

CHAPTER 85

EDUCATION - POSTSECONDARY

SENATE BILL 25-087

BY SENATOR(S) Marchman, Ball, Cutter, Danielson, Gonzales J., Hinrichsen, Jodeh, Kipp, Kolker, Michaelson Jenet, Roberts, Snyder, Sullivan, Weissman, Winter F., Coleman;
also REPRESENTATIVE(S) Stewart R. and Brooks, Boesenecker, Camacho, English, Froelich, Garcia, Hamrick, Jackson, Joseph, Lieder, Lukens, Martinez, Paschal, Ricks, Sirota, Soper, Stewart K., Story, McCluskie.

AN ACT**CONCERNING ESTABLISHING ACADEMIC ADJUSTMENTS FOR STUDENTS WITH DISABILITIES IN INSTITUTIONS OF HIGHER EDUCATION.**

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) (a) The general assembly finds and declares that:

(I) In accordance with federal law, Colorado law requires institutions of higher education to evaluate whether students with disabilities qualify for an academic adjustment by reviewing documentation, including existing individualized education programs and section 504 plans;

(II) While many institutions of higher education have review processes in place, inconsistencies and a lack of clarity in the review process and implementation of the review process may impede effective support for admitted or enrolled students with disabilities;

(III) Based on feedback from students, faculty, and advocacy groups, there is a need for a clear, standardized process for institutions of higher education to review documents, including existing individualized education programs and section 504 plans, to determine whether a student qualifies for an academic adjustment;

(IV) Enhancing clarity and transparency in the document review process to determine whether students with disabilities qualify for academic adjustments will improve the academic success and the well-being of enrolled students with disabilities; and

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(V) This act creates a transparent document review process for students with disabilities to understand and determine whether they qualify for academic adjustments while maintaining the authority of institutions of higher education to make the final determination as to whether a student with a disability qualifies for academic adjustments.

(b) The general assembly finds, therefore, that it is necessary to:

(I) Clarify the processes institutions of higher education use to review documentation, including existing individualized education programs and section 504 plans, to determine whether admitted or enrolled students with disabilities qualify for academic adjustments;

(II) Ensure that the processes described in subsection (1)(b)(I) of this section do not create barriers for students with disabilities;

(III) Implement accountability measures for an institution of higher education to fulfill its responsibilities by providing a description of the appeals process that focuses on documentary review; and

(IV) Promote the alignment of state and federal law.

SECTION 2. In Colorado Revised Statutes, **add** part 2 to article 1 of title 23 as follows:

PART 2
ACADEMIC ADJUSTMENTS
IN HIGHER EDUCATION FOR
STUDENTS WITH DISABILITIES

23-1-201. Definitions. AS USED IN THIS PART 2, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ACADEMIC ADJUSTMENT" MEANS MODIFICATIONS TO ACADEMIC REQUIREMENTS, AS DESCRIBED IN 34 CFR SEC. 104.44, TO ENSURE EQUAL EDUCATIONAL OPPORTUNITIES. "ACADEMIC ADJUSTMENT" DOES NOT INCLUDE CHANGES THAT FUNDAMENTALLY ALTER THE CONTENT OF ACADEMIC PROGRAMS.

(2) "AMERICANS WITH DISABILITIES ACT OF 1990" OR "ADA" MEANS THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC. 12101 ET SEQ.

(3) "INDIVIDUALIZED EDUCATION PROGRAM" OR "IEP" MEANS A WRITTEN STATEMENT FOR A STUDENT WITH A DISABILITY THAT IS DEVELOPED, REVIEWED, AND REVISED IN ACCORDANCE WITH THE FEDERAL "INDIVIDUALS WITH DISABILITIES EDUCATION ACT", 20 U.S.C. SEC. 1400 ET SEQ.

(4) "INSTITUTION OF HIGHER EDUCATION" MEANS A STATE INSTITUTION OF HIGHER EDUCATION, AS DEFINED IN SECTION 23-18-102, OR AN ACCREDITED CAMPUS OF A STATE INSTITUTION OF HIGHER EDUCATION; A PRIVATE INSTITUTION OF HIGHER

EDUCATION, AS DEFINED IN SECTION 23-18-102, THAT RECEIVES FEDERAL FUNDING; A LOCAL DISTRICT COLLEGE, AS DEFINED IN SECTION 23-71-102; OR AN AREA TECHNICAL COLLEGE, AS DEFINED IN SECTION 23-60-103.

(5) "LOCAL EDUCATION PROVIDER" MEANS A SCHOOL DISTRICT, A CHARTER SCHOOL AUTHORIZED PURSUANT TO PART 1 OF ARTICLE 30.5 OF TITLE 22, AN INSTITUTE CHARTER SCHOOL AUTHORIZED BY THE STATE CHARTER SCHOOL INSTITUTE PURSUANT TO PART 5 OF ARTICLE 30.5 OF TITLE 22, A BOARD OF COOPERATIVE SERVICES CREATED AND OPERATING PURSUANT TO ARTICLE 5 OF TITLE 22, A PUBLIC AUTHORITY OR BOARD OF EDUCATION MANAGING A PUBLIC SCHOOL IN ANOTHER STATE, OR A FACILITY SCHOOL APPROVED PURSUANT TO SECTION 22-2-407.

(6) "SECTION 504" MEANS SECTION 504 OF THE FEDERAL "REHABILITATION ACT OF 1973", 29 U.S.C. SEC. 701 ET SEQ.

(7) "SECTION 504 PLAN" MEANS A PLAN ESTABLISHED PURSUANT TO SECTION 504 THAT PROVIDES GUIDANCE AND SUPPORT FOR A STUDENT WITH A DISABILITY.

(8) "STATE EDUCATION AGENCY" MEANS THE DEPARTMENT OF EDUCATION CREATED IN SECTION 24-1-115 OR AN AGENCY PRIMARILY RESPONSIBLE FOR THE STATE SUPERVISION OF PUBLIC ELEMENTARY SCHOOLS AND SECONDARY SCHOOLS IN ANOTHER STATE.

(9) "STUDENT WITH A DISABILITY" MEANS AN ADMITTED OR AN ENROLLED STUDENT WHO MEETS THE DEFINITION OF AN "INDIVIDUAL WITH A DISABILITY" PURSUANT TO THE FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990" OR PURSUANT TO SECTION 504.

23-1-202. Policy - process - students with disabilities - dissemination of policy. (1) EACH INSTITUTION OF HIGHER EDUCATION SHALL CREATE AND ADOPT A POLICY AND A PROCESS TO SUPPORT THE ABILITY OF A STUDENT WITH A DISABILITY TO VOLUNTARILY SELF-DISCLOSE THE STUDENT'S DISABILITY AND TO ENGAGE IN AN INTERACTIVE PROCESS WITH THE INSTITUTION OF HIGHER EDUCATION TO RECEIVE AN ACADEMIC ADJUSTMENT.

(2) THE POLICY CREATED AND ADOPTED PURSUANT TO SUBSECTION (1) OF THIS SECTION MUST, AT A MINIMUM, INCLUDE INFORMATION THAT:

(a) DESCRIBES THE PROCESS THE INSTITUTION OF HIGHER EDUCATION USES TO DETERMINE WHETHER A STUDENT IS ELIGIBLE FOR AN ACADEMIC ADJUSTMENT;

(b) OUTLINES THE DOCUMENTATION DESCRIBED IN SECTION 23-1-203 (2) THAT THE INSTITUTION OF HIGHER EDUCATION MAY REQUEST TO DETERMINE WHETHER A STUDENT IS ELIGIBLE FOR AN ACADEMIC ADJUSTMENT;

(c) PROVIDES INFORMATION ON THE AVAILABLE DISABILITY RESOURCES AND ACADEMIC ADJUSTMENTS PROVIDED TO STUDENTS WITH DISABILITIES; AND

(d) DESCRIBES AN APPEALS PROCESS FOR ACADEMIC ADJUSTMENT DECISIONS THAT FOCUSES ON DOCUMENTARY REVIEW.

(3) EACH INSTITUTION OF HIGHER EDUCATION SHALL PUBLISH THE POLICY DESCRIBED IN SUBSECTION (1) OF THIS SECTION ON THE INSTITUTION OF HIGHER EDUCATION'S WEBSITE IN AN ACCESSIBLE FORMAT.

23-1-203. Academic adjustments - documentation. (1) AN INSTITUTION OF HIGHER EDUCATION MAY REQUEST DOCUMENTATION, AS DESCRIBED IN SUBSECTION (2) OF THIS SECTION, TO DETERMINE WHETHER A STUDENT WITH A DISABILITY IS ELIGIBLE FOR AN ACADEMIC ADJUSTMENT.

(2) AS PART OF ITS REVIEW TO DETERMINE WHETHER A STUDENT WITH A DISABILITY IS ELIGIBLE FOR AN ACADEMIC ADJUSTMENT AS DESCRIBED IN SUBSECTION (1) OF THIS SECTION, AN INSTITUTION OF HIGHER EDUCATION MAY CONSIDER ONE OF THE FOLLOWING DOCUMENTS TO SUBSTANTIATE THE STUDENT WITH A DISABILITY'S REQUEST FOR AN ACADEMIC ADJUSTMENT:

(a) DOCUMENTATION THAT THE STUDENT WITH A DISABILITY HAS OR HAD AN INDIVIDUALIZED EDUCATION PROGRAM THAT INCLUDES A STATED DISABILITY. THE IEP DOES NOT AUTOMATICALLY QUALIFY A STUDENT WITH A DISABILITY FOR AN ACADEMIC ADJUSTMENT IN HIGHER EDUCATION IF THE IEP LACKS RELEVANT DIAGNOSTIC DETAILS OR DOES NOT DESCRIBE HOW THE STUDENT'S DISABILITY LIMITS ONE OR MORE MAJOR LIFE ACTIVITIES.

(b) DOCUMENTATION THAT THE STUDENT WITH A DISABILITY RECEIVED SERVICES OR REASONABLE ACCOMMODATIONS PURSUANT TO A SECTION 504 PLAN THAT INCLUDES A STATED DISABILITY. THE SECTION 504 PLAN DOES NOT AUTOMATICALLY QUALIFY A STUDENT WITH A DISABILITY FOR AN ACADEMIC ADJUSTMENT IN HIGHER EDUCATION IF THE SECTION 504 PLAN LACKS RELEVANT DIAGNOSTIC DETAILS OR DOES NOT DESCRIBE HOW THE STUDENT'S DISABILITY LIMITS ONE OR MORE MAJOR LIFE ACTIVITIES.

(c) DOCUMENTATION OF A PLAN OR RECORD OF SERVICE FROM A PRIVATE SCHOOL, A LOCAL EDUCATION PROVIDER, AN INDIAN TRIBE OR TRIBAL ORGANIZATION, A STATE EDUCATION AGENCY, OR AN INSTITUTION OF HIGHER EDUCATION PROVIDED PURSUANT TO SECTION 504 OR IN ACCORDANCE WITH THE ADA;

(d) DOCUMENTATION OF A RECORD OR EVALUATION FROM A QUALIFIED HEALTH-CARE PROVIDER WHO IS KNOWLEDGEABLE ABOUT THE STUDENT WITH A DISABILITY THAT CONFIRMS THAT THE STUDENT HAS A DISABILITY;

(e) DOCUMENTATION OF A PLAN OR RECORD FROM ANOTHER INSTITUTION OF HIGHER EDUCATION THAT DETERMINED THE STUDENT WITH A DISABILITY WHO IS APPLYING FOR AN ACADEMIC ADJUSTMENT HAD A QUALIFYING DISABILITY;

(f) DOCUMENTATION OF A DISABILITY DUE TO MILITARY SERVICE; OR

(g) ADDITIONAL INFORMATION FROM A QUALIFIED HEALTH-CARE PROVIDER WHO IS KNOWLEDGEABLE ABOUT THE STUDENT WITH A DISABILITY AND CAN CLARIFY THE NEED FOR AN ACADEMIC ADJUSTMENT THAT MAY NOT BE ADDRESSED IN SUBSECTIONS (2)(a) TO (2)(f) OF THIS SECTION.

(3) (a) AN INSTITUTION OF HIGHER EDUCATION MAY ESTABLISH LESS BURDENSOME DOCUMENTATION CRITERIA TO DETERMINE WHETHER A STUDENT WITH A DISABILITY MAY RECEIVE AN ACADEMIC ADJUSTMENT.

(b) AN INSTITUTION OF HIGHER EDUCATION MAY REQUEST UPDATED DOCUMENTATION IF A STUDENT WITH A DISABILITY:

(I) SUBMITS DOCUMENTATION THAT LACKS REASONABLE DETAIL;

(II) SUBMITS DOCUMENTATION THAT IS OUTDATED BASED ON A DIAGNOSIS THAT HAS CHANGED; OR

(III) REQUESTS SUBSTANTIALLY NEW ACADEMIC ADJUSTMENTS.

(4) THIS PART 2 DOES NOT OVERRIDE FEDERAL LAW.

SECTION 3. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2026 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: April 18, 2025