



General Information

The Individuals with Disabilities Education Act (IDEA) requires each state to ensure that a free appropriate public education (FAPE) is available to any student with a disability residing within its jurisdiction who requires special education and related services [34 C.F.R. § 300.101]. In Colorado, administrative units (AUs) are responsible for ensuring FAPE is available to public school students eligible for special education and related services under IDEA. These AUs may be made up of a single school district, a board of cooperative services (BOCES), or a multi-district AU made up of two or more school districts. Districts seeking to form a new or reorganized AU must gain approval from the Colorado Department of Education [ECEA Rule 2.02].¹

Districts making application should note that the Department may only approve applications which provide clear and convincing evidence that *both* the newly proposed AU and the current AU of which the applicant district is a member will be able to meet all of their obligations under state and federal special education law [ECEA Rules 3.01(5)(a)]. The applicant district is solely responsible for supplying information to the CDE in order to meet the standards outlined in the ECEA Rules. This document provides a summary of those requirements for school districts and AUs considering changes to their current structure.

Timelines for New or Reorganized Administrative Unit

An administrative unit, a member district of an existing BOCES, or a member district of a multi-district AU seeking to form a new or reorganized AU must submit an [application for a new or reorganized administrative unit](#) to the State Director of Special Education *and* the administrative unit of which the district is currently a member of by September 1st of the year preceding the fiscal year in which the new administrative unit proposes to begin operation [ECEA Rule 3.01(3)(a)]. In the event that September 1st falls on a holiday or weekend, the application is due on the first business day following September 1st. The application must be received by 5:00 PM Mountain Time on the day it is due. If the AU or member school district fails to submit a complete application containing the required information by the deadline, the application will be deemed incomplete and will be denied [ECEA Rule 3.01(4)(a)]. Please note that the application timeline required by rule will be strictly enforced.

Upon receipt of an application to form a new or reorganized administrative unit, the CDE will review the application to determine whether it contains the required information. CDE will have fifteen calendar days from the date of receipt of the application to determine whether the application is complete. CDE will provide the applicant district and the affected entities with written notification of its determination by the sixteenth day following the receipt of the application [ECEA Rule 3.01(4)].

After the initial review of a complete application the CDE, or another affected entity, may request additional information or documentation. If necessary, CDE will provide the applicant district with a written request that details the specific information or documentation needed, including any information that may be requested by other affected administrative units. The applicant district must provide the requested information or documentation to the CDE no later than October 1st [ECEA Rule 3.01(4)(c)]. If October 1st falls on a weekend, then the additional information or documentation is due the first business day following October 1st. All documents are due to CDE by 5:00 PM Mountain

¹ The Rules for the Administration of the Exceptional Children's Educational Act are codified at 1 CCR 301-8, 2220-R-1.00 et seq.



Time on the day on which it is due. As noted above, the required timelines will be strictly enforced. Failure to provide the additional information within the required timelines will result in the application being denied.

CDE will have sixty calendar days from the day it receives the supplemental information to approve or deny the application [ECEA Rule 3.01(4)(c)]. If the CDE determines that no additional information or documentation is required, the CDE will have 60 calendar days from the day it provided the applicant with the notification that the application is complete to approve or deny the application [ECEA Rule 3.01(4)(b)].

The application and any additional information or documents should be electronically mailed to:
AU_ReOrganization@cde.state.co.us.

Letter of Intent for a New or Reorganized Administrative Units

All applications for a new or reorganized AU must be accompanied by a letter of intent that is provided to the CDE *and* the existing AU of which the applicant district is currently a member. The letter of intent must contain the following information:

- The objectives to be sought by the proposed change to the existing AU [ECEA Rule 3.01(3)(a)(i)(A)];
- An outline of how the proposed administrative unit will comply with the requirements of the ECEA Rules, including an operating agreement, if appropriate [3.01(3)(a)(i)(B)];
- A proposed, compliant comprehensive plan for the newly reorganized administrative unit [3.01(3)(a)(i)(C)].

CDE Approval of Application for a New or Reorganized Administrative Unit

As noted earlier, the Department shall approve an application for a new or reorganized administrative unit *only* if the application materials submitted by the applicant district demonstrate by clear and convincing evidence the following:

- That the proposed administrative unit will be able to meet all of its obligations, including maintenance of effort, under state and federal special education law [ECEA Rule 3.01(5)(a)(i)] ; and
- That the existing administrative unit will be able to meet all of its obligations, including maintenance of effort, under state and federal special education law [ECEA Rule 3.01(5)(a)(ii)].

Applicant districts should note that under ECEA rules, CDE is required to consider the impact of approving additional administrative units on the efficiency and effectiveness of all existing AUs and on the Department [ECEA 3.01(5)(b)]. CDE will present its decision in writing to the applicant district and affected entities, including its reasons for denying an application, if applicable [ECEA Rule 3.01(5)(c)].

Third Party Report

Since financial data is critical to determining if the proposed AU and the existing AU will be able to meet all of their obligations under state and federal special education laws, the CDE will request the applicant district to secure and pay for a fiscal report prepared by a CDE approved independent third party. In approving the independent third party, the CDE will consider whether both the applicant district and the existing AU selected an individual or group that is mutually acceptable to both entities. The third party report must describe the anticipated revenues and expenditures for all affected administrative units. In addition, the written report must clearly evidence that current financial data has been obtained directly from all affected administrative units.

The independent third party must possess sufficient expertise in accounting, special education budget development and projection, and special education fiscal requirements. The individual completing the third party report should also seek to develop written agreed upon procedures that will govern the third party review and communicate these procedures to all affected administrative units [ECEA Rule 3.01(3)(e)].

The applicant district must provide the independent third party report to the CDE no later than October 1st [ECEA Rule 3.01(4)(c)]. Applicant districts are strongly encouraged to plan well in advance to secure a qualified individual to complete the third party report in order to meet the October 1st deadline. If October 1st falls on a weekend, the report is due the first business day following October 1st. All documents are due to CDE by 5:00 PM Mountain Time on the day on which they are due. Applicant districts should note that all timelines will be strictly enforced. Failure to provide the third party report within the required timelines will result in the application being denied. The third party report should be electronically mailed to: AU_ReOrganization@cde.state.co.us.

Additional information regarding the third party report may be found in the CDE Fact Sheet entitled [Instructions for Completing the Third Party Report for School Districts Seeking Approval for a New or Reorganized AU](#).

Appeal of Decision

If the applicant district, or another affected entity, disagrees with the decision rendered by the CDE, the applicant district or affected entity may appeal the decision to the Commissioner of Education within 60 calendar days of receipt of the decision. A request for an appeal must be submitted in writing to the Commissioner of Education. The request for an appeal must be received by 5:00 PM Mountain Time on the day on which it is due. Timelines for the appeal will be strictly enforced. Failure to provide the request for an appeal within the required timelines will result in the appeal being denied. Upon receipt of the appeal, the Commissioner will have 60 calendar days to make a decision regarding the appeal [ECEA Rules 3.01(5)(d) – 3.01(5)(d)(ii)].

In considering the appeal, the Commissioner may overturn a decision by the Department only if the Department or the applicant district violated the application procedures or processes required by the ECEA, or if the Department's decision was not supported by clear and convincing evidence presented in the application. The party bringing the appeal bears burdens of proof, presentation, and persuasion to demonstrate that the decision of the Department should be overturned [ECEA Rule 3.01(5)(d)].

Upon receipt of the written request appealing the decision, the Commissioner of Education will provide the entity requesting the appeal with additional instructions and information. The decision of the Commissioner is final and is not subject to further review. Neither the decision of the Department nor the Commissioner's decision on an appeal is appealable to the State Board of Education [ECEA Rule 3.01(5)(d)].

Written request for an appeal should be mailed to:

The Commissioner of Education
Colorado Department of Education
201 East Colfax Ave.
Denver, CO 80203