

October 8, 2013

Via Electronic Mail (state.board@cde.state.co.us)

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

Re: Proposed Rules regarding the Evaluation of Specialized Service Providers

Dear Members of the State Board of Education:

The Colorado Association of School Boards (CASB), the Colorado Association of School Executives (CASE), the Colorado BOCES Association (CBA) and the Consortium of Directors of Special Education (Consortium) submit these written comments on behalf of Colorado school districts and BOCES regarding the proposed rules to address the evaluation of specialized service providers (SSPs) under the Licensed Personnel Performance Evaluation Act, C.R.S. 22-9-101 *et. seq.* (the Act), as amended by SB 10-191.

As the core guiding principle, CASB, CASE, CBA and the Consortium urge the State Board of Education to issue rules consistent with the Act and the State Board's rulemaking authority. By doing so, the State Board will ensure that the rules will not unnecessarily burden school districts and BOCES with requirements that are in addition to or conflict with the Act. Although we greatly appreciate that the Colorado Department of Education addressed some of the concerns raised by CASB and the Consortium in response to the initial draft rules, we remain concerned about several provisions of the proposed rules.

Proposed Rule 4.03, Performance Evaluation Ratings for SSPs

Proposed Rule 4.03 requires school districts and BOCES to use a "single, common statewide SSP performance scoring framework" developed by the Department "to assign both novice and experienced SSPs to one of the four Performance Evaluation Ratings." As CASB stated in its written comments to the initial draft rules, it is not appropriate for a central requirement of the evaluation process to be mandated outside of a formal rulemaking process. The rules are sufficiently prescriptive about the evaluation criteria and weighting to fulfill the requirements of the Act and the rules.

Proposed Rule 4.03 also conflicts with the approach taken concerning the scoring frameworks for teachers and principals, which allows districts and BOCES to follow the Department's scoring framework or develop its own. *See*, 1 CCR 301-87, Rule 2.03(A), (B) and Rule 3.03(A), (B).

Finally and most importantly, this mandate conflicts with school districts' and BOCES's obligations and the role of a district's or BOCES's licensed personnel performance evaluation council under the Act. *See*, C.R.S. 22-9-106(5), (6); C.R.S. 22-9-107.

We respectfully request that proposed Rule 4.03 be amended to *encourage* the use of the Department's scoring framework rather than mandate it. For an example of this approach, please refer to proposed Rule 4.07(A).

Proposed Rule 4.04(A)(6), Process for Evaluating SSPs

This section lists performance measures that may be included in the SSP evaluation. While we continue to have concerns about peer feedback and parent or guardian feedback being considered as performance measures in the SSP evaluation, we appreciate the wording that allows this to be optional for school districts and BOCES.

Proposed Rules 4.04(A)(10-13), Process for Evaluating SSPs

Proposed Rules 4.04(A)(10), (11), (12) and (13) prescribe how the SSP shall be informed of his or her evaluator and the steps to take during the evaluation process. We object to these provisions because they are already dictated by the Act and are therefore unnecessary.

We especially object to Proposed Rule 4.04(A)(13), as it requires the supervisor(s) for each SSP, prior to and throughout the evaluation process, "to engage in professional dialogue with the SSP focused on his/her professional practice and growth for the course of the year." This language, as well as the language in proposed Rules 4.04(A)(10-12), create additional ambiguity that will only lead to conflict and litigation.

The Act requires evaluators to engage in a collaborative process focused on the growth of the licensed staff member, including the requirement that any evaluation system "ensure that the standards and criteria are available in writing to all licensed personnel and are communicated and discussed by the person being evaluated and the evaluator prior to and during the course of the evaluation." C.R.S. 22-9-106(1)(e)(II); *see also*, C.R.S. 22-9-106(1) (minimum requirements of any licensed personnel evaluation system, including specification of the "frequency and duration of evaluations"); C.R.S. 22-9-106(3) (required elements of the written evaluation report, including specification of "strengths and weaknesses" and the identification of "data sources" used in the evaluation).

Proposed rules 4.04(A)(10-13) also conflict with the approach taken regarding the evaluations of teachers and principals. Consistent with the Act, the rules concerning the evaluations of teachers and principals do not dictate the evaluation process itself. *See*, 1 CCR 301-87, Rules 2.00 and 3.00.

For these reasons, we respectfully request that Proposed Rules 4.04(A)(10), (11), (12) and (13) be deleted in their entirety.

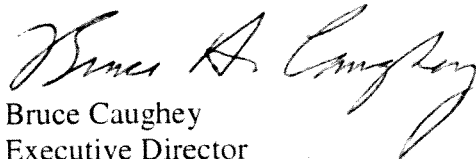
Titles of Proposed Rules 4.04 and 4.07

Lastly, for purposes of consistency in language and approach and to encompass school districts as well as BOCES, we respectfully request that the titles of proposed Rule 4.04 and proposed Rule 4.07 be revised to refer to "Local Systems" instead of "Local School Board Policies and Procedures."

Sincerely,



Kathleen Sullivan
Chief Counsel
Colorado Association of School Boards



Bruce Caughey
Executive Director
Colorado Association of School Executives



Dale McCall
Executive Director
Colorado BOCES Association



Lucinda Hundley
On behalf of the Consortium of Directors of Special Education

cc via e-mail: Robert Hammond, Commissioner, Colorado Department of Education; Carey Taylor Markel, Director of State Board Relations for the State Board of Education; Kady Lanoha, Senior Policy Associate, Colorado Department of Education