CDE Overview of Senate Bill 26-125: Disability Rights Protections in Public Elementary and Secondary Schools

Introduction

In May of 2026, Senate Bill (SB) 26-125 was signed into law. This legislation incorporates key protections available in federal law under "Section 504 of the Rehabilitation Act of 1973" (Section 504) and "Title II of the Americans with Disabilities Act of 1990" (ADA) into state law by adding Article 29.5, *Disability Rights Protections in Public Elementary and Secondary Schools*, to Title 22 of the Colorado Revised Statutes (C.R.S.). Because SB 26-125 primarily incorporates existing federal requirements, this state legislation does not impose entirely new obligations. **Any state law differences from existing federal requirements under Section 504 or the ADA are highlighted in bold below.**

This legislation applies to all local education providers (LEPs). An LEP means a school district, a charter school authorized by a school district, a charter school authorized by the state Charter School Institute, a state-operated program, or a Board of Cooperative Educational Services (BOCES) that operates one or more public schools. **For matters involving the provision of free appropriate public education (FAPE) to a qualified student with a disability, LEP has the same meaning as administrative unit (AU), as defined in C.R.S. Section 22-20-103(1).**

This guidance document provides a high-level overview of SB 25-126, organized categorically as follows: 1) protection from discrimination; 2) physical accessibility; 3) provision of a FAPE in the least restrictive environment (LRE); 4) local grievance process and procedural safeguards; 5) designated coordinator and training requirements; and 6) Colorado Department of Education (CDE) obligations for training, investigation of complaints, monitoring, and enforcement.

While the requirements applicable to LEPs take effect immediately, CDE's obligations to provide training, a complaint process, and remedial/corrective action do not take effect until and unless the CDE obtains sufficient funding.

Summary of Legislative Declaration and Purpose for Enacting SB 26-125

In enacting SB 26-125, the Colorado General Assembly declared that it was in the interest of the state to "codify federal disability-based nondiscrimination requirements" that apply to public schools and to provide state-level training and enforcement of these requirements to ensure "continuity of rights regardless of changes to federal enforcement priorities" and provide "clarity and consistency for students, families and local education providers." These state law requirements "establish clear obligations for local education providers concerning identification, evaluation, educational placement, reasonable accommodations, effective communication, physical accessibility, and protection from harassment and retaliation." *C.R.S. § 22-29.5-101(1).*

The stated purposes of Article 29.5 are to:

- uphold the state's constitutional obligation to provide a thorough and uniform system of free public schools;
- affirm the state's commitment to equal educational opportunity and nondiscrimination for students with disabilities;
- ensure that public schools provide qualified students with disabilities with the aids, benefits, services, and opportunities necessary to participate fully and meaningfully in educational programs;
- create clear, consistent statewide standards and procedures that align with federal requirements while providing independent state protections; and
- ensure that all students with disabilities in the state are educated in environments that respect their dignity, independence, and right to participate fully in the life of their schools and communities.

C.R.S. § 22-29.5-101(2).

1) Protection from Discrimination

General Overview: Consistent with existing federal law, SB 26-125 protects qualified students with disabilities from discrimination based on their disability. For purposes of protection from discrimination under this legislation, disability means "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." *C.R.S. § 22-29.5-102(5).* A student with a disability who has been determined to be eligible under the Individuals with Disabilities Education Act (IDEA) is also considered a student with a disability for purposes of protection from harassment and discrimination.

A qualified student with a disability must be provided with an equal opportunity to participate and benefit from an LEP's programs and services, and these opportunities must be *as effective* for a qualified student with a disability as they are for others. In fulfilling this requirement, an LEP may not provide different or separate aids, benefits, or services to qualified students with disabilities *unless* doing so is necessary to ensure that what is being provided to a qualified student is *as effective* as what is provided to other students. The aids, benefits, or services provided by an LEP are not required to produce the same result or achievement for all students to be considered equally effective. Rather, a qualified student with a disability must be provided with an *equal opportunity* to "obtain the same result, gain the same benefit, or to reach the same level of achievement in the most integrated setting appropriate to the student's needs." *C.R.S. § 22-29.5-103.*

Nonacademic and Extracurricular Services and Activities: The requirements concerning equal access and opportunity for qualified students with disabilities also apply to nonacademic and extracurricular services and activities, including counseling services, transportation, health services, athletics, special interest groups or clubs, referrals, and employment of students. In planning for further education and employment goals, an LEP must ensure that a qualified student with a disability is not "counseled toward more restrictive career objectives" than students without disabilities who have similar interests and abilities. When providing separate or different physical education and athletic activities to students with disabilities, an LEP may only do so consistent with the LRE and "only if a qualified student with a disability is not denied the opportunity to compete for athletic teams or to participate in athletics courses that are not separate or different from those

teams or courses offered to students without disabilities." An LEP is allowed to require a selection process for competitive or selective programs as long as the criteria are not discriminatory. *C.R.S. § 22-29.5-110.*

Reasonable Accommodation: To avoid discriminating against a qualified student with a disability, an LEP may need to make reasonable accommodations to a policy, procedure, or practice. An LEP is not required to make reasonable accommodations if it can demonstrate that doing so would "fundamentally alter the nature of the of the service, program, or activity covered by the policy, practice, or procedure, or cause an undue financial or administrative burden on the [LEP]." The obligation to provide reasonable accommodations does not apply to students who are only regarded as having a disability under the ADA. An individual is regarded as having a disability if they are subjected to discrimination "because of an actual or perceived physical or mental impairment, whether or not that impairment substantially limits, or is perceived to substantially limit, a major life activity." 28 C.F.R. § 35.108(f).

An LEP's obligation to provide a reasonable accommodation also applies to parents with disabilities. For example, a parent with a communication-related disability may need an accommodation to access programs or activities for parents that are connected to their child. *Communication-related disability accommodations must be consistent with the standards for effective communication described below.*

Interpretation and Translation: In addition to disability-related accommodations, an LEP must communicate with parents who have limited English proficiency "in a manner that provides the parent with meaningful access to information that is provided to other parents, including information about programs, services, and activities." *C.R.S. § 22-29.5-103(7).* This includes providing interpretation and translation services for communicating with a parent with limited English proficiency. *C.R.S. § 22-29.5-105.*

Effective Communication: To avoid discriminating against a student on the basis of disability, an LEP must ensure that communication with the qualified student with a disability is *as effective* as communication with a student without a disability. This means that an LEP must provide appropriate auxiliary aids and services when necessary for the student to have an equal opportunity to participate in and enjoy the benefits of a service, program, or activity offered by the LEP.

To be considered effective, the auxiliary aid or service must be provided in a timely manner, in a format that is accessible to the qualified student, and in a way that protects the privacy and independence of the student. When determining what auxiliary aids and services are necessary to ensure effective communication, an LEP must give primary consideration to the request of the qualified student.

Additional effective communication requirements apply to the use of interpreters. An LEP may not require the qualified student to provide an interpreter and an LEP cannot rely on an adult accompanying the qualified student to interpret or facilitate communication unless one of the two following circumstances applies.

- There is an emergency involving an imminent threat to the safety and welfare of an individual or the public and no interpreter is available.
- The qualified student with a disability specifically requests that the accompanying adult interpret or facilitate communication, the accompanying adult agrees to do so, and the assistance is appropriate under the circumstances.

Additionally, an LEP cannot rely on a *minor* to interpret or facilitate communication unless there is an emergency involving imminent threat to the safety and welfare of an individual or the public and no interpreter is available. *C.R.S. § 22-29.5-106.*

These state-law requirements concerning effective communication are consistent with Title II of the ADA.

Harassment Prohibited: LEPs must ensure that a qualified student with a disability is free from harassment that creates a hostile environment. A hostile environment includes one that interferes with or limits the student's ability to participate in or benefit from an LEP's services, activities, or opportunities.

If an LEP knows or should know about possible disability-based harassment, it must take immediate and appropriate action to investigate what has occurred. If the investigation "reveals that disability-based harassment is sufficiently serious to create a hostile environment, the [LEP] must take prompt and effective steps reasonably calculated to end the disability-based harassment, eliminate the hostile environment, prevent harassment and a hostile environment from recurring," and remedy the hostile environment's effects. Because harassment may impact a student's receipt of a FAPE, the effect of the harassment must be addressed by the student's individualized education program (IEP) or Section 504 team, even if the harassment was not based on disability. *C.R.S. § 22-29.5-113.*

Retaliation Prohibited: LEPs are prohibited from coercing, intimidating, threatening, or discriminating against any individual for the purpose of interfering with any right or privilege described in Article 29.5, the IDEA, **Colorado's Exceptional Children's Educational Act (ECEA),** Section 504, the ADA, or **Colorado's Protection of Students from Restraint and Seclusion Act.** In addition, an LEP is prohibited from retaliating against any individual who it believes has or will file a complaint or any individual who has testified or otherwise assisted in an investigation or proceeding available under these specific state and federal laws. *C.R.S. § 22-29.5-117.*

Significant Assistance: The protections from discrimination and harassment described in this section apply to programs, aids, services, and activities provided directly by an LEP, as well as those provided indirectly through contracts, licensing, or other arrangements. Further, an LEP must not "aid or perpetuate discrimination against a qualified student with a disability by providing significant assistance to any agency, organization, or person that discriminates on the basis of disability in providing any aid, benefit, or service" on its behalf. *C.R.S. § 22-29.5-103.*

2) Physical Accessibility

An LEP must ensure that qualified students with disabilities are not excluded from participating in or benefiting from the LEP's programs or activities because the facilities are inaccessible or cannot be accessed safely by people with disabilities. For more detailed guidance on how to implement this requirement, the LEP should refer to the Section 504 regulations at subpart C, the ADA regulations at subpart D, and accessibility standards such as the Uniform Federal Accessibility Standards, the 1991 ADA Standards for Accessible Design, and the 2010 ADA Standards for Accessible Design. *C.R.S. § 22- 29.5-107.*

3) Free Appropriate Public Education (FAPE)

An LEP must provide a FAPE to each qualified student with a disability in its jurisdiction, regardless of the nature or the severity of the student's disability. *C.R.S. § 22-29.5-108.*

An *appropriate* public education under state law and Section 504 means "the provision of public education and related aids and services that are designed to *meet the individual educational needs of a qualified student with a disability as adequately as the needs of a student without a disability* and are based on adherence to procedures that satisfy the requirements of [Article 29.5]." *C.R.S. § 22-29.5-102(2).* Implementation of an IEP developed in accordance with IDEA's procedures is one way of satisfying the FAPE requirement under Section 504 and Article 29.5.

A *free* public education means "the provision of educational and related services without cost to a qualified student with a disability or to the student's parent or guardian." This does not include payment of fees that are imposed on *all* students, without or without disabilities. *C.R.S. § 22-29.5-102(7).*

Educational and related services may be provided at no cost through a program operated by the LEP or by the LEP placing or referring the student to a program that is not operated or provided by the LEP, as long the services are provided at no cost to the student or their parent. If an LEP places a student in a program that it does not operate as a means of providing a FAPE, the following requirements apply to specific costs. These requirements are consistent with existing federal requirements. *C.R.S. § 22-29.5-108(3)-(5).*

- Transportation Costs. If the LEP places a student in a program not operated by the LEP as a means of providing a FAPE, the LEP must ensure that the qualified student with a disability has *adequate transportation* to and from the facility where the services are provided. The transportation must cost no more than it would if the qualified student with a disability was receiving the services from the referring LEP. *C.R.S. § 22-29.5-108(4).*
- Residential Costs. If a Section 504 or IEP team determines that it is necessary to place a student in a residential facility to provide a FAPE, the placement, including nonmedical care and room and board, must be provided at no cost to the student or their parents. *C.R.S. § 22-29.5-108(5).*

If an LEP has made a FAPE available to a qualified student and the student's parents choose to enroll the student in a private school, the LEP is not required to pay for the private school. *C.R.S. § 22-29.5-108(6).*

Ensuring the provision of FAPE also involves the following related requirements.

Child Find: At least annually, an LEP must take appropriate steps to identify and locate every qualified student with a disability who resides in its jurisdiction and notify their parents of this duty. *C.R.S. § 22-29.5-111(1).* This obligation is commonly referred to as "Child Find" and it is similar to the Child Find requirements under Section 504 and the IDEA.

Evaluation Procedures: If an LEP suspects that a student may have a qualifying disability, it must seek consent from the student's parents to conduct an initial evaluation to determine eligibility. If the parents consent to the initial evaluation, the LEP must conduct the evaluation consistent with the procedures described below.

The LEP must establish and comply with the following standards and requirements for conducting evaluations. *C.R.S. § 22-29.5-111(4).*

- tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel, consistent with the instructions provided by the producer;
- tests and other evaluation materials include criteria tailored to assess specific areas of educational need and not merely designed to provide a single general intelligence quotient; and
- for students with impaired sensory, manual, or speaking skills, the tests must be selected and administered to best ensure that the results accurately reflect the student's aptitude, achievement level, or other factors that the test is designed to measure, rather than impairment, unless the impaired factors are what the test is designed to measure.

Evaluations must be conducted in a student's primary language. *C.R.S. § 22-29.5-103(7).*

An LEP may satisfy the requirements for conducting an evaluation if: (a) it complies with all of the procedural requirements detailed above; (b) a "group of knowledgeable people, based on existing evaluation data, determine the student's eligibility and placement, including the services and accommodations the student needs;" and (c) and "the [LEP] and parent agree." *C.R.S. § 22-29.5-111(7.)* The language in bold provides a way to evidence compliance with the evaluation procedures that is not found in existing Section 504 regulations. This does not mean that an evaluation fails to meet the requirements of

Section 504 or Article 29.5 based solely on a disagreement between the LEP and the student's parents about the evaluation, eligibility determination or placement.

If the student has already been determined to be eligible, an LEP must conduct a reevaluation at least every three years. This state law requirement differs from the requirement under Section 504 to conduct "periodic" reevaluations. Parental consent is not required to conduct a reevaluation. *C.R.S. § 22-29.5-111(2), (3) and (6).*

Eligibility and Placement: Eligibility and placement decisions must be based on careful consideration of evaluation data and determined by a group of people who are knowledgeable about the student, the meaning of the evaluation data, and placement options.

In interpreting evaluation data and making placement decisions, LEPs must:

- consider information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social condition, social or cultural background, and adaptive behavior;
- ensure that information from all such sources is documented and carefully considered; and
- ensure that eligibility determinations and placement decisions are made in conformity with the LRE requirements described below. *C.R.S. § 22-29.5-111(5).*

Least Restrictive Environment (LRE) Requirement and Comparable Facilities: A qualified student with a disability must be educated alongside students without disabilities to the maximum extent appropriate based on the needs of the qualified student with a disability. This means that an LEP must place a qualified student with a disability in the regular education environment unless the education of the student cannot be achieved satisfactorily, even with the use of supplementary aids and services. If an LEP places the student in a setting other than the regular education environment, it must consider the proximity of the alternate setting to the student's home. If an LEP operates a facility that is identifiable as being for students with disabilities, the LEP must ensure that the facility and services and activities provided within the facility are comparable to what it provides to students without disabilities.

In providing non-academic services and activities, LEPs must ensure that a qualified student with a disability participates in such services and activities alongside students without disabilities to the maximum extent appropriate based on the needs of the qualified student. Non-academic services include meals, specials, recess periods, and extracurricular activities. *C.R.S. § 22-29.5-109.*

4) Local Grievance Process and Procedural Safeguards

LEPs must establish a local grievance process that includes "appropriate due process standards and provides for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504." LEPs may satisfy this requirement by adopting a Section 504 grievance process that meets the requirements of 34 C.F.R. § 104.7. LEPs are not required to apply their grievance procedures to allegations concerning the identification, evaluation, placement, or provision of a FAPE under the IDEA. *C.R.S. § 22-29.5-104(1)(a).*

For any action that concerns the identification, evaluation, or educational placement of a student with a disability or who may have a disability under Section 504 and Article 29.5, LEPs must establish a system of procedural safeguards. These procedural safeguards must include the following:

- notice of the proposed identification, evaluation determination, or educational placement decision;
- an opportunity for the student's parents to examine relevant records;

- an impartial hearing during which the student's parents have an opportunity to participate and be represented by legal counsel; and
- an opportunity to appeal the outcome of the impartial hearing.

Compliance with IDEA's procedural safeguards is one way to meet these requirements. *C.R.S. § 22-29.5-112.*

The state law requirements for a local grievance process and procedural safeguards are the same as existing federal requirements.

5) Designated Coordinator, Training, and Public Notice Requirements

Designated Coordinator: Each LEP must designate at least one employee to oversee compliance with Article 29.5 and to serve as the point of contact for students, parents, CDE, and third parties.

The designated coordinator must receive training about how to comply with Article 29.5. **This training must cover how to create inclusive and respectful environments for students with disabilities, disability rights, and the disability rights grievance process. This training must occur within 60 days of the LEP employee being designated as the coordinator. LEPs must provide the designated coordinator with the necessary time, resources, and authority to fulfill the obligations of Article 29.5.** The same individual may serve as the designated Section 504 coordinator required by 34 C.F.R. § 104.7.

In addition to training the designated coordinator, each **LEP must provide annual training about the "essential requirements" of Article 29.5 to relevant staff. Relevant staff include the designated coordinator, at least one administrator or designee from each education building on the LEP's premises, and at least one other staff who is regularly involved with developing, implementing, and coordinating plans in accordance with Article 29.5.** Please note that a qualified student would not need two plans, a Section 504 plan and an Article 29.5 plan. Rather, a qualified student would need one plan that is developed in accordance with Section 504 and Article 29.5.

If the LEP has a building-specific coordinator responsible for overseeing compliance with Article 29.5 and Section 504, this individual may attend the annual training in place of a building administrator. *C.R.S. § 22-29.5-104(1)(b) and (d).*

The details, in bold above, regarding the state law training requirements for the designated coordinator and relevant staff are more detailed than the existing requirements under federal law and regulation. In this way, Article 29.5 imposes new training requirements.

Public Notice: By April 1, 2027, each LEP must provide initial notice, and start providing continuing notice, to students and parents that it is prohibited from discriminating based on disability. The notice must include the name, title, phone number, and email address for the designated coordinator described above. The methods for providing the initial and continuing notice include:

- posting hard copies of the notice in the LEP's schools and central office building;
- including the notice in student and employee handbooks, newsletters, mass emails, and information sent home to parents;
- placement of the notice in the LEP's publications and online materials, including the LEP's website and social media; and
- distributing of memoranda or other written communications that include the notice.

This notice requirement may be met in conjunction with any notice required by 34 C.F.R. § 104.8 or 28 C.F.R. § 35.106. *C.R.S. § 22-29.5-104(1)(c).*

6) CDE Obligations for Training and Enforcement (Not in effect)

The CDE is not obligated to provide the training, technical assistance, complaint process, and remedial or enforcement actions described in Sections 22-29.5-114 and 115 of Article 29.5 until CDE receives sufficient funding or resources to implement these requirements. *C.R.S. § 22-29.5-114.5(2)(a).* Accordingly, this section provides a brief description of the complaint process and remedial action described in Article 29.5 that are not yet in effect. CDE will provide a more detailed description if and when adequate funding is secured and these provisions take effect.

Complaint Process: **If and when sufficient funding has been secured**, the CDE will have the authority to investigate alleged violations of Article 29.5 that occurred within the year prior to the filing of a complaint or within 60 days after termination or resolution of an LEP's grievance process. Before filing a complaint with the CDE, an individual must attempt to resolve their concern(s) through the LEP's grievance process (described in Section 4 above) unless an exception applies. The CDE may dismiss an allegation or a complaint under specific circumstances. *C.R.S. § 22-29.5-114.*

The CDE is not currently accepting complaints for investigation that allege a violation of Article 29.5. If and when the CDE receives sufficient funding, it will establish Article 29.5 complaint procedures and provide more comprehensive guidance. Complaints alleging violations of Section 504 or Title II of the ADA may be filed with the U.S. Department of Education's Office for Civil Rights.

Remedial Action and Enforcement: **If and when sufficient funding has been secured,** the CDE will have authority to monitor LEPs for compliance with Article 29.5 and may order remedial action for any violations or findings of noncompliance with the requirements described in Article 29.5**.** Remedial action may include, but is not limited to, the following activities: an audit of the LEP, a corrective action plan that must be followed by the LEP, training of relevant LEP staff, reinstatement of benefits and compensatory services for a qualified student, and adoption of new or revised policies, procedures, and practices. The CDE will have the authority to monitor any remedy ordered through the complaint process or monitoring activities to ensure compliance with Article 29.5. *C.R.S. § 22-29.5-116.*