

# Rulemaking Hearing

## School Finance Rules

### 1 CCR 301-39

February 2024

# Agenda

1. Timeline
2. What is in the School Finance Rules?
3. Summary of Public Comment
4. Myth Busting
5. Updates to Proposed Rule Changes
6. Questions and Comments

# Timeline

# History and Anticipated Timeline

- April 2023 - [Presentation to the State Board](#)
- July 2023 - [Initial Draft of Proposed Rules](#)
- July-October 2023 - [Survey](#) and Stakeholder Engagement meetings
- November 2023 - [Presentation to the State Board](#)
- November 2023 - [Webinar](#)
- November 2023 - Stakeholder Feedback [Form](#)
- Nov/December 2023 - [Updated Draft of Proposed Rules](#)
- December 2023 - [Notice of Rulemaking Presentation](#)
- February 2024 - [Updates to Proposed Rule Changes](#)
- February 2024 - Rulemaking Hearing - No Vote is Anticipated
- February/March - Ongoing Stakeholder Feedback
- March 2024 - Vote on Rulemaking
- SY 2024-25 - Updated Rules in Effect

# What is in the School Finance Rules?

# Background



Section 22-54-120, C.R.S., grants the State Board the authority to “make reasonable rules and regulations necessary for the administration and enforcement” of the Public School Finance Act (PSFA) of 1994.

The Rules for the Administration of the Public School Finance Act (PFSA) of 1994 are published in the [1 CCR 301-39](#).

These rules define the requirements for students to be eligible for public school funding for “brick-and-mortar” public schools.

These rules are further implemented through the [2023 Student October Count Audit Resource Guide](#).

Funding for online schools is addressed in separate rules, [1 CCR 301-71](#).

# Proposed Rules Provide Additional Flexibility

Education has evolved since 1994 and has rapidly changed in recent years. CDE has been exploring areas where there could be greater flexibility through the [Blended Learning Initiative](#) (BLI).

The BLI allowed variances in school years 21-22, 22-23 and 23-24 for schools wanting to schedule students in nontraditional courses over 40% of the time. These variances allowed newer learning models to qualify for funding.

The proposed rules are designed to formalize the best practices learned through these endeavors and expand what qualifies for funding.

The proposed rules move away from the traditional practice of forcing instructional time into a “seat time” model. These rules incorporate aspects of the model used under the Online School Act for nontraditional courses, including equivalency statements.

# Homeschool Students May Attend Public Schools

The Public School Finance Act (PSFA) authorizes part-time funding for public schools when a homeschool student is “attending a public school for a portion of the school day.” C.R.S. § 22-33-104.5(6)(a). Therefore, homeschool students in Colorado may be a:

- Homeschool student receiving no educational services through a public school or district
  - Parent homeschooled students full-time
  - No public funding provided through PSFA

**or**

- Homeschool student attending public school/enrolled in 1) public school courses (e.g. French, Orchestra, Chemistry classes offered at the high school) or 2) homeschool options program (e.g. elementary program offered one day per week)
  - Parent remains responsible for homeschool portion of the student’s education
  - Public school is supplementing the homeschool education
  - Public funding is provided at 50% of Per Pupil Funding through PSFA - if eligible



# Homeschool Student Enrollments in Public Schools Continue to Increase

The following shows the estimated increase in homeschool students enrolled in public school programs in recent years:

	<b>SY 2021/2022</b>	<b>SY 2022/2023</b>	<b>SY 2023/2024</b>
<b>Part-Time Home School Student Count</b>	<b>11,203</b>	<b>12,887</b>	<b>16,395</b>
<b>Total Part-Time Home School Funding</b>	<b>\$50,104,950</b>	<b>\$61,562,313</b>	<b>\$87,492,091</b>

# Summary of Public Comment

# Summary of Public Comments



We have received a large number of public comments during the formal rulemaking process:

- 500+ letters as of the end of January.
- A public tracking sheet with the applicable letters can be found [here](#)
  - Spreadsheet with three tabs includes all tracked correspondence since the rulemaking notice.
  - All letters are included in two pdfs - based on the tabs in the spreadsheet.
- We anticipate additional feedback will be added.
- [FAQ document](#) created that responds to letters received. Applicable responses are tracked in the spreadsheet.



Comments can be grouped into the following categories:

## **Contractual Education**

- Concern that regulation will impact existing homeschool enrichment programs
- Concern that rules would limit learning to physical buildings

## **Homeschool Education**

- Request for alternative teacher-pupil instruction to count for elementary grades as well
- General feedback asking for public funding for homeschool
- Concern about excluding parent-directed instruction

## **Other Topics**

- Questions about licensed educator requirement
- Technical concerns about implementation and regulatory burden
- Other technical feedback on particular rules

# Myth Busting

# Contracted Educational Services Would No Longer be Eligible for Funding

False

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 concerns reflect a misunderstanding.**

- Contractual education services have been funded in the existing, historical rules and would continue to be funded in the proposed rules.
- The proposed rules provide some clarification, consistent with historical guidance for contractual education, including:
  - 5.11 (1) A pupil enrolled in a public school and receiving education services from another entity through a purchase agreement may be included in the district's enrollment. The district shall provide evidence of payment for the entire cost of services used to determine funding eligibility. Documentation from the educational provider must evidence funding criteria have been met, including contract, provider calendar, provider bell schedule, provider attendance, provider schedule and statutory compliance assurance. (*Redline is newly proposed language*)
- Direct teacher-pupil instruction is synchronous and when teacher and student is in same physical location or virtual classroom. It does not need to be in a school building.

# Contracted Educational Services (continued)

- For example, public testimony to the State Board of Education have included a number of comments from stakeholders of contracted educational service providers such as Falcon AeroLabs.

CDE has met with Falcon AeroLabs representatives and confirmed these programs will continue to be fundable as they:

- Provide in-person instruction - Programs providing in-person instruction qualify as Direct Teacher-Pupil Instruction and therefore, are available to grades K-12.
- Provide instruction under the supervision of a licensed teacher - While some of the instructors are not licensed teachers (they may be an astronaut or welder), they are under the supervision of a licensed teacher. Alternatively, the instructors could obtain an adjunct teacher license.
  - CDE is proposing additional language to 1.11 to provide further clarification: “Each local board shall define “supervision of a licensed teacher.”
- Do not require tuition payment for program being submitted for public school funding.

# Elementary Educational Opportunities are Being Taken Away

False

A number of the public comments voiced concern that the proposed rules would remove **currently** available and funded public school educational opportunities for elementary school students. **These concerns reflect a misunderstanding.**

- The legislature has expressly endorsed the type of flexibility provided by the proposed “alternative teacher-pupil instruction” in the context of higher grades, but has not endorsed this sort of flexibility in the elementary context.
- The proposed rules provide funding for “alternative teacher-pupil instruction,” for grades 6-12 only (except as otherwise provided for online schools or programs).
- These highly independent formats are not currently funded for students in elementary grades.
- Many elementary students within the BLI waivers were not funding eligible as they were parent-led and directed instruction.



# Parent-Led and Directed Instruction Is Eligible for Public School Funding

False

For several years, [CDE's audit guidance](#) outlined that parent-led instruction is not eligible for funding. The proposed rules codify this long standing interpretation.

CDE has seen many examples of parent-led instruction that were not authorized by the Public School Finance Act or CDE's guidance. In these examples:

- The parent chooses from an a la carte menu of resources such as online curriculum, workbooks, museum memberships, music classes, subscriptions;
- The parent is reimbursed for purchased resources and provided funding for computers with no obligation to return the device to the public school system; and
- The teacher checks in occasionally with parent or student.

While a teacher was assigned to these courses, the learning was parent-led and directed. The result was the creation of de facto educational savings accounts where homeschool parents could access public funding to subsidize the parent-led and directed and individualized homeschool program.

The General Assembly has not authorized funding for this practice. This practice does not count as funded instructional time under the Public School Finance Act.

# Updates to Proposed Rule Changes

# Standards-Aligned Instruction



## Change:

- 1.01 and 1.08 Added “aligned to state standards where applicable” to instruction of educational content for both alternative teacher-pupil instruction and direct-teacher-pupil instruction.

## Explanation:

- This additional language is designed to clarify and reiterate existing expectations for public school instruction.

# Work-Based Learning Requirements



## Change:

- 1.01 (1) Added requirements for work-based learning to be incorporated within the student's Individual Career and Academic Plan (ICAP).

## Explanation:

- Historically, CDE has required equivalency documentation that indicates how many hours a student must work in order to earn a course credit. For example, a one-semester work-based learning course could require 100 worked hours in order to earn 0.5 credits.
- While some work-based learning courses may include related instructional supports for students, this has not been a requirement for funding.
- Based upon pupil count audits, majority of work-based learning courses do not appear to include any instructional components. Rather, they resemble 'credit-for-work' in which the student has an existing part-time job and can earn some amount of elective credit for documented hours worked.

# Instructional Hours for Alternative Courses

## Change:

- 1.04(b) Removed provision that allowed the equivalent amount of instructional time assigned to alternative instruction course to have up to 10% more time than fully in-person courses.

## Explanation:

- This language is consistent with the historical guidance for online courses at online schools as there is typically not a bell schedule outlining instructional time for the school.
- Typically, all academic, credit bearing courses at a secondary school have the same amount of instructional time. (Classes such as home room, advisory, etc. may have less instructional time.)
- It is irrational for courses using alternative instruction to be assigned instructional time than courses with direct (in-person) instruction at the same school.

# Availability of Instruction



## Change:

- 1.04(c) Removed requirement for alternative teacher-pupil instruction to be offered and made available for all eligible public school pupils.
- 2.05(a)(3)(V) Removed requirement that specialized programming for part-time pupils must be available to other public school students in the same district.

## Explanation:

- Stakeholder input indicated that these rules were confusing and implementation may be problematic.

# Definition of Semester



## Change:

- 1.17 Removed the additional three days as described in statute outlining instruction hour requirements for schools

## Explanation:

- Section 22-32-109, C.R.S. outlines requirements for planned and actual teacher-pupil instruction and contact at the school level. This statute allows districts to reduce these hours by 24 hours for parent-teacher conferences, staff in-service programs and closing deemed by the board to be necessary for the health, safety, or welfare of students.
- Historically, CDE guidance has added three days to the number of student contact days to offset any days or hours for these purposes in order to determine the number of days in the semester.
- These hours are specific to the school level and the instructional hours for funding are at the student level. Given proposed rule 2.05(2) separates these calculations, it is no longer appropriate to include this adjustment for funding purposes.

# Attendance Requirements



## Change:

- 5.03(1)(a) Clarified that alternative teacher-pupil instruction requires attendance verification based upon direct teacher-pupil interaction or evidence of student engagement with course content.

## Explanation:

- Attendance in the brick-and-mortar environment require students to be in attendance within a scheduled class. A student's presence within the school building, but not in a classroom, is not sufficient to meet the attendance requirements for funding.
- Evidence of student engagement with course content would be equivalent to attendance within a scheduled class.
- This change was made to have similar requirements for direct instruction and alternative instruction at brick-and-mortar schools.





## Change:

- 5.11(a) Added a statutory compliance assurance for contractual education services.
- 5.11(a)(1) Added requirement that contractual education is of comparable quality and meet the same requirements and standards that would apply if performed by the school district as required by Section 22-32-122(3)(a), C.R.S..

## Explanation:

- This additional language is designed to clarify and reiterate existing expectations for public school instruction.
- This requirement for contractual education to be of comparable quality was inadvertently removed from the current rules.

# Short-Term Detention Centers



## Change:

- 5.13 Added language for students in a short-term detention center on the pupil enrollment count date.

## Explanation:

- The historical regulations outlining the counting of students in detention centers on the count date was inadvertently omitted from the proposed rules.
- The historical language was incorporated into the updated proposed rules.

# Receipt or Payment of Tuition



## Change:

- 5.14 Added language for cases where a district either pays or receives any amount of tuition.

## Explanation:

- The historical regulations regarding students whom a district either pays or receives any amount of tuition was inadvertently omitted from the proposed rules.
- The historical language was incorporated into the updated proposed rules.
- This will allow continuation of practices related to foreign exchange students: Students with a J-1 visa do not pay tuition and are therefore eligible for funding. Conversely, students on an F-1 visa (who receives Form I-20) must pay tuition, and are therefore not eligible for funding.

# Additional Non-Substantive Rule Changes

- 1.01 and 1.04(a) Changed work study, internships, apprenticeships to work-based learning
- 1.08 Removed example of in a school building for direct teacher-pupil instruction
- 1.10 Clarified home school pupils are enrolled and receiving instruction part-time from a public school district
- 1.11 Added each local board shall define supervision of a licensed teacher
- 1.14 Clarified that parent led and directed instruction does not include parents or guardians employed by or contracted with a school and not subject to Human Resources data collections
- 1.15 Clarified private school pupils are referring to those who are enrolled and receiving instruction part-time from a Colorado public school
- 2.01 Clarified these rules apply to brick-and-mortar schools, not online schools

# Additional Non-Substantive Rule Changes (continued)

- 2.05(b)(1) Removed language confirming students may enroll in fewer hours than the school is open for as it is confusing
- 3.01 Clarified language related to adjustments to the pupil count days when October 1st is a weekend or religious holiday
- 5.01(d), 5.03(2), and 5.04 Clarified attendance requirements
- 5.02(c) Removed extraneous language on transfer students
- 5.06 Limited instances when documentation is needed for part-time students
- 5.07 Clarified schedule requirements for homebound and expelled students

# Additional Non-Substantive Rule Changes (continued)

- 5.10 Expanded language to include any enrollment in post-secondary courses, not just enrollment through an Early College
- 5.11(2) Clarified requirements for students awaiting trial as adults
- 6.01 and 6.02 Clarified requirements for Free and Reduced Lunch eligibility
- 6.03 Clarified requirements for English Language Learner eligibility
- 8.02, 8.04, and 8.05 Removed outdated references to facility schools
- 8.04, 8.05 and 8.06 Clarified timing of audit repayments and appeals

# Public Testimony