

**Written Comments Submitted to the
State Board Office**

March 24 - 29, 2012

(SB 191 Appeals Rules)

March 29, 2012

Dear Members of the State Board of Education:

First and foremost, we as the sponsors of SB 191 want to thank the State Council for all the hard work, thoughtfulness, and dedication that the members of the Council have given to this process. We understand that they are tasked with the exceptionally challenging job of working out the details for the implementation of the Great Teachers and Leaders Bill.

Secondly, we would like to address the progress that has been made concerning the appeals process guidelines, as well as the State Model System. Initially, we were concerned with the prospect of including an appellate panel as part of the State Model, but through the discussions, we are encouraged by the direction that the State Council has pursued. The majority of our initial questions and concerns about the appellate panel have been effectively resolved.

We now feel that the restrictions on the hearing process adequately reflect the intent of the bill. We support the exclusion of witnesses, attorneys, and cross-examination from the appeals process, and agree that materials should be submitted to the panel for review before the hearing and the teacher should be available to answer clarifying questions if the panel should have them. These clarifications help strike a balance between allowing teachers to appeal an inaccurate evaluation and ensuring a process that does not overburden school districts. We also support the decision-making structure of the proposed appellate panel, which includes a panel of equal numbers of teachers and administrators, and requires a consensus or majority decision.

While we feel that great progress has been made in narrowing the scope of the appealable issues, we are still concerned that the language in this section leaves too much room for misinterpretation of the original statute. One of the critical components of the Great Teachers and Leaders Bill is a fundamental belief that all students deserve to have a great teacher, because all students have the capacity to grow when they are in the presence of great instruction. For this reason, it is critical that nothing in the appeals process open the door to the belief that a teacher might have grounds for appeal based on the population of students he or she is dealt. This could unintentionally encourage teachers to appeal what they see as hard-to-serve students, whether they be gifted and talented, special needs, or high-poverty students.

We think the basis for appeal must be strictly narrowed to the two categories below. From our productive conversation with the Council we believe these clarifications are squarely aligned with the intentions of the majority of the Council:

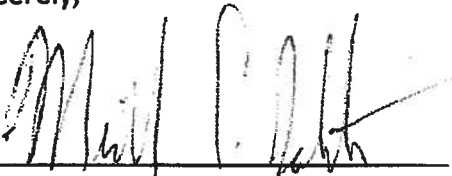
1. Concerns about process that caused a material prejudice to the outcome (the principal did not perform the essential evaluations)

2. Inaccurate consideration or omission of student data (i.e., there were students who were included in the data set who should not have been or students who should have been included who were not).

Finally, there is one new issue that came up in our conversation with the Council that we had not considered before, concerning what happens in the event that an appeal is upheld. If the panel finds that the process was abused, and the superintendent concurs with that decision, it seems clear that finding an incomplete or faulty evaluation is not the same as a finding of effectiveness. It is a finding of deficiency in the evaluator. Because it is not possible for the panel or the superintendent to turn back time and re-evaluate the teacher, we believe that teacher should receive a "no-score" for that evaluation year, meaning the year neither advances nor hinders his or her long term job protection status. If a teacher has received a second consecutive year of ineffective rating, and that year's evaluation is found to lack fundamental evidence, the result should not be an immediate finding of effectiveness, but a finding of "no score." This means that if the teacher receives an effective evaluation in the following year, no action is taken, but if the teacher receives an accurate ineffective evaluation the following year, that would still count as a second consecutive ineffective rating, as the previous year was marked as a no score.

We again thank the Council for their work and collaboration, and encourage the State Board to support the State Model system proposed by the State Council, with the important clarification of the scope of the appeals process.

Sincerely,



Senator Michael Johnston



Senator Nancy Spence



Representative Carole Murray



Christine Scanlan

Dear Members of the Colorado State Board of Education,

We want to thank the Department of Education for the work they have done to revise the recommendations for the educator appeals process under Senate Bill 10-191. We agree with many of the recommendations thus far and believe we are headed in the right direction. However, we feel strongly that some components still need additional clarity and revision in order to ensure consistency in implementing the appeals process throughout the state. Respectfully, we ask for your consideration of the following concerns and subsequent suggestions.

As we stated in our previous letter, we believe a fair and transparent appeals process is critical to the successful implementation of Senate Bill 10-191. Since the last revision of rules was made public on March 1, 2012, we have again reached agreement and recommend that the following recommendations be incorporated and clearly stated in the rules as they move forward. We believe the qualifications and process for how an educator appeals their partially effective or ineffective rating must be consistent statewide. This would include:

Qualifications

- The permissible grounds for appeals should only include a teacher who has received their second consecutive partially effective or ineffective rating and, where there was an incongruence/disparity between student achievement data and evaluations, substantial non-compliance by the school or district regarding the teacher's improvement plan or inaccurate assessment data used to make evaluation decision.

Process

- If a district chooses to use a panel, we recommend the rules must be clear on the size and scope of that panel. We feel strongly that if a panel is used and recommends overturning a partially effective or ineffective rating that recommendation must be made by consensus rather than by a majority of the panel members. Furthermore, we recommend the panel should be limited to four members, two teachers and two administrators. Finally, the ultimate decision on the appeal, regardless of the recommendation made by the panel, must remain with the superintendent.

We feel strongly that these components be directly addressed in the rule because, without a clear directive and understanding for how an educator appeals their rating, the state risks undermining the entire evaluation system.

We thank you again for your continued time and effort to ensure the successful implementation of this critically important piece of legislation. Attached, you will find our recommendations aligned with the second rules draft provided by the Colorado Department of Education, dated March 29, 2012.

Sincerely,

Chris Watney – President and CEO, Colorado Children's Campaign

Moira Cullen – State Director, Democrats for Education Reform, Colorado

Paul Lhevine – Executive Director, Stand for Children, Colorado

Tim Taylor – President, Colorado Succeeds

Kelly Brough – President and CEO, Denver Metro Chamber

Tamra Ward – President and CEO, Colorado Concern



Affiliated with the National Education Association

March 29, 2012

Dear Members of the State Board of Education:

The Colorado Education Association (CEA) has supported the work of the State Council on Educator Effectiveness since the Council was first convened pursuant to Senate Bill 2010-191. We are in support of the recommendations reflected in the Council's letter to the State Board, dated March 22, 2012. Their deliberations have been thoughtful and thorough, and their work is a shining example of how people with different interests can come together and reach consensus for the benefit of our students. We therefore urge the State Board to defer to the Council's extensive research and expertise developed during this process and to adopt the Council's recommendations for rules on the appeals process.

The underlying premise that guided the Council's work was that educators in Colorado, in order to be effective, need an evaluation system that is credible and fair. To make our State's system fair and credible, the Council developed and recommended an appeals process that involves equal number of classroom teachers and principals as participants on the panel hearing the appeal. As the Council noted, using a panel that includes both classroom teachers and administrators creates teacher accountability and ownership of their profession, and promotes shared leadership between administrators and teachers (see page 2 of the Council's March 22, 2012 letter).

Teachers appealing a rating of ineffective or partially effective must place trust in a fair and credible appeals process and must believe the process is focused on accurate evidence centered on a narrow scope of the three grounds outlined in the Council's recommendations. Teachers must know the evidence used to determine the rating was complete and accurate, the data relied upon by the evaluator was accurate data, and the process in place was followed (see pages 5-6 of the Council's March 22, 2012 letter).

CEA expects the system designed by the Council may need some adjustments as we all begin traveling down these somewhat uncharted waters, first with the pilot school districts and later in statewide implementation. However, based on the extensive amount of work and research conducted by the Council, we are in complete agreement that the appeal process outlined by the Council will meet the needs of Colorado students, teachers, and school districts.

Let us all honor their work by adopting the process they collaboratively designed. Thank you.

Sincerely,

Beverly Ingle
President
Colorado Education Association

Tony Salazar
Executive Director
Colorado Education Association

Burdsall, Elizabeth

Subject: FW: Comments on SB191 Rules

Office of the Colorado State Board of Education
201 East Colfax Avenue
Denver, CO 80203

On behalf of the members of the Northern Colorado Superintendents' Council, please accept our sincere appreciation for this opportunity to provide the department with feedback on the latest round of the Annotated Draft SB 191 Rules.

Many of us have supported this bill from the onset and believe it can improve student achievement in our schools by increasing the focus on student achievement. It also has the potential to boost public support by holding our professional staff to measurable standards. This current set of rules on appeals has the potential to aid districts in these difficult decisions, or create more bureaucracy and cynicism with the process.

Superintendents from our region presented comments on the first set of Educator Effectiveness rules five months ago and saw the willingness of CDE staff and the State Board to utilize comments from the field. It is with this spirit that we submit comments for this current round of rulemaking. In an effort to stay involved in the process, we offer the following comments for your consideration.

- ✉ **Limited Appeals** All employees are deserving of due process, but the process must be manageable. Currently most of our district policies allow for a teacher to appeal an evaluation based on a problem with the process, but not the content of the evaluation. This approach is fair and has been utilized in our districts for years without many legal challenges. Under this new system, there may be questions with the data or a significant omission to the process, both would be legitimate reasons for an evaluation to be reviewed. But, the evaluator's determination should not be open for an appeal. In addition, an appeal should be allowable only when a teacher's status would change as a result of the ineffective rating on the evaluation. We believe this would significantly reduce the number of appeals a district would need to manage.
- ✉ **Appeal Timeline** Superintendents are concerned that a long appeals process would interfere with our ability to give notice and to hire replacements. In rural Colorado, we have small staffs and do not have the luxury of "finding a place" for teachers who do not make the grade. We want to be assured we can handle appeals in a timely manner, such as 30 days, so we can move forward with our hard-to-fill positions.
- ✉ **Superintendent's Decision** Difficult personnel decisions belong in the hands of the superintendent, not a panel of peers. In our small districts, teachers know all other teachers by name. They also know their spouses' names, children's names and where they live. Our teachers are not interested in sitting on a panel to decide the fate of a colleague. In large districts, there may be teachers who will serve in these capacities, but our teachers are very reluctant. Some districts may find they have the personnel to make this an effective practice. Therefore, this decision to have a panel for review is best left to the local board of education or the collective bargaining agreement, not forced on districts through the rules.

As Superintendents who have made difficult personnel decisions before, we are certain that we will never create an instrument or process that is perfect. We will always have disagreement between the employee and the supervisor when it comes to removing someone's non-probationary status or during a non-renewal. We are all aware that there will always be judgment and disagreement in the evaluation process if we are doing it honestly. The work done thus far with the evaluation instruments is impressive, and better trained evaluators will help increase student achievement. However, we believe it is no understatement to say that an appeals process without reasonable controls would cause a district to spend too much time fighting evaluations, rather

than exerting our energy where it belongs in the evaluation process. The appeals process could move us closer to our goal of impacting the classroom, or farther from it depending upon these rules.

The Northern Colorado Superintendent's Council appreciates the work of the Effectiveness Council and CDE Staff who have been charged with taking on this important project. We thank the State Board of Education for making time available for comment and encouraging people to weigh in on the draft rules. We look forward to seeing these rules revised and implemented in a way that supports our administrators and student achievement.

Respectfully Submitted,

Northern Colorado Superintendents' Council

Kendra Anderson, Lone Star
Linda Chapman, Estes Park
Ben Dutton, Plateau
Darcy Garretson, Haxtun
Joe Kimmel, Prairie
Bret Miles, Holyoke Re-1J
Rick Mondt, Briggsdale
Bob Petterson, Weldon Valley
Rob Sanders, Merino
Susie Townsend, Weld RE-3j
Mike Warren, Otis

Jo Barbie, Weld RE-1
Jim Copeland, Fleming
Shawn Ehnes, Julesburg
Sharon Green, Platte Valley
Dale McCall, CBA
Randy Miller, Eaton
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Rob Ring, Ault
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Marty Bassett, Wray
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