- <sup>1</sup> See, for instance, Goldwater Institute, Academic Transparency, <https://lander.goldwaterinstitute.org/academictransparency>.
- <sup>2</sup> Colorado Constitution Article IX, Section 15, <https://advance.lexis.com/container?config=0155JAAyMzg2MTYzZi1jMWNLTRlOTQtdjZS0xZTU0MDg1YmQ0OTUKAFBvZENhdGFsb2eEcVf2aFZwpM1qua3EYcVa&crd=d64bcb5-3d70-41b2-9036-5e7eca-2d334b>.
- <sup>3</sup> See, for instance, Denver Bd. Of Educ. V. Booth, 984 P. 2d 629, 648 (Colo. 199) and Owens v. Congress of Parents, Teachers, and Students, 92 P. 3d 933, 939 (Colo. 2004).
- <sup>4</sup> Jefferson County Public Schools District Policy IJL, Library Materials Selection and Adoption, <https://go.boarddocs.com/co/jeffco/Board.nsf/goto?open&id=87CU565E4924>.
- <sup>5</sup> These policies are typically included in Board File I, which is reserved in most school districts for policies related to instruction. See, for instance, Jefferson County District Policy IJ, Instructional Resources and Materials Selection, Adoption, and Discarding, <https://go.boarddocs.com/co/jeffco/Board.nsf/Public#>, and Douglas County School District Board File IJ, <https://www.dcsdk12.org/common/pages/DisplayFile.aspx?itemId=6544443>.
- <sup>6</sup> Ibid.
- <sup>7</sup> Jefferson County Public Schools District Policy IJ, Instructional Resources and Materials Selection, Adoption, and Discarding, <https://go.boarddocs.com/co/jeffco/Board.nsf/Public#>. The policy allows each board of education member to recommend one community member for selection to the committee, but only requires that one be appointed.
- <sup>8</sup> Douglas County School District Board File IJ, <https://www.dcsdk12.org/common/pages/DisplayFile.aspx?itemId=6544443>. Note that while the superintendent has the discretion to include more or less parental and community involvement, the actual policy requirements to do so are limited.
- <sup>9</sup> Denver Public Schools Administration Policy KE, <http://go.boarddocs.com/co/dpsk12/Board.nsf/goto?open&id=C86NWL5AAE01>.
- <sup>10</sup> Douglas County School District Board File KEC, <https://www.dcsdk12.org/common/pages/DisplayFile.aspx?itemId=6773852>.
- <sup>11</sup> Douglas County School District Superintendent File KEC-R, <https://www.dcsdk12.org/common/pages/DisplayFile.aspx?itemId=6421064>.
- <sup>12</sup> See, for instance, Boulder Valley School District Board Policy INB, <https://www.bvdsd.org/about/board-of-education/policies/policy/~board/i-policies/post/teaching-about-controversial-issues>, and Jefferson County Public Schools District Policy IMB, <http://go.boarddocs.com/co/jeffco/Board.nsf/goto?open&id=87CU5H5E49AF>.
- <sup>13</sup> Douglas County School District Board File IJA, Selection of Controversial Learning Resources, <https://www.dcsdk12.org/common/pages/DisplayFile.aspx?itemId=6578371>. See also Board File IJA-R, <https://www.dcsdk12.org/common/pages/DisplayFile.aspx?itemId=6578400>.
- <sup>14</sup> Cherry Creek School District Board Policy IJK, <http://go.boarddocs.com/co/chcr/Board.nsf/goto?open&id=AJ7JB4C142E>.
- <sup>15</sup> Jefferson County Public Schools District Policy IJK, Supplementary Materials Selection and Adoption, <https://go.boarddocs.com/co/jeffco/Board.nsf/goto?open&id=D34EA1CE6B60CBAD8525733600443C55#>.
- <sup>16</sup> See, for instance, Littleton Public Schools District Policy IJK, Supplementary Materials Selection and Adoption, <http://go.boarddocs.com/co/lpsco/Board.nsf/goto?open&id=8M6SMB72DD27> and Jefferson County Public Schools District Policy IJK, Supplementary Materials Selection and Adoption, <http://go.boarddocs.com/co/jeffco/Board.nsf/goto?open&id=87CU555E4919>.
- <sup>17</sup> Colorado Open Records Act, C.R.S. 24-72-201, [https://www.sos.state.co.us/pubs/info\\_center/laws/Title24/Title24Article72Part2.html](https://www.sos.state.co.us/pubs/info_center/laws/Title24/Title24Article72Part2.html).
- <sup>18</sup> C.R.S. 24-72-202, [https://www.sos.state.co.us/pubs/info\\_center/laws/Title24/Title24Article72Part2.html](https://www.sos.state.co.us/pubs/info_center/laws/Title24/Title24Article72Part2.html).
- <sup>19</sup> See C.R.S. 24-72-204 regarding the denial of public-records requests and C.R.S. 24-72-203(3.5)(b)(I) regarding the exclusion of copyrighted or proprietary materials, [https://www.sos.state.co.us/pubs/info\\_center/laws/Title24/Title24Article72Part2.html](https://www.sos.state.co.us/pubs/info_center/laws/Title24/Title24Article72Part2.html).
- <sup>20</sup> C.R.S. 24-72-202(5), [https://www.sos.state.co.us/pubs/info\\_center/laws/Title24/Title24Article72Part2.html](https://www.sos.state.co.us/pubs/info_center/laws/Title24/Title24Article72Part2.html). This section of statute defines “political subdivision” to include every school district in the state of Colorado.
- <sup>21</sup> C.R.S. 22-7-1208 as amended by SB22-151, [https://leg.colorado.gov/sites/default/files/2021a\\_151\\_signed.pdf](https://leg.colorado.gov/sites/default/files/2021a_151_signed.pdf).
- <sup>22</sup> C.R.S. 22-1-128(3)(b), <https://codes.findlaw.com/co/title-22-education/co-rev-st-sect-22-1-128.html>.
- <sup>23</sup> C.R.S. 22-1-128(3)(a), <https://codes.findlaw.com/co/title-22-education/co-rev-st-sect-22-1-128.html>.
- <sup>24</sup> C.R.S. 22-25-106(4)(b)(II), [https://www.cde.state.co.us/sites/default/files/documents/healthandwellness/download/colorado\\_comprehensive\\_health.pdf](https://www.cde.state.co.us/sites/default/files/documents/healthandwellness/download/colorado_comprehensive_health.pdf).
- <sup>25</sup> C.R.S. 29-1-603, <https://codes.findlaw.com/co/title-29-government-local/co-rev-st-sect-29-1-603.html>, and C.R.S. 29-1-605 <https://codes.findlaw.com/co/title-29-government-local/co-rev-st-sect-29-1-605.html>.
- <sup>26</sup> The Financial Transparency website can be found at <https://coloradok12financialtransparency.com/#/>. The requirement to create this website was created by HB14-1292, [http://www.leg.state.co.us/clics/clics2014a/csl.nsf/fsbillcont3/9A94E25804A5BA6987257C3000070896?Open&file=1292\\_enr.pdf](http://www.leg.state.co.us/clics/clics2014a/csl.nsf/fsbillcont3/9A94E25804A5BA6987257C3000070896?Open&file=1292_enr.pdf).
- <sup>27</sup> 20 U.S.C. sec. 1232h, <https://www.law.cornell.edu/uscode/text/20/1232h>.
- <sup>28</sup> C.R.S. 22-1-123, <https://codes.findlaw.com/co/title-22-education/co-rev-st-sect-22-1-123.html>. For requirements related to surveys, assessments, analysis, or evaluation, see C.R.S. 22-1-123(5).
- <sup>29</sup> Ibid.
- <sup>30</sup> Colorado Department of Public Health and Environment, 2021 Frequently Asked Questions (FAQs) – For Parents/Guardians, 2021, <https://drive.google.com/file/d/1S6iUXsAw2nSrpQDZtBShNKnWAitLdi49/view>.
- <sup>31</sup> House Education Committee hearing on HB22-1066, March 3, 2022. Official recording available at: <https://sg001-harmony.sliq.net/00327/Harmony/en/PowerBrowser/PowerBrowserV2/20220316/13/12856#info>.

<sup>32</sup> Ibid.

<sup>33</sup> Ibid.

<sup>34</sup> CRT Map: Efforts to restrict teaching racism and bias have multiplied across the U.S., Cathryn Stout and Thomas Wilburn, Chalkbeat, February 1, 2022, <https://www.chalkbeat.org/22525983/map-critical-race-theory-legislation-teaching-racism>. Note that Chalkbeat’s framing of this issue as “restrict[ing] education on racism, bias, and the contributions of specific racial or ethnic groups to U.S. history or related topics” is both overtly political and inaccurate. While some legislation fits this description, many other pieces, such as those introduced in Colorado, deal only with basic disclosure and transparency requirements, not with the substance of what schools may or may not teach.

<sup>35</sup> See, for instance, A Model for Transparency in School Training and Curriculum, Christopher F. Rufo, James R. Copeland, and John Ketchum, Manhattan Institute, December 1, 2021, <https://www.manhattan-institute.org/transparency-school-training-curriculum>.

<sup>36</sup> For instance, C.R.S. 24-72-203(4) states that the copyright restrictions in CORA “shall not restrict public access to or fair use of copyrighted materials and shall not apply to writings which are merely lists or other compilations.”

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