



## **Overview of May 2025 ECEA Rule Changes**

### **Introduction**

On March 13, 2025, the Colorado State Board of Education (SBE) adopted changes to the Rules governing implementation of Colorado’s Exceptional Children’s Educational Act, 1 CCR, 301-8 (ECEA Rules).

This fact sheet provides a brief overview of substantive changes to ECEA Rules and specifically addresses the following topics: Abbreviated School Day Schedules, Dispute Resolution, Personnel Qualifications for Paraprofessionals, Significant Change of Placement, and Standards for Administrative Units.

These changes will be effective on May 12, 2025.

### **Abbreviated School Day Schedules**

In June of 2024, the Colorado General Assembly enacted House Bill 24-1063 because it found that “[m]any children with disabilities are not allowed to attend a full day of school,” which makes it difficult for them to access the general education curriculum and to receive services in accordance with their individualized education program (IEP) or Section 504 Plan. § 22-20-123(1)(a)(IV)-(V), C.R.S.

To implement statutory requirements of this legislation, new rules were added in the following ECEA sections: Definitions; General Responsibilities of Administrative Units; and Monitoring. The additions to each section of the ECEA Rules are summarized below.

### **Definitions**

***Abbreviated School Day:*** Any school day during which a child with disabilities receives instruction or educational services for fewer hours than the majority of other students who are in the same grade and school as the child with disabilities, whether the abbreviated school day was planned or unplanned. *ECEA Rule 2.01.*

***Abbreviated School Day Schedule:*** A schedule designed and approved by the IEP Team or 504 Team that plans for the child with disabilities to regularly receive instruction or educational services for fewer hours than the majority of other students who are in the same grade and school as the child with a disability. *ECEA Rule 2.01(1).*

### **General Responsibilities of Administrative Units**

By July 1, 2025, all Colorado Administrative Units (AU) are required to adopt and implement a policy regarding abbreviated school day schedules that is substantially similar to the model policy developed by the CDE and that meets the minimum requirements described in *ECEA Rule 8.01(1)(j)*. In addition to

adopting the definitions above, the AU policy regarding abbreviated school day schedules must address the following specific topics and include relevant requirements.

Discipline. The AU policy must provide an explanation and expectations for how the abbreviated school days relate to school discipline, including informal removals. The policy does not prohibit a school from disciplining a child for conduct that violates the student code of conduct as long as it does so consistent with the protections afforded to children with disabilities under the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973 (Section 504/504).

*ECEA Rule 8.01(1)(j)(ii)* requires that the AU policy count any occurrence where a school unilaterally shortens a child with disabilities school day to address behavioral concerns as a disciplinary removal. Such an occurrence must be counted as a removal even if the child was not formally suspended, and includes, but is not limited to the following circumstances: when a school calls the child's parent/guardian to pick them up early due to behavior; when a teacher does not allow a child to attend class due to behavior; and when a school official unilaterally determines that the child must attend an abbreviated school day due to behavior. Disciplinary removals must be accurately recorded and tracked, consistent with this policy, to ensure that the child receives the disciplinary protections to which they are entitled under IDEA and Section 504. *ECEA Rule 8.01(1)(j)(ii)*.

Attendance. The AU policy must provide an explanation and expectations for how abbreviated school days relate to attendance.

*ECEA Rule 8.01(1)(j)(iii)* requires that the policy developed by the AU be consistent with the following exceptions and protections.

A high school student with disabilities who voluntarily enrolls in a reduced caseload, consistent with nondisabled students in the same school, and who is on track to graduate, is not considered to be on an abbreviated school day schedule.

A child with disabilities who is appropriately placed on an abbreviated school day schedule by their IEP or 504 team may not be considered truant or chronically absent based solely on the abbreviated schedule. Similarly, Colorado compulsory school attendance requirements do not apply to a child with disabilities appropriately placed on an abbreviated school day schedule by their IEP or 504 team, consistent with CDE's model policy, and state and federal requirements.

A child with disabilities should have the same opportunity to participate in field trips, school functions, and extracurricular activities as their nondisabled, same-aged peers. This means that a child who has been placed on an abbreviated school day schedule by their IEP or 504 team should not be determined ineligible to participate in field trips, school functions, and extracurriculars based solely on the abbreviated schedule. If a child with a disability needs supplementary aids and services to meaningfully participate in field trips, school functions, and extracurricular activities, these should be determined by the IEP or 504 team and described in the IEP or 504 plan. *ECEA Rule 8.01(1)(j)(iii)*.

Role of the IEP/504 Team. The AU policy must address the role of the IEP/504 team in determining an abbreviated school day schedule and meet the following minimum requirements.

The IEP or 504 team must determine whether an abbreviated school day schedule is appropriate based on the child's unique disability-related needs, consistent with IDEA and Section 504. For an IDEA-eligible child, initial placement on an abbreviated school day schedule may not be determined through the IEP amendment process described in 34 C.F.R. § 300.324(a)(4).

In making this determination, the team must consider and document in the IEP or 504 plan how FAPE will be achieved with the abbreviated school day schedule and whether the abbreviated school day schedule will impact the ability to educate the child with disabilities in the LRE. FAPE and LRE must be determined consistent with the requirements of IDEA or Section 504.

[The CDE's model policy](#) provides additional detail concerning what components must be determined and documented in the IEP/504 plan and how often the abbreviated school day schedule should be reviewed by the child's team. *ECEA Rule 8.01(1)(j)(iv)*.

Parental Consent. The AU policy must address the requirements for consent and information provided to parents, legal guardians, and custodians of children with disabilities who are placed on an abbreviated school day schedule by an IEP/504 team. At a minimum, the policy must address the following components.

An explanation of student rights related to informal removals for conduct or behavior, as described in ECEA Rule 8.01(1)(j)(ii).

The AU policy should distinguish between abbreviated school day schedules that constitute an offer of FAPE and abbreviated school day schedules that are not connected to the offer of FAPE because there are times when a lawfully convened IEP or 504 team meets and determines that an abbreviated school day schedule is necessary to ensure a FAPE for the student (e.g. a student with a medical condition that requires homebound services).

When an offer of FAPE is made that includes an abbreviated school day schedule, and the parent/guardian disagrees that the abbreviated school schedule is necessary for FAPE, the parent/guardian can pursue existing remedies under state and federal law. For IDEA-eligible children, the parent/guardian can request mediation, file a state complaint, or file a due process complaint. For children on a 504 plan, the parent/guardian can file a complaint with the Office of Civil Rights.

For any abbreviated school days or abbreviated school day schedules that are not connected to the offer of FAPE determined by the IEP or 504 Team (and are not lawful and proper disciplinary removals), the school must obtain informed and written consent from the child's parent(s), legal guardian(s), or custodian(s) prior to implementing the abbreviated school day or abbreviated school day schedule. A parent, guardian, or custodian may revoke this consent in writing at any time.

*ECEA Rule 8.01(1)(j)(v)*.

#### Monitoring and Enforcement by CDE

For IDEA-eligible children, compliance with the Department's policy for abbreviated school days and abbreviated school day schedules will be subject to ongoing monitoring consistent with the Department's responsibility for general supervision under IDEA and ECEA. Monitoring procedures will

now include confirmation that the AU has adopted the CDE's model policy for abbreviated school day schedules or one that is substantially similar and meets the requirements described in ECEA Rule 8.01(1)(j). *ECEA Rule 7.05(1)(b)(v)*.

## **Dispute Resolution**

On May 16, 2024, the U.S. Department of Education's Office of Special Education Programs (OSEP) issued a monitoring report to summarize the results of the Differentiated Monitoring and Support (DMS) activities it conducted with CDE in December of 2023. In its report, OSEP concluded that state regulations (ECEA Rules) inappropriately restrict the parties subject to a due process complaint because the defined terms do not specifically include the CDE in its definition of public agency, consistent with 34 C.F.R. § 300.33. Accordingly, OSEP directed the CDE to revise its definition of public agency and make clear that the CDE may be named as a party to a due process or state complaint.

The following changes to ECEA Rules were made in the areas of dispute resolution to comply with OSEP's directive and were recommended by the CDE.

The definition of public agency was expanded in *ECEA Rule 2.36 (2)* to clarify that it includes the CDE for the purpose of filing a state or due process complaint, meaning that a party may file a complaint against the CDE. For due process complaints, *ECEA Rule 6.02(7.5)(b)(ii)* further clarifies that a party who files a complaint against the CDE need only file the complaint with the CDE.

For state complaints, the Department recommended additional changes to increase transparency and stakeholder engagement and to better align with the state's Administrative Procedures Act. *ECEA Rule 7.06* requires the CDE to accept, investigate, and resolve state-level complaints consistent with 34 C.F.R. §§ 300.151-153 as part of its responsibility for general supervision under IDEA. The CDE must also publish the procedures it follows for processing a state complaint on its website, including the process for filing a complaint, time limits, and other procedures consistent with 34 C.F.R. § 300.152. These procedures must also be described in the CDE's model procedural safeguards notice and widely disseminated to parents and other interested individuals.

Finally, *ECEA Rule 7.06(3)* clarifies in state regulation that a state complaint decision is final and not subject to appeal. A party who disagrees with a state complaint decision may file a due process complaint if they have the right to file one consistent with 34 C.F.R. § 300.507. If a party chooses to file a subsequent due process complaint, the CDE will not delay implementation of any remedies ordered in the state complaint decision unless and until the specific violation remedied in the state complaint decision is at issue in the due process complaint and there is a direct conflict between the state complaint decision and the final decision of the administrative law judge. *Id.*

## **Personnel Qualifications for Paraprofessionals**

Paraprofessionals may assist licensed personnel in the provision of special education and related services as long as they are appropriately and adequately trained and supervised. In response to feedback from stakeholders, *ECEA Rule 3.04(1)(e)* was revised to expand guidance for paraprofessionals who serve students with disabilities. These changes address three key areas: 1) training, 2) supervision, and 3) impact of criminal convictions on employability.

Training. Each AU determines the qualifications, competencies, and training required for paraprofessionals to ensure student safety and the lawful provision of special education and related services.

A paraprofessional must be appropriately and adequately trained in the skills necessary to support a child with disabilities based on their role and consistent with the child's IEP. Other recommended training topics include: confidentiality (consistent with the federal Family Educational Rights and Privacy Act and state privacy laws); mandated reporting of child abuse (consistent with 22-32-109(1)(z), C.R.S.); characteristics of disability categories; positive behavioral interventions and support and de-escalation techniques; legal requirements related to provision of special education; and local policies and procedures. Training should be differentiated based on the paraprofessional's role and whether they are providing 1:1 support, providing instructional support for a classroom, providing a related service (e.g., feeding, hygiene, transportation), or supporting a student who is Deaf, blind or nonverbal.

Training should be provided before services start or within a reasonable time based on the necessity of the skills being taught, with any necessary refresher training completed annually. *ECEA Rule 3.04(1)(e)(i).*

Supervision. Each AU must ensure that paraprofessionals are adequately supervised by appropriately licensed personnel. For students with a higher level of vulnerability, the level of supervision should generally increase based on the impact of their disability. For example, a student who is non-verbal may require line-of-sight supervision. *ECEA Rule 3.04(1)(e).*

Employability. An individual with a felony conviction for child abuse is precluded from employment as a paraprofessional under Colorado state law. For an individual with a misdemeanor conviction for child abuse, the AU should carefully consider, on an individualized basis, whether to offer or retain employment as a special education paraprofessional given that children with disabilities are a vulnerable population, and the nature of the role will likely preclude employment. *ECEA Rule 3.04(1)(e)(ii).*

## **Significant Change of Placement**

Unlike IDEA, Colorado's ECEA Rules define and distinguish between nonsignificant and significant changes of placement. In response to questions from stakeholders, changes to ECEA Rules were made to help clarify the requirements for making a significant change of placement and address changes of placement that involve online learning and public school choice.

Requirements for Significant Change of Placement. A significant change of placement must be made by the IEP team or by mutual, written agreement of the AU and the child's parents for a change made during the school year and consistent with the IEP amendment requirements described in 34 C.F.R. § 300.324(a)(4). Further, a significant change of placement requires consideration of reevaluation before the change is made. Changes to *ECEA Rule 4.03(8)(b)(ii)(B)* clarify that consideration of reevaluation must be made consistent with 34 C.F.R. § 300.305, which begins with a review of existing evaluation data. If the IEP team and other qualified professionals determine that no additional data are needed, the AU must notify the parents of that determination and their right to request an assessment to determine their child's educational need, consistent with 34 C.F.R. § 300.305(d).

Significant Changes of Placement Involving Online Programs and Schools of Choice. A significant change of placement occurs when a student moves from a brick-and mortar to an online school or vice versa. Changes to *ECEA Rule 4.03(8)(b)(ii)* expand the definition to include a move from in-person learning to online or at-home learning. Additionally, the AU for the entity sponsoring the online program is no longer automatically responsible for consideration of reevaluation and convening the IEP team to determine if the online program is an appropriate placement. *ECEA Rule 8.00* addresses which AU is responsible for consideration of reevaluation and convening the IEP team.

For significant changes in placement that involve public school choice, changes to *ECEA Rule 4.03(8)(b)(v)* clarify that the requirements in 34 C.F.R. §§ 300.323(a) or 300.323(e) apply depending on the timing of the transfer. In addition, changes to this provision clarify that enrollment or transfers involving public school choice include those to a charter school, Colorado Charter School Institute (CSI) school, innovation school/zone, or open enrollment to any inter/intra district school of choice.

## **Standards for Administrative Units**

The Colorado Department of Education (CDE) recommended various changes to the application and approval process for forming a new or reorganized administrative unit (AU) to ensure children with disabilities are served by an AU capable of fulfilling all state and federal requirements. A brief overview of the changes involving the application, timelines, and approval process follows below. [A more detailed overview is available in a supporting guidance document entitled “2025 ECEA Rule Changes Related to Forming a New or Reorganized Administrative Unit.”](#)

Changes to Content of Application. An AU or a member district in an AU must apply for approval from CDE to form a new or reorganized AU. *ECEA Rule 3.01(3)*. Changes to *ECEA Rule 3.01(3)* provide new content and conferral requirements related to the application.

In addition to demonstrating that the applicant can meet the standards described in *ECEA Rule 3.01*, the application must include a letter of intent that states the positions of the entities impacted by the application, including existing BOCES and member districts. The position statement must be based on a conferral with the impacted parties that occurred prior to filing the application. *ECEA Rule 3.01(3)(a)(i)(B)*.

The letter of intent must also state whether any entity has requested a third-party review of the application, and if so, confirm that the parties have agreed upon the third-party reviewer. Like the position statement, this statement must be based on a conferral that occurred prior to filing the application. *ECEA Rule 3.01(3)(a)(i)(C)*.

For any BOCES seeking to dissolve, with its member districts seeking to join a reorganized or new AU, the application must provide a clear plan for maintaining special education services for all children with disabilities in the existing AU. This requirement was added because the CDE will not grant approval for a new or reorganized AU until all children in the current AU are under new and approved comprehensive plans. *ECEA Rule 3.01(3)(a)(ii)*. This change ensures continuity of special education services for children impacted by a BOCES request to dissolve.

Finally, the application must include content related to any findings of noncompliance resulting from dispute resolution (i.e., state or due process complaint) or CDE’s monitoring activities. Regarding dispute

resolution findings, the application must identify any state or due process complaints involving the applicant district or any of its schools within the previous four years, inclusive of the year in which the application is made. *ECEA Rule 3.01(3)(a)(iv)*. If any complaints resulted in findings of noncompliance, the applicant AU must provide evidence that all corrective action or remedies ordered by the State Complaints Officer or Administrative Law Judge have been completed in full. *ECEA Rule 3.01(3)(a)(iv)(A)*.

Regarding monitoring findings, the application must identify all findings of noncompliance that resulted from any general supervision or monitoring activities conducted by the CDE that involved the applicant district or any of its schools within the previous four years, inclusive of the year the application is made. *ECEA Rule 3.01(3)(a)(v)*. The application must provide evidence that all corrective action required by the CDE has been completed in full. *ECEA Rule 3.01(3)(a)(v)(A)*.

Changes to Timelines for Application and CDE Review. An entity seeking to form a new or reorganized AU must submit its application by June 1, or the next business day if June 1 falls on a weekend. The CDE will not review the application, however, until September 1. This delay in CDE's review allows the parties time to engage in additional conferrals or mediation, if appropriate. If additional conferrals or mediation results in the determination that the third-party report or the application needs revision, the applicant may submit a revised application or third-party report by September 1. *ECEA Rule 3.01(4)(b)*.

By September 15, or the next business day if the 15<sup>th</sup> falls on a weekend, the CDE must determine whether the application is complete and notify the parties in writing. If additional information or documentation is requested, the CDE will identify the specific information or documentation being requested. *ECEA Rule 3.01(4)(c)*.

The applicant will have until September 29, or the next business day if the 29<sup>th</sup> falls on a weekend, to submit the additional information requested by the CDE or to resubmit applications jointly. *ECEA Rule 3.01(4)(d)*.

Note: For the 2025 application year only, an applicant must notify potentially impacted parties of an intent to file an application by June 1; however, the application and third-party report will not be due until August 1, 2025. All other deadlines and procedures remain the same as described below. *ECEA Rule 3.01(4)(i)*.

Changes to CDE Approval Process. ECEA Rule 3.01(5) governs the timelines and considerations CDE must follow when approving or denying an application. Changes to this ECEA Rule alter the guidelines that CDE considers in approving or denying an application.

Approval will be granted if the CDE determines that the proposed AU and the existing/remaining AU will both be able to meet all obligations under state and federal law, including the standards described in ECEA Rules. *Rule 3.01(5)(a)*. This change removes the requirement that the proposed and remaining AU must continue to meet maintenance of effort and adds that both must meet the standards described in ECEA rules, in addition to obligations that exist under state and federal special education law.