



Fiscal Note

Legislative Council Staff

Nonpartisan Services for Colorado’s Legislature

SB 26-125: DISABILITY RIGHTS PROTECTIONS IN PUBLIC SCHOOLS

Prime Sponsors:

Sen. Kolker; Marchman
Rep. Bacon; Phillips

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Fiscal note status: This fiscal note reflects the reengrossed bill.

Summary Information

Overview. The bill codifies in state law existing federal protections, processes, and requirements related to serving students with disabilities, and creates a state complaint and enforcement process for violations.

Types of impacts. The bill is projected to affect the following areas on an ongoing basis:

- State Revenue
- State Expenditures
- School Districts

Appropriations. No appropriation is required. See State Appropriations Section.

**Table 1
State Fiscal Impacts**

| Type of Impact | Budget Year FY 2026-27 | Out Year FY 2027-28 |
|-------------------------|---------------------------|------------------------|
| State Revenue | \$0 | \$0 |
| State Expenditures | \$668,414 | \$581,070 |
| Transferred Funds | \$0 | \$0 |
| Change in TABOR Refunds | \$0 | \$0 |
| Change in State FTE | 3.7 FTE | 4.0 FTE |

**Table 1A
State Expenditures**

| Fund Source | Budget Year FY 2026-27 | Out Year FY 2027-28 |
|---------------------------|-----------------------------------|--------------------------------|
| General Fund | \$576,296 | \$481,546 |
| Cash Funds | \$0 | \$0 |
| Federal Funds | \$0 | \$0 |
| Centrally Appropriated | \$92,117 | \$99,524 |
| Total Expenditures | \$668,414 | \$581,070 |
| Total FTE | 3.7 FTE | 4.0 FTE |

Summary of Legislation

The bill codifies in state law existing federal protections and requirements related to serving students with disabilities who are entitled to a free public education (qualified students), and creates a complaint and enforcement process in the Colorado Department of Education (CDE).

Codification of Federal Laws

The bill codifies in state law the existing federal protections described below.

Discrimination and Reasonable Accommodation

The bill prohibits local education providers (LEPs) from discriminating against or excluding a qualified student from its programs, services, and activities on the basis of a disability. An LEP must make reasonable accommodations when necessary to avoid discriminating against a qualified student, unless the accommodation would fundamentally alter the nature of the activity. Reasonable accommodation must also be provided to a parent with a disability, and interpretation and translation must be provided to parents with limited English proficiency.

Location and Language Requirements

The bill prohibits LEPs from selecting facilities or locations that have the effect of excluding qualified students or impairing their accomplishments. LEPs may not deny a qualified student participation in a program or activity because the facilities are inaccessible. LEPs must conduct student evaluations in the student's primary language and communicate with parents in a manner that provides the parents with meaningful access.

Grievance Process

LEPs must adopt a grievance process for complaints related to Section 504, notify students and families that discrimination on the basis of a disability is prohibited and designate at least one employee to oversee the process and serve as a point of contact for students, parents, CDE, and third parties. The grievance process is not required to be applied to allegations related to provision of an individualized education plan (IEP).

Effective Communication

LEPs must ensure that communication with a qualified students is as effective as communication with a student without a disability, and provide appropriate aids and services when necessary. LEPs may not require an adult accompanying the student to serve as an interpreter, except in emergencies, and may not require the student to provide an interpreter.

The bill specifies the ways that LEPs must notify families of non-discrimination requirements, and that LEPs must provide reasonable accommodation, including related to communication, to a parent with a disability who is seeking to access programs or information related to their child.

Free and Appropriate Public Education

LEPs must provide a free and appropriate public education to each qualified student in their jurisdiction, regardless of the severity of the disability. An LEP may provide services or pay a third party to provide services and must ensure adequate transportation to access services. LEPs must provide education in a regular educational environment with students without disabilities, unless demonstrated that the qualified student's education cannot be satisfactorily achieved in that environment.

Evaluation and Placements

The bill requires that LEPs annually identify and locate every qualified student within their jurisdiction who is not receiving a public education, and if consented to by a parent, evaluate a student who may have a disability. LEPs must take certain steps to determine appropriate placement of a qualified student. The bill requires that this occur annually, which is more specific than the current federal requirement.

Nonacademic and Extracurricular Services

LEPs must provide nonacademic and extracurricular activities in a way that allows qualified students equal opportunity to participate, and ensure that qualified students are not counseled towards more restrictive career objectives than other students.

Harassment

LEPs must ensure a student is free from harassment that creates a hostile environment, and take immediate action to investigate and end disability-based harassment.

Enforcement Procedures

Conditional upon sufficient funding, the bill gives CDE the authority to investigate and resolve complaints of alleged violations and monitor implementation of the bill's requirements. It does not create new authority related to the identification or provision of an IEP. The State Board of Education may adopt rules implementing the process. The bill specifies that the Colorado Civil Rights Division in the Department of Regulatory Agencies must refer any complaints related to the bill to CDE.

Complaints

Complaints may be submitted to CDE by a parent, student, or third party after pursuing resolution through the LEP's grievance process, or if the LEP has not resolved the complaint within 60 days, with some exceptions. Complaints filed by third parties must be by an attorney or advocate representing the student, or alleging systemic violations. Complaints must allege violations that occurred within one calendar year of the complaint, or within 60 days of a complaint being dismissed due to lack of complainant response.

CDE must dismiss complaints if certain criteria are met, and may dismiss a complaint if an investigation is limited by the complainant's failure to provide information. Complainants have 14 days to respond to CDE requests for information. The complaint process must be no longer than 180 days from the date of filing, with some exceptions.

Remedies

If CDE determines that a violation has occurred, it may require a corrective action plan, remedial measures, reinstatement of benefits for the qualified student, or additional staff training, among other remedies. CDE may monitor compliance for up to a year after a violation has been found.

The State Board of Education may withhold state funds from the LEP if it determines that the LEP has intentionally violated the bill's requirements and is unwilling to enter into a corrective action plan. The bill allows for written notice, corrective action, and an appeal related to withholding state funds. By December 1, 2026, the board must adopt rules to establish procedures for withholding funds.

Retaliation

An LEP must not coerce or discriminate against any individual who makes a complaint or participates in a proceeding under the bill or federal disability laws, or for the purpose of interfering with a right given under the bill or federal disability laws.

Training

The bill requires that LEPs provide annual training on disability rights requirements to relevant staff, and allows CDE to provide training and technical assistance to LEPs about the bill's requirements. In addition, an LEP's required staff contact must complete training within 60 days of designation.

Implementation

The provisions that allow CDE to provide training and technical assistance, and enforce complaints, are conditional upon CDE receiving sufficient funding for implementation. CDE may seek gifts, grants, and donations for these provisions and may contract with third parties to support implementation. If sufficient funding is not received by June 30, 2028, these provisions are repealed July 1, 2028.

Background

There are three primary federal laws that impact students with disabilities:

- The **Individuals with Disabilities Act (IDEA)** guarantees that students with disabilities receive a free and appropriate public education, which includes special education services and individualized education plans, and provides funding for states and LEPs to provide services.
- The **Americans with Disabilities Act (ADA)** prohibits discrimination on the basis of disability in employment and public services and accommodations, including schools and educational facilities, and among other things, ensures access to facilities and programs and auxiliary aids for communication.
- **Section 504 of the Rehabilitation Act (504)** prohibits discrimination on the basis of disability in programs and activities that receive federal assistance, including that students with disabilities receive an education comparable to students without disabilities.

Under current law, there is a state process for IDEA complaints and dispute resolution. In 2025, CDE received about 160 complaints, of which 64 resulted in full investigations. This work was handled by 6.0 FTE investigators. The CDE staff that handle IDEA complaints are federally funded and cannot do work related to enforcing state laws, Section 504, or the ADA.

Complaints related to the ADA or Section 504 must be submitted to the federal Office of Civil Rights (OCR) in the U.S. Department of Education. There are currently 120 open cases before the OCR related to Colorado public schools.

State Revenue

Gifts, Grants, and Donations

The bill potentially increases state revenue from gifts, grants, or donations; however, no sources have been identified at this time. Gifts, grants, and donations are exempt from TABOR revenue limits. To implement the enforcement procedures and training requirements, CDE requires funding of about \$668,000 in FY 2026-27 and \$581,000 in subsequent years.

Judicial Department

Although the majority of complaints will be resolved by the CDE, if some cases reach the trial courts via judicial review, revenue increases to the Judicial Department from filing fees. Revenue from filing fees is subject to TABOR.

State Expenditures

Conditional upon receipt of sufficient funding, the bill increases state expenditures in CDE by \$668,000 in FY 2026-27 and \$581,000 in FY 2027-28. These costs are summarized in Table 2 and discussed below. The bill also minimally affects workload in the Department of Regulatory Agencies and the Judicial Department.

Table 2
State Expenditures
Department of Education

| Cost Component | Budget Year FY 2026-27 | Out Year FY 2027-28 |
|------------------------------|-----------------------------------|--------------------------------|
| Personal Services | \$413,560 | \$446,426 |
| Operating Expenses | \$4,736 | \$5,120 |
| Capital Outlay Costs | \$28,000 | \$0 |
| Contract Mediation Services | \$30,000 | \$30,000 |
| Database Updates | \$100,000 | \$0 |
| Centrally Appropriated Costs | \$92,117 | \$99,524 |
| Total Costs | \$668,414 | \$581,070 |
| Total FTE | 3.7 FTE | 4.0 FTE |

Colorado Department of Education

The department will have staff, information technology, and contract costs beginning in FY 2026-27 to implement the bill.

Staff

CDE requires 4.0 FTE on an ongoing basis, including 2.0 FTE for investigators to conduct complain investigations, issue findings, and determine remedies, 0.5 FTE to oversee the new complaint process and coordinate with the State Board of Education, and 1.5 FTE to conduct monitoring and provide technical assistance and training to LEPs.

The fiscal note assumes that the new complaint process will handle about 60 complaints annually, of which up to 25 will result in full investigations, primarily related to ADA and 504. First-year costs are prorated for an August 1 start date.

Contract Mediation Services

CDE requires \$30,000 per year for contract mediation services to resolve disputes. This mirrors the current IDEA process; however, current contract services paid by federal funds cannot be used for ADA or 504-related disputes.

Database Updates

CDE requires \$100,000 in FY 2026-27 only to create an electronic filing system for 504 and ADA complaints.

Legal Services

CDE requires additional legal support from the Department of Law to handle complaints and conduct rulemaking, including supporting an appeal process and providing written notices to LEPs. The increase is expected to be handled within CDE's current allotment of legal services hours. If needed, any additional funding for legal services will be requested through the annual budget process.

Other Agency Impacts

The bill minimally increases workload for the Colorado Civil Rights Division in the Department of Regulatory Agencies to forward complaints related to the bill to CDE within 10 days of receipt, and for the trial courts in the Judicial Department to handle cases filed after the CDE administrative remedies have been completed. No change in appropriations is required.

Centrally Appropriated Costs

Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which may include employee insurance, supplemental employee retirement payments, indirect cost assessments, and other costs, are shown in Table 2 above.

School District

The bill minimally increases school district workload to provide training to staff, and participate in the new state complaint process. The fiscal note assumes that school districts are already compliant with federal laws related to disability protections, thus, codifying those provisions in state law has minimal impact.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature; except that Section 22-29.5-114 related to enforcement procedures and training does not take effect unless CDE receives sufficient funding.

State Appropriations

The costs identified in this fiscal note are contingent upon CDE receiving sufficient funding to implement the bill. For informational purposes, CDE would otherwise require a General Fund appropriation of \$576,296 to the Colorado Department of Education, and 3.7 FTE, for FY 2026-27.

State and Local Government Contacts

| | |
|-----------------|---------------------|
| Early Childhood | Law |
| Education | Regulatory Agencies |
| Judicial | |

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).