Outline of Colorado IEP Parent Training

Overview of training modules 1-10 (06/08/2026)

COLORADO
Department of Education

Colorado IEP Parent Training Outline Format

This outline is intended to give an overview of the content covered by the Colorado Parent IEP Training Program. The training program goes into more detail, provides resources, and may have some different wording and sequence than this outline. For more information on any topic, please refer to the full training. The training is divided into the following modules:

1. Overview of IDEA & Scope of Special Education
2. Special Education Evaluation
3. Eligibility
4. IEP Development, Review, and Revision (two parts)
5. Least Restrictive Environment
6. IEP Implementation
7. Parent & Student Rights
8. Discipline
9. Resolving Disagreements
10. Section 504

Module 1. Overview of IDEA & Scope of Special Education

Legal framework and administration

- The Individuals with Disabilities Education Act (IDEA) is the federal special education law.
- States establish rules and guidelines for how IDEA's requirements will be met. States can do more than IDEA requires, not less.
- Colorado's state special education law is the Exceptional Children's Education Act (ECEA), implemented by the Rules for the Administration of the ECEA (ECEA Rules).
- Other federal laws relate to the education of children with disabilities, including Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act.
- Scope of the Individuals with Disabilities Education Act (IDEA)
    - IDEA applies to the education of eligible children with disabilities **from birth through age 21. Part B** relates to special education for school-aged children with disabilities **(ages 3-21).**
- Some examples of Colorado variations.
    - Colorado has its own guidelines for IDEA disability categories.
    - Under IDEA and in Colorado, the age that eligibility for special education ends is 21 (longer in some states).
    - In Colorado, transition services (planning for life after high school) must begin by age 15.
    - In Colorado, parents do not sign or otherwise consent to the IEP. (Consent of parents is required for evaluation and to begin special education services.)
- State law determines age of majority.

- IDEA refers specifically to state law for the age of majority, 34 CFR § 300.520.
  - Under ECEA, the age of majority for educational purposes in the State of Colorado is age 21. ECEA Rule 6.02(9). For most things, the age of majority is 18.
- Pay attention to timelines outside of IDEA
  - Eligibility for adult benefits typically begins at age 18.
  - Children who are eligible for adult Home and Community Based Services because of a developmental disability can get on the waiting list at **age 14**.
- Other Colorado state laws also affect education of children with disabilities or suspected disabilities. For example:
  - READ Act; Dyslexia screening (Senate Bill 25-200); Abbreviated school days (House Bill 24-1063)

- **Local control:** In Colorado, local school boards have significant control over certain decisions. For example, curriculum, personnel, and graduation requirements. Local control does not change a school board's obligations under IDEA or ECEA.
- **Role of CDE:** CDE has authority to monitor and enforce IDEA and ECEA requirements (including the procedural safeguards) pursuant to its responsibility for general supervision.
- **Administrative unit (defined below) policies:** AUs set policies that must align with state and federal law. AU policies vary; some do more than is required.
  - ECEA uses the term "Administrative Unit" (AU), which includes school districts, BOCES, etc.
    - Administrative Unit (AU) means "a school district, board of cooperative services, multi-district administrative unit, a charter school network, a charter school collaborative, or the State Charter School Institute, that is providing educational services to exceptional children and that is responsible for the local administration of [the ECEA] Rules." ECEA Rule 2.03.
  - If you have questions about special education in your AU, you can contact the Special Education Director.

Brief overview of IDEA (to be covered in more detail in other modules).

- **Purpose:** The purpose of IDEA is to ensure that all children with disabilities have available to them a free, appropriate education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living.
- **Free appropriate public education (FAPE):**
  - Definition from 24 USC § 1401(9), 34 CFR § 303.15.
  - Procedural and Substantive Requirements:
    - Colorado's Procedural Safeguards Notice has information on parent and student rights.
    - FAPE standard from U.S. Supreme Court cases (*Rowley, Endrew F.)*
    - Impact of shortfalls, reviewing agencies consider significance / materiality
- **Key definitions:**
  - ***Special education***, 34 CFR § 300.39(a)(1).

  - ***Specially designed instruction,*** 34 CFR § 300.39(b)(3).
  - ***Related services,*** 34 CFR § 300.34(a).
  - ***Supplementary aids and services*****,** 34 CFR § 300.42.
- **Evaluation:** An evaluation is done to determine if a child has a disability under IDEA and needs special education. If the child is determined eligible, the information will be used to develop the IEP.
- **Eligibility:** Not every child with a disability needs special education. To be eligible for special education in Colorado, a child must (1) have a qualifying disability as defined by ECEA, (2) experience an adverse educational impact as a result of the disability, and (3) need specially designed instruction to access and benefit from general education.
- **IEP:** For eligible children, FAPE is implemented through an Individualized Education Program (IEP).
- **IEP team:** The IEP is developed by a multidisciplinary team that includes the parents.
- **Rights of parents and students:** Parents and students have certain rights to ensure that they are informed and given the opportunity to participate. IDEA also provides ways to resolve disagreements. These are explained in the Procedural Safeguards Notice.
- **Definition of parents:** "Parents" is defined to include (a) a **natural, adoptive, or foster** parent; (b) a **guardian,** (c) an individual **acting** in the place of a natural or adoptive parent; or (d) an individual assigned to be a **surrogate** parent. 34 CFR § 300.30, ECEA Rule 2.34. (A court order will take priority over the definition in the statutes/rules.)
- **Least restrictive environment (LRE):** Children with disabilities are educated in the "least restrictive environment." This means that they are educated with peers without disabilities in the regular classroom to the "maximum extent appropriate."
- **Changing AUs during the school year.** IDEA has specific rules.
- **Paperwork and forms.**

Module 2. Special Education Evaluation

What is a special education evaluation?

- Public schools do evaluations to determine if a child is eligible for special education.
- If the child is eligible, the evaluation data will also be used to develop the child's educational program.
- A child cannot receive special education without being evaluated by the school / AU.

Overview of evaluation process

- An evaluation (with parent consent) will be done before a student is determined eligible for special education. 34 CFR § 300.304.
- The school will conduct an evaluation that meets IDEA's requirements.
- Parents can request an evaluation.

Referral and child find

- Referral can come from the parents or AU or other parties listed in ECEA Rule 4.02(3)(a).

- Parents must be provided with a Procedural Safeguards Notice (PSN) when a child is referred for evaluation.
- Ongoing child find obligation.
    - Public schools have a duty to ensure that all children with disabilities **up to age 21** who need special education and related services are **"identified, located, and evaluated."** 34 CFR § 300.111.
    - This includes children who have not yet entered school, who have discontinued their education, who are attending private schools, whose parents choose home schooling, who are wards of the State, or who are highly mobile (such as migrant or homeless children). ECEA Rule 4.02(1)(a).
    - Each AU must have a designated person who handles the child find process. ECEA Rule 4.02(2)(b).

Notice and consent

- The school must provide prior written notice (PWN) that meets IDEA's requirements, and the school must obtain parent consent in writing.
- If the school denies a parent request for an evaluation, they must give the parents PWN that meets requirements. 34 C.F.R. § 300.503(b).

Timeline:

- The initial evaluation must be completed within 60 calendar days after the signed consent is received. ECEA Rule 4.02(3)(c)
- A meeting to determine eligibility for special education must be held within a reasonable time after the initial evaluation is completed. ECEA Rule 4.02(6)(a)(i).
- The IEP must be developed within 90 calendar days of receipt of the signed parent consent for the initial evaluation. ECEA Rule 4.03(1)(d)(i).
- The Response to Intervention (RTI) process cannot be used to delay or deny an evaluation.

Reevaluation

- Once a student has been found eligible for special education, a reevaluation must occur at least once every three years (unless the parent and AU agree that a reevaluation is unnecessary). Eligibility will be considered at every IEP reevaluation. A parent or the AU can request a reevaluation sooner if they have concerns that the child's educational needs have changed. 34 CFR § 300.303.

Evaluation procedures

- Comprehensive evaluation. 20 U.S.C. § 1414(b); 34 CFR § 300.304.
- Must use a variety of assessment tools (examples provided)
- Must not be discriminatory or have racial or cultural biases
- The child must be evaluated in all areas related to the suspected disability.

- Behavior must be assessed if the child's behavior is interfering with his/her learning or the learning of others and additional information is required to provide appropriate educational programming. There are a variety of ways to assess behavior.
- Evaluation report
    - The school must give a copy of the evaluation report to the parents.
    - The evaluation report does not include a determination of a disability category or recommendation of eligibility. This will be determined by the multidisciplinary team based on the evaluation data.
    - Evaluation reports often include standard scores or percentile. Looking at the scores on a bell curve can provide a helpful visual.
    - Evaluation reports can be hard to understand. Parents can request a meeting to go over the evaluation or ask questions during the eligibility meeting.

Independent educational evaluation (IEE)

- An independent educational evaluation is done by someone outside of the AU.
- Parents can obtain an IEE at their own expense.
- The IEP team must consider the IEE. The IEE does not replace the school's evaluation.
- Parents can request an IEE **at public expense** if they disagree with school's evaluation.
    - A parent is entitled to only one independent educational evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees. 34 CFR §300.502(b)(5).
- The AU can pay for the IEE or request a hearing to show that their evaluation is appropriate. If it is determined that the evaluation is appropriate, the AU will not need to pay for the IEE.

Module 3. Eligibility

Overview of eligibility process

- To be eligible for special education in Colorado:
    1. The child must have a qualifying disability as defined by ECEA.
    2. The child must experience an adverse educational impact as a result of the disability.
    3. The child must need specially designed instruction to access and benefit from general education.

Multidisciplinary team determination

- Eligibility is determined by a multidisciplinary team that includes the parents.
- A notice of meeting must be sent to parents before the eligibility meeting.
- IDEA/ECEA eligibility categories are specific to special education.
    - An eligibility determination is different from medical diagnosis.
    - IDEA disability categories are different from definitions for other disability laws.

Categories of disability

- IDEA defines 13 official categories of disability. 34 CFR § 300.8.

- Colorado categories
  - Autism Spectrum Disorder (ASD)
  - Deaf-Blindness
  - Developmental Delay (ages 3 through 8 years, up to 9)
  - Hearing Impairment, Including Deafness
  - Infant/Toddler with a Disability (birth through 2 years, up to 3)
  - Intellectual Disability
  - Multiple Disabilities
  - Orthopedic Impairment
  - Other Health Impaired (OHI)
  - Serious Emotional Disability (SED)
  - Specific Learning Disability (SLD)
  - Speech or Language Impairment
  - Traumatic Brain Injury (TBI)
  - Visual Impairment, Including Blindness
- Specific Learning Disability is the most common IEP disability.
- A child can have more than one disability. The team may identify a primary disability and one or more secondary disabilities. The primary disability is the one that has the greatest impact on the child's learning.
- Multiple Disabilities is a specific category for a child with two or more areas of significant impairment, one of which is an intellectual disability.

Five questions for all children

- The evaluation is sufficiently comprehensive to appropriately identify all the child's special education and related service needs, whether or not commonly linked to the disability category.
- The child ***cannot*** receive reasonable educational benefit from general education alone.
- The child's performance is:
  - Not due to a lack of appropriate instruction in reading, including the essential components of reading instruction
  - Not due to a lack of appropriate instruction in math; and
  - Not due to limited English proficiency.

Determination of disability category

- The multidisciplinary team (MDT) must consider how the evaluation data supports (or goes against) the determination of the disability category. The MDT must document the determination.

Parent consent to initial special education services

- If the team determines that a student is eligible for special education services at an initial eligibility meeting, the team must obtain parent consent to start special education and related services.

- If parents refuse special education services, the AU cannot use due process to get consent. Parents can revoke consent for special education and related services.
- If parents revoke consent for special education and related services, to resume special education, the child must go through the evaluation and eligibility process again if referred for special education.

Reevaluation

- Reevaluation at least every three years (can be requested sooner). Eligibility will be considered at every reevaluation.

Module 4. IEP Development, Review, and Revision

Overview of the IEP process

- See Module 4.1

Parent participation

- Parent participation is a key principle of IDEA.

IEP meetings

- A Notice of Meeting must be given to the parents before the meeting. 34 CFR § 300.322. (Common, but not required, practice is at least 10 days' notice.)
- Steps must be taken so that parents whose native language is other than English understand the notice and are given the opportunity to participate in the meeting. 34 CFR § 300.322 (e).
- Extra notice requirements for secondary transition meetings.

IEP Team members

- IDEA specifies who must attend an IEP meeting. There are required participants and optional participants. Parents must always be invited.
- Required and optional IEP team members in Colorado. 34 CFR § 300.321, Colorado ECEA Rule 4.03(5).
- Others who know the child
    - Notice must include that parents can invite others.
- Student, as appropriate. Student must be invited if considering postsecondary goals and transition services. If student does not attend, school must ensure that their preferences and interests are considered in planning. 34 CFR § 300.321(b).
- Use of educational advocates
    - Educational advocates who are not attorneys can provide guidance and support, but they are not authorized to practice law.
- If a required IEP team member will not attend the meeting, excusals must be completed before the meeting.
    - Excusal process. 34 CFR § 300.321(e).

IEP Components

- 34 CFR § 300.320.
- Present Levels of Academic Achievement and Functional Performance (PLAAFP).
    - Student Strengths, Preferences, Interests
    - Present Levels of Educational Performance
    - Student Needs and Impact of Disability
    - Parent/Student Input (for enhancing the education of the child). 34 CFR § 300.324(a)(1)(ii).
- Needs and Impact of Disability based on evaluation and assessment data.
    - Include needs for academic skills, behavioral skills, social skills, assistive technology, independent living skills, and job-related skills.
- Consideration of Special Factors. §300.324(a)(2)(i)-(v).
    - Behavior
    - Limited English Proficiency
    - Blindness or visual impairment
    - Communication needs/Deafness
    - Assistive Technology
- Post-Secondary Plan. ECEA Rule 4.03(6)(d).
    - Annually, **beginning at age 15 in Colorado (no later than the end of 9th grade)**, the IEP must include post-secondary goals based on age-appropriate transition assessment related to:
        - Training / Education
        - Employment
        - Independent living skills, only where appropriate
    - The IEP must include transition services needed for the child to reach those goals.
    - 18-21 Secondary Transition Services.
        - The IEP team may determine that a child who has not graduated with a regular diploma has continuing transition needs and may extend IEP transition services through age 21.
        - 18-21 Secondary Transition Services are not an extension of high school and are not full time. AUs may have different programming options available.
        - Students cannot have been issued a diploma, even if they have met the requirements of graduation.
- Measurable Annual Goals that address the areas of need.
    - IDEA requires **measurable annual goals**, including academic and functional goals, to:
        - meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum; and
        - meet each of the child's other educational needs that result from the child's disability.
    - Short-term objectives are required for students that take alternative assessments aligned to alternate achievement standards (approximately 1% of students, more below).
        - Short-term objectives may be helpful to provide a roadmap to achieve goals.

        - There is no restriction on having short-term objectives. ECEA Rule 4.03(6)(f)(ii).
- Monitoring of progress toward goals
    - The IEP must describe how progress toward annual goals will be measured and reported.
- Services and supports to make progress toward goals.
    - Special Education & Related Services
        - Related services (provide extra support to help children with disabilities benefit from their special education, participate in the general education curriculum, extracurricular and nonacademic activities, and participate in activities with other children with disabilities and without disabilities).
    - Supplementary Aids & Services (supports that help students access and participate in the general curriculum).
        - Accommodations
            - Accommodations change **how** the student receives instructions or shows what they have learned.
            - They support participation in general education and extracurricular activities.
        - Modifications
            - Modifications change **what** students learn (i.e. curriculum).
            - Typically, students do not have curriculum modifications unless they are eligible for state alternative achievement standards.
        - Assistive technology
        - Staff support and training
        - Environmental supports
    - Use of research-based practices
        - "based on peer-reviewed research to the extent practicable" 34 CFR § 300.320 (a)(4).
- Service Delivery
    - The date services and supports will start, how often, the location, and the duration (e.g., minutes per week or month)
    - Frequency and duration of services need to be enough to meet child's needs and to make progress toward goals.
    - The Service Delivery Statement should contain sufficient detail that parents know what a typical school day will look like.
- Recommended Placement in the LRE
    - IDEA provides that a child with a disability must be educated with nondisabled peers to the **maximum extent appropriate**.
    - Children with disabilities should only be removed from the regular education setting if the nature or severity of the disability is such that education in regular classroom cannot be achieved satisfactorily even with supplementary aids and services.

- The IEP team works together to determine the appropriate placement based on the needs of the child. "Placement" or "educational placement" means the provision of special education and related services described in the child's IEP. ECEA Rule 4.03(8)(a).
- The Least Restrictive Environment (LRE) is the educational setting in which the services will be provided. The special education and related services described in the IEP are provided in a setting with children without disabilities as much as appropriate.
- The IEP must include an explanation of the extent, if any, to which the child will **not** participate with nondisabled children in the regular class and in extracurricular and nonacademic activities.
- Supplementary aids and services help children participate in the regular classroom.

- State and District Assessments
  - A small number of children with significant intellectual disabilities take alternate assessments aligned to Alternative Academic Achievement Standards. 34 C.F.R. §200.1(d). (Extended Evidence Outcomes or EEOs in Colorado.)
  - Parents must be informed of differences between regular and alternate assessments, e.g., any implications for their child's graduation.
- ESY Determination
  - **Some** children with IEPs will be eligible for Extended School Year (ESY) services, which are special education and related services that are provided **beyond the normal school year** in accordance with the child's IEP and at no cost to the parents.
  - Determination of eligibility for ESY services is decided by looking at **regression and recoupment** data collected after school breaks as well as predictive factors.
  - ESY services are not based on disability or level of achievement but rather on the child's progress on IEP Goals.
  - ESY Services **are not** designed to develop new skills unrelated to the maintenance of existing skills.

Amendment of IEP

- The IEP may be amended/modified without the complete IEP team after the annual IEP meeting in the same school year if parent and school agree in writing.

Module 5. Least Restrictive Environment

Historical context

- The Least Restrictive Environment (LRE) requirement has been part of the law since its inception in 1975.

IDEA's LRE requirement

- To the **maximum extent appropriate**, children with disabilities, including children in public or private institutions or other care facilities, are
  - **educated with children who are not disabled**, and

    - special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs **only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily**. 20 USC § 1412 (a)(5).
- The child's IEP team determines the LRE based on the individual needs of the child and the child's IEP.
- The IEP must include "an explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class . . ." 34 CFR § 300.320 (a)(5).

Continuum of Alternative Placements

- The AU must offer a continuum of alternative settings in which an IEP can be implemented.

Inclusion and LRE are related concepts

- While the term inclusion is not used in IDEA, inclusive practices support the LRE requirement.

Location

- Location is the physical location or site where the services will be delivered.
    - Example – a particular school or classroom.
    - The AU is responsible for finding an appropriate location to deliver the program. The location should be as close to the neighborhood school as possible.
    - Colorado's ECEA rules allow a "change in building or location that is not a change in placement, as described in Section 4.03(8)(b)," to be made without an IEP meeting or conducting a reevaluation. Such a change must consider the impact on the child's educational program and include parent participation. ECEA Rule 4.03(8)(b)(iii).

School choice

- Schools cannot ask about the child's IEP or disability status during the application process.
- After a child is admitted, the AU may convene the IEP team to determine if the school of choice can provide the child a free appropriate public education (FAPE). If the IEP cannot be appropriately implemented at the school of choice, the AU may assign the child to another school where it can be implemented. Refer to ECEA Rule 4.03(8)(b)(iv).

Module 6. IEP Implementation

- The school / AU is responsible for dissemination of IEP
- Delivery of services
    - After an initial IEP is written and placement is determined, the AU is required to deliver the special education and related services outlined in the IEP **as soon as possible**.
    - There cannot be undue delay.
    - School staff must be aware of and understand their responsibilities and have the skills to deliver the supports and services.
- Progress monitoring and reporting

    - The IEP team is responsible for progress monitoring (the ongoing process of collecting and analyzing data to determine the child's progress toward annual goals).
    - Progress monitoring reports are delivered to parents as provided in the IEP.
- Involvement of parents
- IEP Review
- Relationship of implementation and FAPE / Implementation issues

Module 7. Parent & Student Rights

Protection of parent and student rights

- Parents and students have specific rights under IDEA. These rights are protected by IDEA requirements called the "Procedural Safeguards."
- These safeguards ensure that parents have the right to make informed decisions about their child's educational programming and services and to challenge certain decisions with which they do not agree. 34 CFR § § 300.500 - 300.537. ECEA Rule 6.02.

Procedural safeguards notice

- Parents have the right to receive a complete explanation of all the Procedural Safeguards at least once a year and at certain specific times.

Right to be informed

- Parents have the right to give or deny consent at certain times. 34 CFR § 300.300.
- Parents must be fully informed before giving consent. 34 CFR § 300.9.
- Prior Written Notice (PWN)
    - Parents must receive prior written notice from the school each time that the school:
        - proposes (or refuses) to initiate or change the identification, evaluation, or educational placement of their child;
        - proposes (or refuses) to initiate or change the provision of FAPE to their child.
- Language Access
    - IDEA requires that schools take action to ensure that parents can understand the proceedings of an IEP meeting and meaningfully participate.
    - This means that the meetings parents attend, the child's special education evaluation, and all notices must be written or spoken in the parent's native language or other mode of communication.
    - Colorado has a law on providing a translation or oral recording of the final IEP into the dominant language spoken by the parents at no cost if the parent requests.
- Independent Educational Evaluation (IEE)
    - An independent educational evaluation is done by someone outside of the AU. 34 CFR § 300.502(a).
    - Parents can obtain an IEE at their own expense.

- The IEP team must consider the IEE if it meets the AU's criteria. The IEE does not replace the school's evaluation.
- Parents can request an IEE **at public expense** if they disagree with school's evaluation. 34 CFR §300.502(b).
  - A parent is entitled to only one independent educational evaluation at public expense each time the public agency conducts an evaluation with which the parent disagrees.
- The AU can pay for the IEE or request a hearing to show that its evaluation is appropriate. If the ALJ determines that the evaluation was appropriate, the AU would not pay for IEE.

- Access to Records (FERPA & IDEA)
  - The Family Educational Rights and Privacy Act (FERPA) is a federal law that protects the confidentiality of education records for all students, including those with IEPs. 20 U.S.C. § 1232g, 34 CFR Part 99.
    - FERPA rights transfer at age 18, while parents in CO have continuing rights for special education students who remain in public education continue until the age of 21.
  - IDEA has additional provisions relating to access to records.
  - Parents have the right to inspect and review their child's educational records. (34 CFR §§ 300.610 - 300. 627)
  - The AU must comply with a request without unnecessary delay and before any meeting regarding an IEP, or any due process or expedited due process hearing, or resolution session, and in no case more than 45 days after the request has been made.

Right to disagree with decisions related to special education

- Parents have the right to disagree with decisions made by the school system about their child through IDEA's procedures for resolving disputes. (More on this in the module on Resolving Disagreements.

Rights related to decisions related to discipline

- Parents have the right to challenge decisions related to discipline. (More on this in Module 9 on discipline.)

Right to attend a full day of school

- A Colorado law protects the rights of children with disabilities to attend a full day of school. Appendix D of the PSN explains these rights. See also ECEA Rule 2.01 (definitions of abbreviated school day and abbreviated school day schedule) and ECEA Rule 8.01(1)(j).
  - AUs must have an abbreviated school day policy
  - The law does not apply if parent requests an abbreviated school day schedule or chooses not to send the child to school for a full day**.**
  - If the school decides to shorten a child's school day to handle behavior, it must count this as a disciplinary removal (suspension).
  - More on Abbreviated School Day under Discipline.

Module 8. Discipline

IDEA discipline protections

- All students, including students with IEPs, are subject to their school's code of conduct.
- IDEA provides students with IEPs additional discipline protections in specific circumstances.

Students not yet identified

- IDEA's discipline protections will apply to a child without an IEP if any of these things happened before the child violated a school rule:
    - The parent expressed concern in writing to a teacher or administrator that the child needs special education and related services.
    - The parent requested an evaluation of the child.
    - School staff expressed specific concerns about a pattern of behavior demonstrated by the child directly to the director of special education or to other supervisory personnel. 34 CFR § 300.534.

Removal from educational placement

- Expulsion and suspensions for more than 10 days have such an impact on children with disabilities that they are considered a change in placement.
- A disciplinary change in placement occurs if:
    - the removal is for **more than 10 consecutive school days**; or
    - the child has been subjected to **a series of removals that constitute a pattern** during the school year. 34 CFR § 300.536.
- Removal includes Abbreviated School Days.
    - Under Colorado's abbreviated school day law, if the school decides to shorten a child's school day as a way to handle behavior, **it must count this as a disciplinary removal** (suspension) even if the child was not formally suspended. See ECEA Rules 2.01 & Rule 8.01(1)(j).
    - This applies even if the parent agreed or consented to pick the child up early after a school request.
    - This does **not** apply if the parent requested to pick the child up early.

Manifestation determination review

- A manifestation determination review (MDR) meeting will be held to determine if the child's behavior:
    - was caused by or had a direct and substantial relationship to the child's disability, **or**
    - was caused by a failure to implement the child's IEP.
- The IEP team must hold the MDR meeting within 10 school days of any decision to change the child's educational placement through the student code of conduct (i.e., a disciplinary change in placement).
- Parents must be given notice that meets IDEA's requirements with enough time to prepare and to invite others to the meeting.
- Information on participating in and preparing for an MDR

Refer to Colorado Parent IEP Training and related documents for more information.

Functional behavior assessment & behavior intervention plan

- If the behavior **was a manifestation** of the student's disability:
  - The school must do a functional behavior assessment (FBA) as soon as possible, unless one has already recently been done.
  - The school must develop a behavioral intervention plan (BIP) based on the FBA, or, if a BIP is already in place, the team must review and revise, as necessary, the BIP.
- If a student's behavior **was not a manifestation** of the disability, the rules recommend that the team, as appropriate, do an FBA and develop a BIP to avoid similar behaviors from happening again. 34 CFR § 300.530(d)(1)(ii).

Effect of MDR determination

- If behavior **was a manifestation** of the child's disability:
  - The child returns to the placement from which removed (unless the parent and school agree to a change of placement as part of the modification of the behavior intervention plan).
- If the behavior was a direct result of the AU's failure to implement the IEP, the AU must take immediate steps to remedy those deficiencies.
- If behavior **was not a manifestation** of the child's disability:
  - The child can be disciplined in the same manner as a child without a disability.
  - If the discipline results in a removal from the child's setting and **is a disciplinary change of placement**, the IEP team determines appropriate services to be provided in the alternative setting.
  - If the disciplinary consequences result in a removal from their setting for more than 10 days and **is not a disciplinary change of placement**, school personnel, in consultation with at least one of the child's teachers, determine the extent to which services are provided.

Interim alternative educational setting.

- A child with an IEP who is removed from their setting because of behavior that was **not** a manifestation of their disability **and** the removal is a disciplinary change in placement, the child must receive services in the interim alternative educational setting (IAES). This decision to place a child in an IAES is made by school personnel.
- School personnel can unilaterally place a student with a disability in an Interim Alternative Educational Setting (IAES) for up to 45 school days for carrying a weapon, knowingly possessing or using illegal drugs, selling or soliciting controlled substances, or inflicting "serious bodily injury". This placement occurs without regard to whether the behavior is a manifestation of the student's disability. 34 CFR. § 300.530(g).

Expedited due process hearing

- A due process hearing about a disciplinary change of placement (suspension or expulsion greater than 10 days) or disagreements about a manifestation determination will be expedited.

A separate law in Colorado covers Restraint & Seclusion

- Protection of Individuals from Restraint Act

Module 9. Resolving Disagreements

Dispute prevention and resolution

- Consider informal and ADR approaches
- IDEA provides three options for resolving disputes.

CADRE resources and communication strategies

- Steps to success: Communicating with your child's school
- Positions and interests

Informal approaches to resolving disagreements

- Informal meetings
- IEP review
- Contact your Special Education director
- Keep records and be mindful of tone in written communications
- AI precautions

Alternative dispute resolution (ADR)

- CDE offers facilitation for Special Education Meetings.
    - An impartial facilitator attends the meeting to promote effective communication and assist the IEP team in developing an IEP based on the child's needs.
    - Facilitation is voluntary. Both parties must agree.
    - Facilitation is available for IEP and other special education meetings at no cost to the parties.

IDEA dispute resolution options (described in the PSN)

- **Mediation:**
    - A trained impartial mediator helps the parties reach an agreement in a separate meeting at no cost to parties. If the parties can agree, they sign a **legally binding written agreement**.
    - 34 CFR § 300.506; ECEA Rules 6.02(6), 6.02(7.5)(d).
- **State Complaint:**
    - A state complaint is a request for an **investigation** by CDE about violations of special education requirements.
    - Any individual or organization can file a state complaint with CDE regarding an alleged IDEA or ECEA violation that occurred not more than 1 year prior to proper filing.
    - The State Complaint Officer (SCO) will investigate the complaint, and the parties do not have the burden of producing evidence and proving their claim.
    - SCO will issue a written decision with findings of fact and the CDE's reason for the final decision. Remedies will be issued if there are findings of noncompliance.
    - 34 CFR §§ 300.151-153; ECEA Rule 7.06.

- **Due Process Complaint:**
  - A due process complaint is a request for a **formal hearing** conducted by an administrative law judge (ALJ) to resolve disputes about special education.
  - Only the parents or the AU can file a due process complaint.
  - The party who files the due process complaint has the burden to produce and prove their claim.
  - Formal, trial-like process with witnesses and documentary evidence.
  - Any alleged violation of IDEA or ECEA concerning identification, evaluation, placement or provision of FAPE within prior 2 years.
  - If a violation is found, the ALJ issues an order to correct the violations.
  - The ALJ's decision may be appealed in court within 90 days of the date of the decision.
  - A child must remain (referred to as "stay put") in the current educational placement (the one described in the most recent IEP) while a due process complaint is in progress, unless the parent and AU agree to a change in placement. The stay-put provision only applies if you file a due process complaint. Stay-put is not available for mediation or state complaints.
  - 34 CFR §§ 300.507-509; ECEA Rule 6.02(7.5).
- Expedited Due Process Complaint
  - If the complaint concerns a disciplinary change of placement (suspension or expulsion greater than 10 days) or disagreements about a manifestation determination, the Due Process Complaint will be expedited. This means that the proceedings will occur within different, and shorter, timeframes.
  - Expedited timeframes. Timelines for an expedited hearing may not be extended.
  - 34 CFR § 300.532(c); ECEA Rule 6.02(7.5)(i).

Module 10. Section 504

General

- Section 504 of the Rehabilitation Act of 1973 is a federal law designed to prohibit discrimination based on disability in programs and activities that receive federal financial assistance, including education programs.
  - In federally funded K-12 schools, protections for 504-eligible children include:
    - Regular or special education and related aids and services that are designed to meet their individual educational needs as adequately as the needs of children without disabilities
    - An equal opportunity to participate in athletics and extracurricular activities
    - The right to be free from bullying and harassment based on disability
    - Protection from retaliation
  - Section 504 protects individuals with disabilities from being denied access to programs or activities because of physically inaccessible facilities.

Relationship of IDEA and Section 504

- Children with IEPs also have rights under Section 504. IDEA-eligible students are protected under Section 504 against discrimination, harassment, bullying, and retaliation. Some IDEA-eligible students with an IEP may also, but are not required to have, a 504 Plan.

FAPE in the K-12 educational environment

- FAPE under Section 504 is the provision of regular or special education and related aids and services that are designed to meet the individual educational needs of children with disabilities to the same extent as the needs of children without disabilities are met. 34 CFR § 104.33.

Section 504 eligibility

- Under Section 504 of the Rehabilitation Act, a disability is defined as a physical or mental impairment that substantially limits one or more major life activities, a record of such an impairment, or being regarded as having such an impairment.
- Determination requires an individual assessment.

Evaluation

- Evaluation and disability determinations are made by the Section 504 team, which consists of a group knowledgeable about the child, the meaning of evaluation data, and the placement options. 34 CFR § 104.35(c).
- An evaluation under Section 504 may be less comprehensive than an evaluation under IDEA.
- 504 evaluation requirements are set forth in 34 CFR § 104.35(b).
- School districts may use the same evaluation process under Section 504 as they use to evaluate the needs of children under the IDEA. If school districts adopt a separate process, they must follow the requirements for evaluation specified at 34 CFR § 104.35.
- Section 504 regulations do not specify the time within which an evaluation must be conducted. Typically, OCR and courts will use a “reasonable amount of time” standard.
- Children with disabilities must be reevaluated at least every three years. CRS 22-29.5-111(6). Parent consent is not required. 34 CFR § 104.35(d).

504 Plan

- In K-12 education, a “504 Plan” removes barriers to learning and opportunities.
- The regulations do not require that the plan be written. In practice, they will usually be written.
- The plan is developed to ensure that the child receives accommodations that provide **access** to the school’s programs, services, and activities. A Section 504 plan can include Related Services if necessary to provide FAPE.
- Section 504 applies to all of a school's programs, activities, and services, inside and outside of the classroom (e.g., meals, recess, transportation, field trips, assemblies, extracurricular clubs and activities, sports, school dances, etc.).

Section 504 setting

- Placement decisions must be made by the Section 504 team, not unilaterally by school administration or others.
- Section 504 regulations do not use the term "least restrictive environment," but they provide a similar requirement.

Section 504 parent and student rights

- Section 504 regulations require "a system of procedural safeguards that includes notice, an opportunity for the parents or guardian of the person to examine relevant records, an impartial hearing with opportunity for participation by the person's parents or guardian and representation by counsel, and a review procedure. "
- Compliance with the procedural safeguards of IDEA is one way of meeting this requirement.

Section 504 enforcement

- School districts must designate a Section 504 coordinator and establish grievance procedures. 34 CFR § 104.7.
- To file a complaint related to these concerns, contact the U.S. Department of Education Office for Civil Rights at 303-844-5695 or OCR.Denver@ed.gov.
- You can also contact the Colorado Civil Rights Division regarding discrimination based on a protected class such as disability or violation of civil rights.
- Colorado SB26-125 (Disability Rights Protection in Public Schools) gives CDE jurisdiction to investigate and enforce Section 504 concerns, **but** CDE will **not** be obligated to provide the training, technical assistance, enforcement or remedies described in Section 22.29.5-114 & 115 **unless adequate funding is obtained**. This means that CDE is **not** currently accepting 504 complaints for investigation. Parties may still file a grievance with the school and with OCR to address concerns.

Key differences between Section 504 and IDEA

- See Module 10 of training.

This outline is meant for informational purposes only, is not legally binding, and is not to be confused with legal advice. If you are seeking legal advice, please contact your legal counsel.