



COLORADO
Department of Education

TO: State Board of Education

FROM: CDE Division of School Operations, School Finance Unit

DATE: February 14 and 15, 2024

RE: Rulemaking Hearing for the Public School Finance Rules

Background:

Below please find information to support the Rulemaking Hearing for 1 CCR 301-39 Rules for the Administration of the Public School Finance Act of 1994.

The Colorado Department of Education (CDE) staff developed proposed School Finance Rules. These proposed rules are a culmination of work from the past two and a half years, as we have worked to learn from the new education opportunities that evolved over the past several years. The proposed rules are designed to formalize the best practices learned through these endeavors and expand what qualifies for funding while ensuring appropriate guardrails, oversight, and protections. Additionally, the proposed rules include several other changes. As the rules have not been substantially updated since 2012, there are other needed updates to align with current statutes and practice and provide more clarity.

A large number of public comments have been received during the formal rulemaking process. A [public tracking sheet](#) of these comments has been created. This spreadsheet contains three tabs with all of the tracked correspondence since the Notice of Rulemaking. We will continue to update this spreadsheet with additional feedback as it is received. We have created a [Frequently Asked Questions \(FAQ\)](#) document that responds to letters received.

The hearing on this rulemaking will open at the February meeting and continue into the March meeting. The State Board will continue to accept written public comment during that time and will continue to update the tracking sheet and the FAQ.





The feedback received to date can be grouped into three main categories: contractual education, homeschool education, and other topics:

- **Contractual Education:**
 - A number of the public comments voiced concern that the proposed school finance rules would make contracted public school educational services ineligible for funding. These comments reflect a misunderstanding. Contractual education services have been funded under the existing, historical rules and would continue to be funded in the proposed rules.
 - Programs that include in-person instruction under the supervision of a licensed teacher, and do not require tuition payment for the program being submitted for public school funding, would continue to be fundable for grades K through 12.
- **Homeschool Education:**
 - The proposed rules clarify that funded teacher-pupil instruction (whether “direct” or “alternative”) does not include parent-led or -directed instruction. See Proposed Rules 1.14 & 2.05(1)(c)(IV). Some commenters have suggested that this would negatively impact (1) part-time students (primarily home-school students) who would lose the benefit of subsidized curricula, supplies, and other materials, and (2) the vendors who provide these products to part-time students. CDE believes these concerns to be mistaken. The Public School Finance Act and its implementing rules currently do not authorize parent-led and -delivered instruction to be counted as funded instructional time and currently provide funding only on the basis of teacher-pupil contact time (not on the basis of subsidized educational supplies). The proposed rules simply clarify existing law.
 - The proposed rules expand funded instructional time from the currently funded formats to include “alternative teacher-pupil instruction.” It does so only for middle and high school students. See Proposed Rule 2.05(1)(a)-(b). Some commenters have suggested that this distinction will have an adverse impact on families as the consumers of educational services, on vendors who provide such services on behalf of schools and districts, and on the overall economic competitiveness of our students after they graduate, because it takes away from currently funded formats for students in elementary grades. CDE disagrees because these highly independent formats are not currently funded for students in elementary grades (absent a waiver or variance from the current rules). This rule change would expand the funded formats in middle and high school without reducing or otherwise changing the funded formats for elementary school.





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Department of Education

- Both elementary and secondary homeschool students can continue to enroll in online programs. The only implication this rulemaking has for online schools or programs is to clarify that students enrolled exclusively in online courses must be enrolled in an online school or online program, rather than a “brick -and-mortar” program, to be funded. See Proposed Rule 5.09. Correctly categorizing enrollments is necessary because funding procedures and statutory funding levels can vary between brick -and-mortar programs and online schools/programs. It is also necessary to ensure the correct application of the Online Schools Act’s quality standards.
- Please see the [Cost Benefit Analysis](#) for a more in depth response to the concerns regarding homeschooling.
- Other Topics:
 - A number of the public comments include questions and concerns on other aspects of the rules.

In response to the feedback, CDE has made additional revisions to the proposed rules. Some of these are more substantive changes and others are simply clarifications or technical changes. These proposed changes have been captured in a [redline document of new proposed language](#), starting from the proposed rules as presented at the December State Board of Education meeting as part of the Notice of Rulemaking. A [clean version of the new proposed rules](#) is also available. Additionally, a comprehensive redline document of all of the proposed changes will be developed and provided before the February State Board meeting.

Given the complexity and importance of these rules, the State Board will have two times scheduled for the Rulemaking Hearing in February, one on Wednesday the 14th and one on Thursday the 15th. Additionally, the State Board will continue the hearing until its March board meeting and will continue accepting written public comment. A vote on the rulemaking is expected to occur during the March State Board meeting.

If you have any questions, please reach out to Jennifer Okes (okes_j@cde.state.co.us).

