

**Responses to Written Comments on Draft SB 191 Appeals Rules
Received February 8 – March 1, 2012**

	Comment/Question	CDE Response
1	<p>An external committee or panel is not necessary to support the bill’s goals of offering teachers a fair and rigorous process for appeals. If the panel does become an option, that panel must be voluntary for districts at a minimum but at a maximum the panel’s decision must be advisory and the superintendent or his/her designee must retain final decision-making authority. <i>(Letter submitted 2/24/12 by SB 191 sponsors, Senators Michael Johnston, Nancy Spence, Carole Murray, and Christine Scanlan)</i></p>	<p>The current draft rules allow districts to choose whether or not to incorporate a panel or external committee in their appeal process. The department recommends that the draft rules be revised to ensure that any panel is advisory in nature and that a superintendent or his or her designee retains final decision-making authority.</p>
2	<p>The only issue that a superintendent or a panel should evaluate is whether the evaluation process was followed correctly; the appeals process should not address the issue of whether the teacher is substantively an effective teacher even though he or she received a rating of ineffective and should not address the issue of whether the data was an accurate representation of how much students grew. The appellate person or body should only confirm that the students in the measured data set were in fact students in the teacher’s classroom and the appeal should only address whether the evaluation process was followed closely enough to prevent any material prejudice as to the final decision. <i>(Letter submitted 2/24/12 by SB 191 sponsors, Senators Michael Johnston, Nancy Spence, Carole Murray, and Christine Scanlan)</i></p>	<p>The department is still thinking through the complexities of how final evaluation ratings will be assigned and what the substance of an appeal should be. The department would like additional feedback on this topic before making a recommendation.</p>
3	<p>Rather than the multiple appeals options outlined in the draft rules, we recommend that there be one statewide appeals process that provides local districts with flexibility on how they meet the requirements of the standardized process. <i>(Letter</i></p>	<p>The current draft rules, in section 5.04 (B) outline criteria that the appeal process must meet in every district statewide. The appeal process that will be included in the State Model Evaluation System, and which is described in section 5.04 (C) is just one option that districts</p>

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	<i>submitted 2/24/12 by Colorado Children’s Campaign, Democrats for Ed Reform, Stand for Children, Colorado Succeeds, Denver Metro Chamber, and Colorado Concern)</i>	may use to meet the requirements of section 5.04 (B).
4	We believe the decision of who is eligible to appeal their rating needs to be limited in scope. The permissible grounds for appeals should only include a teacher who has received their second consecutive ineffective rating <u>and</u> 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 <u>or</u> inaccurate assessment data used to make evaluation decision. <i>(Letter submitted 2/24/12 by Colorado Children’s Campaign, Democrats for Ed Reform, Stand for Children, Colorado Succeeds, Denver Metro Chamber, and Colorado Concern)</i>	See response in row 2.
5	The appeals process should be timely and streamlined in order to provide teachers with feedback on their rating and provide schools the flexibility to move forward with next steps pending the appeals decision. For that reason, we believe a 45-day appeals timeline is appropriate (15 days for the teacher to notify and submit grounds for appeal and 30 days for appeal to be heard and decision to be made). <i>(Letter submitted 2/24/12 by Colorado Children’s Campaign, Democrats for Ed Reform, Stand for Children, Colorado Succeeds, Denver Metro Chamber, and Colorado Concern)</i>	Statute, in 22-9-106 (4.5) (b), C.R.S., states that “the appeal process shall take no longer than ninety days,” but does not prohibit a shorter process. The department recommends revising the draft rules to ensure that that the process be completed in 45 days, to assist districts in planning for their hiring process.
6	We would strongly prefer that appeals be decided solely and directly by the district superintendent or his/her designee. If a panel structure remains an option for districts it is imperative that the structure is defined in rule as, 1) the panel is only advisory in scope, 2) the panel is composed of five members – three from the school administrator level and two teachers, 3)	The department recommends that, as is permitted in the current draft of the rules, districts have the discretion to choose whether or not to incorporate a panel or external committee in their appeals process. The department recommends that the draft rules be revised to ensure that any panel is advisory in nature and that a superintendent or his or her designee retains final decision-making authority. The department

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	<p>one of the administrator members is appointed by the superintendent or his/her designee, and 4) the superintendent or his/her designee retains the final decision making authority in all appeals. <i>(Letter submitted 2/24/12 by Colorado Children’s Campaign, Democrats for Ed Reform, Stand for Children, Colorado Succeeds, Denver Metro Chamber, and Colorado Concern)</i></p>	<p>recommends that the membership of any panels not be prescribed, so that each district has flexibility to determine membership that is appropriate for the unique circumstances of the district.</p>
7	<p>Additionally, under a panel appeals process, we recommend that collective bargaining only apply to 1) the two teachers selected to serve on the panel and 2) the decisions relating to the terms (length of time) they serve on the panel. <i>(Letter submitted 2/24/12 by Colorado Children’s Campaign, Democrats for Ed Reform, Stand for Children, Colorado Succeeds, Denver Metro Chamber, and Colorado Concern)</i></p>	<p>Statute, in section 22-9-106 (4.5) (b), C.R.S., specifically states that districts must ensure that teachers who object to a rating of ineffectiveness must have “an opportunity to appeal that rating, in accordance with a fair and transparent process developed, where applicable, through collective bargaining.” Section 5.04 (B) (4) (f) is merely a restatement of this statutory requirement, and is not specific to an appeals panel.</p>
8	<p>Finally, it is imperative that we clearly state that each teacher is only allowed one appeal and may only appeal on the grounds covered through their initial written appeal. <i>(Letter submitted 2/24/12 by Colorado Children’s Campaign, Democrats for Ed Reform, Stand for Children, Colorado Succeeds, Denver Metro Chamber, and Colorado Concern)</i></p>	<p>The department recommends adding language to section 5.04 (B) (4) clarifying that a teacher is only permitted one appeal and may only appeal based on the issues identified in the single written document submitted by the teacher.</p>