



May 2025 ECEA Rule Changes to Form a New or Reorganized Administrative Unit

Introduction

On March 13, 2025, the Colorado State Board of Education adopted changes to the Rules governing implementation of Colorado’s Exceptional Children’s Educational Act, 1 CCR301-8 (ECEA Rules).

The Colorado Department of Education (CDE) recommended specific 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. This fact sheet provides an overview of substantive changes to ECEA Rules related to AU Reorganization.

Standards for Administrative Units

Every AU must be of sufficient size and geographic makeup to fulfill the requirements of the Individuals with Disabilities Education Act (IDEA), the ECEA, and their implementing regulations.

Changes to *ECEA Rule 3.01(1)* now clarify that whether an AU is of sufficient size and geographic makeup will be measured by the AU’s compliance or ability to comply with the specific standards and responsibilities described in *Rule 3.01*, as well as other applicable ECEA Rules.

Organization of Administrative Units

Every school district and Board of Cooperative Services (BOCES) that provides services to children with disabilities must be an AU or part of an AU. Every charter school must be part of an AU, which may be an alternative AU. *ECEA Rule 3.01(2)*.

Changes to *ECEA Rule 3.01(2)*: 1) authorize a specific contractual remedy for an AU required to have an operating agreement, and 2) clarify the responsibility for providing special education services to children with disabilities when an AU applies for an organizational change in structure. Each are discussed in turn.

Contractual Remedies. *ECEA Rule 3.01(2)(a)(i)* now authorizes an AU to retain all or any portion of its IDEA and ECEA funds attributable to a member district, as necessary, to cover the costs of meeting its special education responsibilities to children within that member district. A school district that does not meet the qualifications of an AU must enter into an operating agreement to become part of an AU that is a BOCES. *ECEA Rule 3.01(2)(a)*. The new provision specifically authorizes an AU to include and enforce this specific contractual remedy, in addition to any other contractual remedies set forth in its required operating agreement.

Responsibility to Provide Services. *ECEA Rule 3.01(2)(b)* adds language to clarify that the obligation of an AU to provide special education services to all children within its jurisdiction extends until the CDE approves a new or reorganized AU that serves all children in the current AU. This additional language ensures that all children with disabilities impacted by any AU seeking an organizational change will

receive the services to which they are entitled under IDEA and ECEA throughout the application and approval process.

Applications for New or Reorganized Administrative Units

An AU or a member district in an AU must apply for approval from the 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.

New Content Requirements for Application

Letter of Intent. 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 before the application was submitted. *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 before the application was submitted. *ECEA Rule 3.01(3)(a)(i)(C)*.

Content Required for a BOCES Seeking to Dissolve. 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.

Content Required Concerning State or Due Process Complaints. 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 decisions or actions by the applicant's staff resulted in adverse findings against the existing AU, the applicant 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)*.

Content Required Concerning Findings of Noncompliance. 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)*.

Analysis Required Concerning Impact if Application is Approved. The application must include an analysis that addresses the following projections should the application be approved: 1) projected revenues and expenditures; 2) programmatic impacts for special education services; 3) potential negative impacts on recruiting and retaining qualified special education teachers and special service providers; 4) potential impacts the reorganization may have on services to all eligible special education students within the existing AU and whether they can be mitigated; and 5) whether the new or reorganized AU will improve the academic and functional outcomes through the efficient and effective delivery of special education services to special education students within its jurisdiction. *ECEA Rule 3.01(3)(a)(vi)*.

For items 1-3 above, the analysis must address projections for both the new or reorganized AU and the existing AU.

Finally, the third-party report should be submitted with the application if one of the impacted parties requested the report and the third-party was agreed upon in the pre-filing conferral process. *ECEA Rule 3.01(3)(a)(vii)*.

Preapplication Conferral Process

Before an entity applies to form a new or reorganized AU, the prospective applicant should meet and confer with any impacted entities, such as the existing AU and other members of the existing AU. *ECEA Rule 3.01(4)(a)*. The purpose of the conferral is to discuss the prospective applicant's intent to apply with other impacted entities and to specifically confirm whether any of those impacted entities intend to seek a third-party review of the application. *Id.* The parties are encouraged to begin the conferral process early enough so that the third-party report is completed by June 1, which is the deadline for submitting the application. *ECEA Rule 3.01(4)(a)-(b) and (f)*.

A conferral is required because the applicant AU must state the position of the parties, based on the conferral, in its application. *Id.* If any of the entities involved request a third-party review of the application, the applicant should confer and try to agree upon a third-party to conduct the review. The applicant should state whether a third-party review has been requested and confirm that the parties have agreed upon the third-party in its application, as appropriate. *ECEA Rule 3.01(4)(a); 3.01(3)(a)(i)(C)*.

Third-Party Review if Requested. If a third-party review of the application is requested, the applicant will submit the third-party report with the application. The applicant is responsible for the cost of the third-party report. *ECEA Rule 3.01(4)(f)*.

The independent third-party must conduct an analysis of the questions stated in *ECEA Rule 3.01(3)(a)(vi)* and described above. *ECEA Rule 3.01(4)(f)(i)*. To conduct this analysis, the independent third-party must possess sufficient expertise in the following areas: accounting, special education budget development and projection, special education fiscal requirements, and the delivery of special education services. *ECEA Rule 3.01(4)(f)(ii)*.

Upon request, the CDE will provide technical assistance in the completion of the third-party report. *ECEA Rule 3.01(4)(f)(iii)*.

Timeline for Review of Application and Mediation

ECEA Rule 3.01(4) governs the timelines that the applicant and the CDE must follow when an entity applies to form a new or reorganized AU. Changes to this ECEA Rule alter deadlines for submitting the application and provide new guidelines for the CDE's review of the application. In addition, changes to this Rule specifically allow for mediation as an opportunity to resolve disputes related to the application.

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)*.

Application Deadline. An entity seeking to form a new or reorganized AU must apply 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 the 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.

These deadlines are intended to allow sufficient time for the parties to review the budgetary and other impacts of the proposed change in organizational structure. These deadlines are also intended to ensure that the impacted entities receive a decision from the CDE with sufficient time to plan new budgets and address staffing needs prior to the launch of the new AU for the following school year. *ECEA Rule 3.01(4)(b)*.

CDE Review of Application Deadline. By September 15, or the next business day if the 15th falls on a weekend, the CDE must determine whether the application is complete and notify the parties of its determination 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)*.

If one application cannot be granted without granting all applications related to students in the existing AU, the CDE may request that multiple entities submit applications jointly. *Id.*

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

If an applicant fails to timely submit a complete application or provide the information required by ECEA Rule or requested by the CDE, the application will be deemed incomplete and denied. *ECEA Rule 3.01(4)(e)*.

Mediation. By June 15, the applicant or any impacted entity may request mediation. The costs and expenses of the mediation will be split among the entities participating in mediation. *ECEA Rule 3.01(4)(g)*.

The applicant and affected entities must agree on a mediator. *ECEA Rule 3.01(4)(g)(i)*. Upon agreement, the mediator will convene a meeting with representatives of the entities who have decision making authority for the applicant(s) and existing AU. *ECEA Rule 3.01(4)(g)(ii)*. The representatives of the entities will attend the mediation meeting, which may also be attended by attorneys for the respective entities. *Id.* The CDE will provide the mediator with the full application, the third-party report (if applicable), and any relevant supporting documentation. *ECEA Rule 3.01(4)(g)(iii)*.

The purpose of the mediation is to discuss the reasons why the applicant wishes to form a new or reorganized AU and the facts that form the basis for the application. Mediation provides an opportunity for the affected entities to resolve the disputes and concerns that form the basis for the application. *ECEA Rule 3.01(4)(g)(iv)*.

Parties should plan to complete mediation by August 20 to allow sufficient time to submit any additional information or revisions to the initial application by September 1, the date after which the CDE will begin to review the application. *ECEA Rule 3.01(4)(g)*.

CDE Approval of Application for New or Reorganized Administrative Unit

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

Appeal of CDE Decision to Approve or Deny Application

ECEA Rule 3.01(5)(d) governs the appeal of the CDE's determination to approve or deny an application. Changes to this ECEA Rule alter deadlines for an appeal and clarify the evidence upon which the Commissioner may base a final determination.

If an affected entity disagrees with the CDE's determination, it may appeal the decision to the Commissioner within 30 calendar days of receipt of the written decision to approve or deny the application. *Rule 3.01(5)(c)(i)*. This change shortens the time for appeal from 60 to 30 calendar days. The Commissioner will consider the appeal and make a written final determination by January 31 or the next business day if the 31st falls on a weekend.

Finally, changes to this Rule clarify that the Commissioner will consider whether the applicant and the CDE adhered to the process described in ECEA Rules and whether the CDE's decision was supported by the evidence presented in the application, including the third-party report and/or other relevant documentation named and considered in the CDE's written decision. *Rule 3.01(5)(c)*.