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John Bing, Paralegal**SENATE BILL 26-125****DISABILITY RIGHTS PROTECTIONS IN PUBLIC SCHOOLS [CODIFIED AT COLO. REV. STAT. § 22-29.5-101 THROUGH 117]**

This statute incorporates into state law core disability rights protections for students established in federal law by Section 504 of the Rehabilitation Act of 1973 (“Section 504”) and Title II of the Americans with Disabilities Act of 1990 (“Title II”). The statute applies to public elementary and secondary educational institutions and covers school districts, local charter schools, Charter School Institute (“CSI”) charter schools, as well as CSI itself. In essence, the bill seeks to address the current lack of anything like the ordinary course of federal enforcement of such laws. It thus seeks to provide students and families with an alternative method to state alleged violations of the principles of Section 504 and Title II now re-articulated as a part of Colorado state substantive law.

Schools are to adopt a grievance process for complaints alleging a violation of Section 504. The complaint process must be prompt, equitable, and incorporate due process standards. It is sufficient for schools to adopt a Section 504 grievance process that complies with the requirements found in 34 CFR 104.7. Schools are not required to apply this grievance procedure to disputes involving IEPs (which are already covered by the state complaint process required by IDEA, as well as “due process” proceedings under that statute).

In addition to creating a grievance process, the school must designate at least one employee to oversee compliance with the statute and be the point of contact for parents, students, the department of education (“department”), and third parties. If you have an existing 504 Coordinator, this should be that person. The designated employee must be trained about the requirements under this statute within sixty (60) days of being designated, and the school is responsible for providing the employee with the necessary time, resources, and authority to fulfill obligations under this statute.

Furthermore, the school must provide initial and ongoing notifications to families and students that it does not discriminate based on disability. The initial notification must be provided on or before April 1, 2027, and notice requirements may be provided in conjunction with already existing notice requirements the school provides under 34 CFR 104.8 or 28 CFR 35.106. Both the initial and ongoing notifications can be provided through means such as, but not limited to, inclusion in student and employee handbooks, newsletters, mass emails, information sent home to parents, school’s website, school’s social media, etc. The notifications must include the name, title, phone number, and email address of the responsible employee. You can combine this with the ordinary notice you post online (for example) of contact information for your 504 Coordinator.



Schools must annually train relevant staff about the essential requirements of the statute. Relevant staff includes the designated employee, one administrator or designee from each building located on the school grounds, and at least one other staff member that is regularly involved with student disability matters. If the school has a building-level coordinator, that individual can be trained instead of a building administrator.

The school must also establish and implement a system of procedural safeguards. This requirement can be met by using IDEA or IDEA-like processes. The procedural safeguards need to include notice of the proposed identification, evaluation determination, or educational placement decision, an opportunity for a parent of the student to examine relevant records, an impartial hearing with opportunity for participation by the student's parent and representation by legal counsel, and an opportunity to appeal an impartial hearing outcome.

In theory, a complaint can only be brought before the department if the complainant attempted to resolve the dispute through the school's grievance process and either the school issued a final decision or the school's final decision has not been provided to the complainant within sixty (60) days of the school receiving the complaint. That is "in theory" because of an unusual aspect of this law. The law authorizes but does not fund departmental enforcement authority. Thus, the department's authority only comes into effect if a subsequent legislative action devotes sufficient funding to support this part of the statute.

If funding is provided, the department will also have authority to provide training and technical assistance to schools. Furthermore, once a complaint is filed the department will have authority to investigate and resolve the complaint and to monitor the implementation of this statute. The department, under specific circumstances, will be required to dismiss specific complaints and have discretion to dismiss others. The department will also have authority to implement specific remedies including requiring the state board of education to withhold state funding from a school that has intentionally violated the statute.

Finally, the statute prohibits schools from retaliating against individuals for making or intending to make a complaint, testifying, assisting, and participating in an investigation or proceeding regarding an allegation or complaint pursuant to this statute. We are likely to see a request for funding to support departmental enforcement of this statute in 2027. Stay tuned.

