

# Building Placement and Schools of Choice for Special Education Students

## Rule Change for Exceptional Children's Educational Act, 1 CCR-301-8



## Colorado State Board of Education Rulemaking Hearing

On April 13, 2022, the Colorado State Board of Education adopted changes to the Rules governing Colorado's Exceptional Children's Educational Act. This fact sheet provides a brief overview of the [new rules](#) regarding a change in building location and enrollment in schools of choice for students with disabilities. The following changes will be effective on June 30, 2022.

### New Process for Changing Student Assignment to a Building or Campus

A change in building or location that is not a change in educational placement must now include meaningful parent participation and consider the impact of the change on the child's total educational program. A change in location may be accomplished without convening the child's IEP Team and does not require reevaluation and prior written notice if the change does not also constitute a change in educational placement. The Special Education Director or designee has the authority to make the final decision about the location where the child's IEP will be implemented subject to the new requirements for parent input and due consideration of how the change impacts the child's total educational program.

### New Admission and Enrollment Procedures for Public School Choice Options

When a child applies for admission or a transfer through public school choice options, the AU may no longer inquire about the transferring child's IEP or disability status until after the child has been admitted, unless the transfer is part of a centralized districtwide admissions process. If the transfer is part of a centralized districtwide admission process, the AU must ensure that it does not use the information collected until after admission has been completed. An AU that uses such a process must also inform the public that a child's IEP or disability status will not be used as part of the admission process to the school of choice.

The AU continues to be responsible for ensuring that all children within their jurisdiction who are eligible and served through special education receive a free and appropriate public education (FAPE) and, therefore, may convene the child's IEP team after the child has been admitted to the school of choice to determine if FAPE may be provided at the school of choice. If the IEP team determines that the child's IEP can not be appropriately implemented at the school of choice, the AU may assign the child to another campus or building where the child's IEP can be implemented as developed by the IEP team. If the AU assigns the child to another building, it must provide parents with meaningful participation and consider the impact of the location on the child's total educational program.

If the IEP team determines that the parents' school of choice is not an appropriate educational placement, it must include a specific explanation of its determination in either the IEP or a separate prior written notice that meets the requirements of 34 C.F.R. § 300.503.

## Frequently Asked Questions

**Q1:** Under the newly amended rules, may AUs continue to implement procedures that pre-screen special education students to determine if FAPE may be offered at a potential school choice option?

No. Any procedures that require a parent to disclose their child's disability or IEP status should be discontinued. If the transfer is part of a centralized districtwide admissions process, the AU may request information regarding a child's IEP, but it must inform and assure the public that the child's IEP or disability status will not be used as part of the admission process to the school of choice.

Q2: After a child has been admitted to a school of choice, may an AU convene the child's IEP team to determine if the IEP can be implemented at the school of choice?

Yes. After a child has been admitted to the parent's school of choice, the AU in which the receiving school is located may convene the child's IEP team to determine if the IEP can be implemented appropriately at the school of choice. If the transfer constitutes a significant change of placement, the AU in which the receiving school is located must convene the IEP team to ensure, upon consideration of reevaluation, that the receiving school is an appropriate placement.

The AU may not choose a location other than the parents' school of choice unless the IEP team determines that an appropriate placement cannot be provided at that location. If the AU determines that the parents' school of choice is not an appropriate educational placement, it must include a specific explanation of its determination in either the IEP or a separate prior written notice that meets the requirements of 34 C.F.R. § 300.503.

Q3: If the IEP team determines that the IEP cannot be implemented at the school of choice, can the AU assign the child to another building or campus?

Yes. The AU may assign the child to another building or campus if the IEP team determines that the IEP cannot be implemented at the school of choice. In this situation, the AU must explain its determination in the IEP or through prior written notice that meets the content requirements of 34 C.F.R. § 300.503. If the AU assigns the child to another building or campus, it must include input from parents and consider the impact on the child's total educational program in making the assignment.

Q4: Under school choice rules, which administrative unit is responsible for ensuring FAPE?

The school of choice rules do not directly answer this question. In general, the responsibility to ensure and provide FAPE is the responsibility of the AU of residence. The AU of residence does not change when a child is enrolled in a charter school or online school in another AU *unless* the child's parents enroll the child in a charter school that is participating in a charter school collaborative or network that is an approved AU for the delivery of special education services. In this instance, the charter school collaborative or network serves as both the AU of attendance and the AU residence.