



Colorado State Board of Education

TRANSCRIPT OF PROCEEDINGS
BEFORE THE
COLORADO DEPARTMENT OF EDUCATION COMMISSION
DENVER, COLORADO
March 11, 2015, Part 2

BE IT REMEMBERED THAT on March 11, 2015, the
above-entitled meeting was conducted at the Colorado
Department of Education, before the following Board
Members:

Marcia Neal(R), Chairman
Angelika Schroeder (D), Vice Chairman
Steven Durham (R)
Valentina (Val) Flores (D)
Jane Goff (D)
Pam Mazanec (R)
Debora Scheffel (R)



1 MADAM CHAIR: We are at -- we're only ten
2 minutes late; that's not bad -- Rulemaking Hearing:
3 Amendments to the Rules for the Exceptional Children's
4 Educational Act. I'm sorry, Commissioner.

5 MR. HAMMOND: That's all right.

6 (Overlapping)

7 MADAM CHAIR: See, that's the kind of thing
8 I usually do.

9 MADAM CHAIR: Yeah, let's take a few minutes
10 here while people are kind of moving around, in and out.

11 (Pause)

12 MR. HAMMOND: Okay. Madam Chair, and if
13 folks can find a seat. There's still a few seats available
14 up front here, if you can.

15 In January, we had a notice of rulemaking
16 around the Exceptional Children's Educational Act. There
17 were a variety of changes to not only streamline rules but
18 to correct a lot of things that were out of date.

19 Most recently, you probably saw a letter.
20 We've gone through tremendous amount of -- staff has --
21 working with various organization advocacy groups, et
22 cetera, around these changes, and at one point we received
23 a list of changes that would make significant changes,
24 again, to the rules. However, staff, in the last two
25 weeks, have really worked with all groups. I may eat my



1 chocolate that's before me but I don't think so. But the
2 moral of the story is I think we're to a point where we
3 have agreed with all the changes and people will concur.
4 If they don't, we will hear about that today. But this is
5 the first year. You can approve these. If not, you can
6 wait and approve or discuss these at the next meeting.

7 So with that I'll turn these over to Dr.
8 Owen.

9 MR. OWEN: Madam Chair.

10 MADAM CHAIR: Yes, sir.

11 MR. OWEN: We'll be brief. I know there's a
12 lot of people here to talk on this issue today. We are
13 seeking approval of the proposed amendments to the ECEA
14 rules. We are willing to provide time today for oral
15 comments from public constituents. The amendments are
16 really in regard to rules aligning with legislation that
17 was passed in the last General Assembly. The rulemaking
18 has to do with the development of emergency rules for
19 universal screening and qualified personnel grant program.
20 The (inaudible) of those rules were in November of 2014.
21 We were able to get the grant released during the first
22 semester, when administrative units could apply for funds
23 to support their gifted programs this fiscal year. Fifty-
24 four out of 58 administrative units received grant funds.

25 Over the course of six months, the



1 development of the gifted education proposed rules was
2 conducted. With input from key stakeholder groups that
3 were invited to participate we had the Gifted Education
4 State Advisory Committee, gifted education directors, ten
5 regional focus groups comprised of general education,
6 gifted education personnel, representatives from CAES,
7 CASB, Colorado BOCES, the Special Ed Consortium, the
8 Colorado Association of Gifted and Talented, and the
9 Colorado Special Education Advisory Committee.

10 It was understood from the beginning that
11 the development of these amendments, we will try to be
12 clear with everyone that they had to really align with the
13 vision of the statutes and House Bill 14-1102 and House
14 Bill 14-1208. We provided a crosswalk to the State Board
15 of Education and the public that showed the alignment of
16 the law and the proposed rules. Content for the proposed
17 rules were derived directly from the law. Comments from
18 focus groups and stakeholders and existing guidelines
19 retained the provisions of laws that are already being
20 implemented in administrative units.

21 At this point in time, all written comments
22 are in support of the proposed rules. The State Board of
23 Education received all written comments and our responses
24 from those comments from CDE. The written comments of
25 concern have been discussed for clarity with the



1 appropriate parties. The discussions resulted in
2 agreements in all cases, including several amendments to
3 the first set of proposed rules. A professional
4 (inaudible) change with representatives from key leadership
5 associations helped provide a set of proposed rules that
6 aligned to the statute, and they're supported by
7 representatives of those groups as well.

8 So with that, Madam Chair, the Department
9 respectfully requests the approval of these proposed rules
10 in their entirety, and again, we understand that there are
11 quite a few people here to testify. We're happy to take
12 any questions before you do that, however you would like to
13 proceed.

14 MADAM CHAIR: Okay. We probably need to
15 confer for a couple of minutes here before we move on. But
16 before we do that, does anyone on the Board have questions
17 for Keith on this section?

18 Okay. We're taking a two-minute break.
19 Don't go away.

20 (Pause)

21 MADAM CHAIR: After the brief consultation
22 that we needed to have we will be taking public testimony
23 on this area, and most of you have been here before, or
24 many of you. You know that public testimony, you have
25 three minutes, and we really adhere to that. And Ms.



1 Markel here is our timekeeper and she's got a little sheet
2 that she holds up that says three minutes. And when you
3 see that you can finish a sentence but then please stop.
4 And if you don't then I'll ask you to -- I'm not real good
5 at that but I will do that.

6 One thing, though, I would really to say, we
7 really hadn't anticipated this, and we're looking at 45
8 minutes here, with the number of people who are signed up
9 who are on the list. So if someone else has said exactly
10 pretty much what you're going to say, you could just say,
11 you know, my name and I agree with so-and-so, and that
12 would help us a great deal.

13 Other than that, does that cover it pretty
14 well?

15 UNIDENTIFIED VOICE: That would be very
16 helpful given the --

17 MADAM CHAIR: That would be very helpful for
18 us because we've got a jam-packed session. But we know we
19 hear from people, you know, if you're here and you want to
20 speak you should have that opportunity. We really believe
21 that.

22 So with that in mind we will begin
23 testimony. Come to the mic and the podium, and we'll begin
24 with Jennifer Gottschalk. Jennifer?

25 After Jennifer we will have Carol Swalley



1 and then Marilyn Chappell (ph), so you can be ready when
2 she is finished there.

3 All right. Please go ahead, Jennifer.
4 Thank you.

5 MS. GOTTSCHALK: Thank you. My name is
6 Jennifer Gottschalk. I am here today representing the
7 Gifted Education State Advisory Committee as the education
8 chair. The Gifted Education Advisory Committee is composed
9 of parents, community members, and educators from all seven
10 Congressional districts in Colorado. Jane Goff is the
11 State Board of Education liaison to our group.

12 In late 2014, the GESAC participated in the
13 rulemaking process for H.B. 14-1102. The result of this
14 work is that the membership of the Gifted Education State
15 Advisory Committee supports the new rules for many reasons,
16 specifically rules detailing the requirements for
17 affordability of gifted education throughout the state, the
18 continued emphasis on accountability for academic
19 achievement for gifted learners, and the uplifting of
20 procedures for founding engagements and the identification
21 and advanced learning plan classes. Thank you.

22 MADAM CHAIR: Thank you. Carol.

23 MS. SWALLEY: Thank you for allowing me to
24 speak. My name is Carol Swalley and I'm the Gifted and
25 Talented Administrator for the Thompson School District in



1 northern Colorado. I have been working in gifted education
2 in Colorado since 2003, (inaudible) gifted education
3 (inaudible) in 2007. In these 12 years I've seen
4 considerable growth in services and programming to students
5 largely accredited in efforts of districts across the state
6 to (inaudible) gifted students as outlined by state
7 regulations. Your support of these new rules will allow us
8 to continue to make strides in services and programming for
9 gifted students in Colorado.

10 Despite our best efforts, gifted students
11 continue to be neglected in many ways when it comes to
12 instruction. Federal guidelines and state requirements for
13 improving outcomes for our lowest-performing students have
14 brought considerable and needed attention to an underserved
15 population. However, at the same time, these guidelines
16 have meant that schools feel pressure to focus so intensely
17 on the lower students that students who are already
18 proficient can sometimes be neglected. Best practices
19 teaches us that gifted students also have a right to learn
20 something at school each and every day. These rules are
21 another reminder to schools and districts that the
22 professionals in education are here to serve every child.

23 I recognize that new rules require time and
24 resources that many feel are in short supply. I understand
25 that educators across the state are stressed by adopting



1 requirements and many of the other new requirements that
2 might (inaudible) guidelines. Still, in the interest of
3 the continuous improvement, these rules deserve to be
4 accepted because they are a protection to our students. We
5 are here for the good of the children entrusted to our
6 care. It is for the students and their right to an
7 education that I ask for your support.

8 Thank you for your time and your vote.

9 MADAM CHAIR: Thank you. Marilyn, and after
10 Marilyn we'll have Terry Bradley, Vera Turner, and Mary
11 Patton.

12 MS. CHAPPELL: Good morning.

13 MADAM CHAIR: Could you lift -- the mic has
14 not been real --

15 UNIDENTIFIED VOICE: I'm trying to find the
16 other mic. I think this is not working.

17 MADAM CHAIR: Okay. Good. It's not been
18 real clear. Go ahead, please, Marilyn.

19 MS. CHAPPELL: I'm here to speak in support
20 of these proposed amendments. I'm the parent of two
21 students who are the product of Jefferson County Public
22 Schools Gifted Education Programs. I am the former chair
23 of the State Advisory Committee for Gifted and Talented,
24 from 2005 to 2007. I testified in favor of the initial
25 version of these rules and in favor of gifted education



1 legislation in the Colorado legislature.

2 I'm currently in private practice in Denver.
3 I'm here as a volunteer. I'm not here to talk to you about
4 legal issues regarding these rules per se. However, as an
5 attorney, I know that an effective regulatory framework is
6 essential, and these proposed amendments provide that. I
7 support them, including their detail, because they are
8 necessary to make sure that our state meets the needs of
9 gifted students, their social, emotional, and academic
10 needs.

11 I need to tell you that my students who are
12 products of gifted education public programs in JeffCo, one
13 is in college in Middlebury, Vermont, the other a senior at
14 Lakewood High School, who will be going to Harvard. I
15 would like all of Colorado gifted students to have the
16 opportunities to have their needs met that my students have
17 had. I urge you to support and vote for these amendments.
18 Thank you.

19 MADAM CHAIR: Thank you. Terry.

20 MS. BRADLEY: Good morning. Does it help if
21 I pick this up, maybe?

22 MADAM CHAIR: Yeah.

23 MS. BRADLEY: Is this any better?

24 MADAM CHAIR: No. I think she went to get a
25 better mic, but go ahead.



1 MS. BRADLEY: I will try to speak loudly.
2 Good morning. My name is Terry Bradley.
3 I'm the Gifted and Talented Coordinator at Fairview High
4 School in Boulder, but today I'm speaking as the president
5 of CAGT, the Colorado Association of Gifted and Talented.
6 CAGT membership includes both educators and families.

7 The gifted population is quite significant
8 in Colorado. There are over 68,000 identified gifted
9 students, kindergarten through grade 12. The purpose of
10 CAGT is to raise awareness and support all of the 68,000
11 gifted children and their diverse needs. There is much
12 diversity.

13 CAGT advocates for appropriate education,
14 for funding for districts, for administrative units. We do
15 this through partnerships, with educators, with families,
16 administrators, legislators, and the general public. I
17 speak for our CAGT board and members when I say I believe
18 that these proposed rule changes will go a long way in
19 supporting our GT students and families in Colorado.

20 Since all AUs are already required to
21 identify and provide programming to GT students, these
22 amendments should provide more clarity and support for
23 carrying them out.

24 Is this better?

25 MADAM CHAIR: Oh, yes.



1 MS. BRADLEY: Oh, how about that. Okay.

2 The proposed rules support our educators and
3 directors so the consistency in meaning can be implemented
4 around the state, and since there will still be local
5 control, the administrative units will still have
6 flexibility.

7 As the president of CAGT, representing all
8 68,000 identified, diverse, gifted students and educators
9 serving their needs in the state of Colorado, I want to
10 impart that CAGT is whole-heartedly behind the rule
11 amendments for gifted education programs. Thank you.

12 MADAM CHAIR: Thank you. Mary Patton,
13 followed by Susan Miller, Cynthia Schwartz (ph), and
14 Lucinda Hundley. Yes, go ahead.

15 MS. PATTON: Thank you for allowing me time
16 to speak on behalf of implementation of House Bill 14-1102.
17 I am Mary Patton, presiding governor of the Academy of
18 Educators for the Gifted --

19 MADAM CHAIR: Mary, I think if you use that
20 hand-held mic it will work better.

21 MS. PATTON: Is this better?

22 MADAM CHAIR: Yeah. Thank you.

23 MS. PATTON: Our organization was founded in
24 1992, a time when there was no endorsement for gifted
25 education. Indeed, there were no professional standards



1 for teachers and administrators who worked with the gifted,
2 talented, and creative youngsters. With this in mind, a
3 group of educators in Colorado came together and created a
4 professional association whose primary purpose was to
5 recognize and honor educators who were making a significant
6 contributed to gifted education. It was their hope that
7 districts and schools throughout the state would recognize
8 the efficacy of hiring professionals who were trained in
9 gifted education.

10 We supported efforts to secure endorsement
11 and standards for educators working in gifted education and
12 we are pleased to see that House Bill 14-1102 states that
13 AUs must try, to the best of their ability, to seek those
14 who are trained in the education of gifted children. The
15 gifted youth of Colorado deserve highly qualified teachers
16 and administrators to ensure that they grow and learn
17 commensurate with their abilities.

18 Of course, we support all of the provisions
19 in this bill, especially those that are pertaining to
20 requirements for program implementation and evaluation. It
21 is the hope of the academy that rules and procedures will
22 be adopted for the full implementation of House Bill 14-
23 1102.

24 MADAM CHAIR: Thank you. Susan.

25 MS. MILLER: Good morning. My name is Susan



1 Miller and I am president of the Jefferson County
2 Association for Gifted Children. We are an advocacy group
3 of parents, teachers, and administrators who work
4 tirelessly for our gifted children in Jefferson County. I
5 would like to request your full support of the rules and
6 implementation of H.B. 14-1102, which updates and clarifies
7 the language and process for the identification and
8 education of gifted children in our state.

9 Under the Exception Children's Education
10 Act, which governs special ed and gifted and talented
11 children, Colorado established special programming
12 requirements for students with exception needs, including
13 both special ed students and those identified as gifted
14 students, as defined by the law. However, the Act had some
15 shortcomings, and H.B. 14-1102 was passed by the
16 legislature to address some of them.

17 In the past, districts were asked to screen
18 children for gifted programming needs without any financial
19 support. H.B. 14-1102 now provides funding for such
20 screening process if a district chooses to walk down that
21 path.

22 But why will H.B. 14-1102 have any
23 possibility of an impact, and how can it make a difference
24 in our state, and why is it important to Colorado? I'd
25 like to address these three questions. First off, what is



1 the impact? I will use JeffCo as the example. Universal
2 screening has been employed in JeffCo since 2008, when Dr.
3 Blanche Kapushion implemented such program. Between that
4 year and 2014, JeffCo saw an increase of 33 percent in
5 students identified as gifted, to over 13,000 students
6 today.

7 But more importantly, JeffCo saw an increase
8 of 118 percent increase in the number of at-risk students
9 who were identified as gifted -- 118 percent. Imagine if
10 that is to be replicated across our state, what impact that
11 could have on our underserved populations. This makes very
12 clear one of the key benefits of H.B. 14-1102. In the
13 absence of screening we will continue to disproportionately
14 under-identify gifted students from at-risk populations.

15 How else can this make a difference? Once
16 identified, we're able to provide appropriate programs to
17 feed these children. Researchers have repeatedly found
18 that the most effective way to address cognitive needs of
19 GT students is in the forms of acceleration and
20 differentiation. This is critical. All kids need to learn
21 each and every day.

22 And finally, why is this important to
23 Colorado? Gifted education programs are critical to the
24 future health of Colorado's economy. In line with Governor
25 Hickenlooper's goal for growth and sustainability, we must



1 have home-grown talent, which is one of the four key
2 cornerstones of his economic plan. Furthermore, Colorado
3 has one of the nation's highest shares of its total
4 employment in advanced industries. What does that mean to
5 us? Well, unfortunately, as in Colorado's most recent
6 economic outlook, it is noted that Colorado is expected to
7 see above national average growth in STEM occupations over
8 the next decade, as well as a rapid increase in the demand
9 for STEM talent across non-STEM professions. This is
10 critical for our GT kids to have access to that program.
11 Thank you.

12 MADAM CHAIR: Thank you. Right under the
13 wire there. Lucinda, I believe.

14 MS. HUNDLEY: Thank you, Madam Chair,
15 Members of the State Board, and Commissioner Hammond. My
16 name is Lucinda Hundley and here representing the
17 Consortium of Special Education Directors. I'm also
18 speaking today on behalf of CASB, CAES, and the Colorado
19 BOCES Association.

20 All of us were actively involved in
21 developing the language around what ultimately became House
22 Bill 1102, and we worked closely with the sponsoring
23 legislators to bring that to fruition. We want to tell you
24 that we appreciate the opportunity, both in December as
25 well as last week, to meet with CDE staff regarding



1 specific areas of concern that we had expressed then, and
2 we want to thank Assistant Commissioner Randy Boyer and
3 Jacqueline Medina, Gifted Education Director, for their
4 work in developing amendment language in response to the
5 concerns that we've raised. As a result, we believe that
6 our issue are resolved and we're in support today of the
7 proposed ECEA rules for gifted education as they are
8 presented. Thank you.

9 MADAM CHAIR: Thank you. Leah Harris,
10 followed by Dr. Blanche Kapushion.

11 MS. TURNER: I'm sorry to interrupt but I
12 think my name was skipped over. I'm Vera Turner.

13 MADAM CHAIR: Oh. Well, I thought I was off
14 one, so, no.

15 MS. TURNER: That's all right. I wouldn't
16 have made a fuss but I wore my prettiest dress. I've been
17 up since 6:00 obsessing over this.

18 My name is Vera Turner and I'm from Moffat
19 County School District in Craig, Colorado, and I represent
20 our Northwest Region as the representative to gifted
21 education.

22 The rules, as they are -- I'm here to say
23 that I support them. It must be difficult to have a set of
24 rules that apply to such a wide range of needs within the
25 state. We have places like mine that are very small,



1 rural, isolated, and then you have schools and AUs that are
2 in metro areas. There's got to be some tight and some
3 loose in order for the rules to work, and I believe the
4 rules as we have them are tight enough to allow portability
5 among districts, if a student moves, and I think that
6 they're loose enough to allow individual districts to use
7 their resources to best support the needs of the gifted
8 students that they have. Thank you.

9 MADAM CHAIR: Thank you. Now are we -- Leah
10 or Blanche? I lost track.

11 MS. HARRIS: Good morning. My name is Leah
12 Harris and I'm a freshman at East High School. I support
13 the new rules to clarify procedures for gifted students
14 across Colorado.

15 I had a wonderful and fair opportunity to be
16 a part of the gifted and talented program, and with these
17 consistent statewide procedures for testing and academic
18 advancement we can ensure that everyone gets the
19 opportunity that I did. Regulating procedures will provide
20 equal opportunity and benefit each of the 68,000 identified
21 gifted children throughout Colorado. With the new rules,
22 we'll be able to provide fair opportunity for all gifted
23 students across Colorado, regardless of economic, racial,
24 or family backgrounds.

25 I believe I speak for all gifted students



1 when I say that we support the proposed rules. Thank you
2 for your time.

3 MADAM CHAIR: Thank you, Leah. For a
4 student voice it's very refreshing.

5 (Applause)

6 MADAM CHAIR: Yes.

7 MS. KAPUSHION: Thanks, Leah.

8 MADAM CHAIR: We are on Dr. Blanche
9 Kapushion.

10 MS. KAPUSHION: I'm Blanche Kapushion,
11 current director of gifted and talented programming in
12 JeffCo schools as well as past president of Colorado
13 Association for Gifted. I'm going to forego my three
14 minutes just to say that I support and would encourage you
15 to support the rules as they stand. All of my colleagues
16 have spoken eloquently and I won't take up any more of your
17 time. Thank you.

18 MADAM CHAIR: Thank you. Amy Tuttle.

19 MS. TUTTLE: Good morning. I'm Amy Tuttle
20 and I am the Assistant Director of Learning Services for
21 Greeley-Evans School District 6, and I also direct our
22 gifted education there. I would support what Blanche just
23 said. So many people have spoken so eloquently on this
24 topic. But one thing I'd like to add is, again,
25 representing North Central Region, we have a variety of



1 districts of various sizes and we were given the
2 opportunity -- and I really want to, again, thank
3 Jacqueline Medina for that -- to not only come in as
4 directors but also we were able to bring other people and
5 leadership from our districts to be part of these
6 conversations surrounding these rules, what that would look
7 like. We really did have a chance to look at the
8 implications of these rules, and I want to wholeheartedly
9 support the rules and the amendments to the rules, because
10 I think it's going to make a huge difference in the
11 consistency and the portability for all of our gifted
12 students across the state. Thank you.

13 MADAM CHAIR: Thank you. Finishing up with
14 Sandi, Amy, and Linda. Okay, Sandi. We didn't skip over
15 Sandi, or did she go away, or what happened with Sandi?

16 MS. SCHUESSLER: (Inaudible).

17 MADAM CHAIR: Are you Sandy or are you Amy?

18 MS. SCHUESSLER: I'm Sandy Schuessler.

19 MADAM CHAIR: Okay. Yes, please. I'm
20 sorry. I couldn't read the last name.

21 MS. SCHUESSLER: My name is Sandy Schuessler
22 and I'm with a new affiliate in Clear Creek County, the Mt.
23 Evans Gifted Association. And I just wanted to say that I
24 support the amendments. I was a little frustrated when I
25 first got the information, thinking again we're looking at



1 what is funded and what is not funded. But Linda kind of
2 set me on the right track, and so that set over there, not
3 here. So I really appreciate that you guys have had the
4 opportunity to work with the consortium and such and are
5 listening to us, and I do support what everybody else has
6 said and I hope you guys support those amendments too.
7 Thank you.

8 MADAM CHAIR: Thank you very much. Amy
9 Rushneck.

10 MS. RUSHNECK: Good morning. My name is Amy
11 Rushneck. I'm the Executive Director of the Center for
12 Bright Kids Regional Talent Development Center. Although
13 we are regional we are housed here in Colorado and the
14 majority of the families that we work with are here in
15 Colorado. However, that's the note that I would like to
16 make. We represent a seven-state region, from Canada to
17 Mexico, in the Rocky Mountains. We are in a unique
18 position today to make a difference and really serve as a
19 model, regionally, here in Colorado, for states looking to
20 something new, some new way to be able to capture and
21 embrace who these students and families are.

22 So on behalf of about 3,000 families who are
23 identified in the top 10 percent of their academic
24 scholarship peers, we have a unique chance here in Colorado
25 to set a tone and set a standard for families and students



1 who often feel lost, sometimes fatally, invisible, not
2 seen, not heard. I thank you today for your time and your
3 decision-making, and allowing these students to be present
4 and visible. Thanks.

5 MADAM CHAIR: Thank you. And we are going
6 to finish up with Linda Crane.

7 MS. CRANE: Good morning. Madam Chair,
8 State Board members, my name is Linda Crane. I'm the
9 Executive Director of the Colorado Association for Gifted
10 and Talented, but I'm also the CAGT representative on the
11 Gifted Education Coalition, a statewide group representing
12 CAGT, the Colorado Academy for Educators for Gifted,
13 Talented, and Creative, and 13 local groups from around the
14 state, including Colorado Springs, Pueblo, the Four Corners
15 area, Fort Morgan, Summit and Eagle County, northern
16 Colorado, and several in the metro area.

17 I'm here to voice our support for the
18 amended rules to the Exceptional Children's Education Act
19 for Gifted Children.

20 While some might be concerned with the
21 thought of issuing rules, I think it is important to
22 remember that these rules should be thought of as a nucleus
23 from which administrators can actually build and create
24 their own gifted programming, and not as a ceiling
25 restricting individual districts from options and choices.



1 The choices are still there for the districts to be making.

2 That is one of the unique characteristics of
3 gifted programming. Once students have been identified,
4 there are many ways to meet their needs. These rules will
5 help guide districts with clarity and consistency, and in
6 areas where finding qualified GT personnel is difficult,
7 these rules will provide a foundation for best serving
8 these children.

9 Thank you for your time and I hope you'll
10 vote yes. Thank you.

11 MADAM CHAIR: Thank you for your time, and
12 I'd like to say to the group, you set a record here. You
13 only had to hold up your little three-minute sign once. We
14 usually do not do that well. But also, very passionate and
15 very believing in what you had to say. I think you were a
16 great group and I really appreciated all of you taking the
17 time to come here and speak. Sometimes that's a little
18 overwhelming, and I appreciate it, and thank you all for
19 your time and effort.

20 Okay. I lost track here.

21 This concludes the rulemaking hearing for
22 the rules for the administration of the Exceptional
23 Children's Educational Act. Is there further discussion?

24 Yes.

25 UNIDENTIFIED VOICE: First of all, I'd like



1 to thank you for all the work. I served on the GT Advisory
2 Committee for the state for a number of years and my
3 background is special education. I appreciate the work you
4 do with our kids across Colorado. It's very important
5 work.

6 I have two questions about the rules that
7 really relate to data privacy and parents' rights, and I
8 don't know if now is the time to delineate those.

9 MADAM CHAIR: Who is speaking for the
10 Department. Keith? Dr. Owen?

11 UNIDENTIFIED VOICE: Keith and Jacqueline.

12 MADAM CHAIR: Okay.

13 UNIDENTIFIED VOICE: So this is about the
14 Advanced Learning Plan, right, universal screening, data,
15 and serving more kids, which we want to serve as many GT
16 kids as we can. But my issue is around the data privacy
17 piece. The word "affective needs" is included with
18 academic needs. Lots of parents are concerned about how
19 that's measured, where it goes, how long it lasts, what
20 database it is in. And then when we look at parents not
21 having to sign the Advanced Learning Plan but just that
22 there needs to be evidence that they tried to contact the
23 parents, I have issues with that many parents have issues
24 with that.

25 Certainly the early childhood services, the



1 same issues with privacy, particularly with young kids, and
2 again, the ALP includes "affective needs," and it says, in
3 1202(2)(g)(ii), "The students, parents, and teachers should
4 be, at a minimum, familiar with the goals and may assist in
5 writing the goals." I think that language is pretty weak
6 as far as engaging parents in the details of what's on that
7 plan, given that it is part of the cumulative record and it
8 follows the student.

9 So I guess I'd love some comment on that.
10 Who really has authority over the content of the ALP, where
11 the data resides, what protections are for privacy, what
12 protections for parents, particularly on the affective
13 side, of the goals that can end up in that ALP? So if you
14 could address those issues.

15 UNIDENTIFIED VOICE: Madam Chair.

16 MADAM CHAIR: Yes.

17 UNIDENTIFIED VOICE: I'd like to first
18 address the ALP content in terms of the socioemotional. In
19 our particular field, and in Colorado, socioemotional
20 standards are being used that embrace more than what
21 sometimes people think of socioemotional to be deficits.
22 We're talking about leadership, competence in
23 communication, knowing that themselves, personal
24 confidence, social confidence, how they approach other
25 people. So it's much broader than just someone having an



1 issue or a problem. Okay, that's one thing, because it's
2 about developing those leadership and communication skills
3 also.

4 Now the content of the ALP is in the control
5 of the ALP team and the parents and the student, and those
6 particular goals can be written in a manner that are
7 general, addressing one of those competency areas. And the
8 privacy of those that we called "need to know" about those
9 goals that have access to them, because those are the
10 people that are delivering programming in regard to the
11 affective goals, in particular.

12 As far as where they reside, the ALP resides
13 in either confidential files or in the cume (ph) files, as
14 determined by the district's procedures.

15 UNIDENTIFIED VOICE: And the data from the
16 assessments?

17 UNIDENTIFIED VOICE: Those would be -- well,
18 Madam Chair --

19 MADAM CHAIR: Yes.

20 UNIDENTIFIED VOICE: -- those, again, would
21 reside in confidential and/or the ALP portion that we
22 called "student profile," and that are part of the cume
23 file. Now the student profile information, again, is for
24 those that need to know, and again, according to the
25 procedures of the district and their record-keeping.



1 MADAM CHAIR: Okay. Thank you.

2 MS. FLORES: Madam Chair.

3 MADAM CHAIR: Yes.

4 MS. FLORES: Have you stratified the numbers
5 for minority children?

6 UNIDENTIFIED VOICE: Yes. Madam Chair --
7 sorry.

8 MS. FLORES: Thank you.

9 MADAM CHAIR: Yes. Go ahead.

10 UNIDENTIFIED VOICE: Madam Chair, I do have
11 those figures here, if you are interested.

12 MS. FLORES: Yes.

13 UNIDENTIFIED VOICE: Okay. Okay. We have --
14 - Madam Chair --

15 MADAM CHAIR: Yes.

16 UNIDENTIFIED VOICE: -- 7.7 percent of the
17 total enrollment in Colorado are gifted children. Of
18 those, we have, in the total population, we have 33.1
19 percent are Latino and Hispanic. In the gifted population
20 it's 19 percent. I would like to comment that only five
21 years ago that as 10 percent, so we are moving in the right
22 direction.

23 The category of white, 54 percent, in the
24 total population, and in gifted it's 68. And again, five
25 years ago that as 75 percent, so that is improving also.



1 We have American Indian, in the total
2 population it is 0.74, and in the gifted population is
3 0.36. In our black student group, the total student
4 population is 4.7, and in the gifted population it's nearly
5 3 percent. The Hawaiian population, 0.2 in the student
6 population, total students, and 0.2 in the gifted
7 population. Multi-race, 3.7 in the total and 4.4 in the
8 gifted.

9 MADAM CHAIR: Thank you.

10 MS. FLORES: Thank you.

11 MADAM CHAIR: Are there any other questions?
12 Angelika?

13 MS. SCHROEDER: I'd just like to make a
14 comment. First of all, I'd like to thank all of you for
15 coming. I would like to thank folks for the many letters.
16 I'm just going to reflect a little bit about when I began
17 working in education as a parent in the '80s, when, in my
18 district, it was considered elitist to provide special
19 education for gifted kids. The Accountability Committee
20 did a survey on dropouts and learned, probably to no
21 surprise to any of you, the distinct majority of those kids
22 were gifted. And so I'm very heartened by the evolution of
23 where we are today, so that the ones that drop out are not
24 all Bill Gates, and they don't all even live, in truth.
25 And so think it is really terrific. Thank you.



1 MADAM CHAIR: Thank you, Angelika. Any
2 other Board comments? Questions? Jane.

3 MS. GOFF: Yes. Great kudos and thank you
4 and continued encouragement for the work that the gifted
5 community is doing for our schools, including gifted
6 students, and their contributions are going to continue to
7 be very, very important.

8 We reflect on the past -- a lot of us have
9 been around a long time, in various ways -- to think about
10 how a gifted student has impacted, for me, as a teacher, in
11 my classroom, how it has impacted the schools I've worked
12 in, and the ability to really help identify and extend the
13 invitation to be what they are and what they need to be is
14 very important. Equally, with all of our special
15 populations in any regard. I've always been extremely
16 proud of Colorado's emphasis, and it is nationwide as well,
17 but being able to talk about the different kinds of
18 giftedness and acknowledge that they are unique in their
19 own right, and we really do need to keep opening the doors
20 for students to take part. I appreciate you all very much.
21 It's wonderful to look out and see the sea of familiar
22 faces and have you back in our boardroom, and I encourage
23 you to keep going.

24 And one last thing. We have, present day
25 and moving forward, things to think about. One of them is



1 what is it about growth? We have a statewide interest in
2 the growth of all students. There is particularly a need
3 for us to start looking closer and deeper at growth among
4 the gifted, and that that is not necessarily paid attention
5 to quite enough yet. I do know, and I do share your
6 desire, the community, as well as schools, in general, who
7 are setting up their best programs for kids. And we need
8 to look at that seriously, which brings into bear all kinds
9 of other topics we discussed. What is our system looking
10 like? What is our accessibility on the part of all kids,
11 and what kinds of things are measurable to get the right
12 reasons for doing what we do?

13 And the economic impact is amazing. We're
14 all learning more and more all the time how that impacts
15 regional economics. The success of high school kids, in
16 particular, right now, and dropout prevention, graduation
17 increase, moving through the system in a standards-based
18 fashion. So allowing these kids to move as they can and
19 wish to is something that we've also got to keep thinking
20 about.

21 So thank you all very much for your work.
22 Good job.

23 UNIDENTIFIED VOICE: One last question. May
24 I?

25 MADAM CHAIR: You need to ask me first,



1 okay?

2 UNIDENTIFIED VOICE: How many Sputnik kids
3 are in here?

4 MADAM CHAIR: How many what kids?

5 UNIDENTIFIED VOICE: Sputnik kids. Do you
6 remember? Oh, great. There's quite a few.

7 MADAM CHAIR: Good. Now we know how many
8 Sputnik kids are here.

9 Seeing no other questions --

10 UNIDENTIFIED VOICE: May I ask a question?

11 MADAM CHAIR: Yeah, ask a question. Yes,
12 ma'am. Deb.

13 MS. SCHEFFEL: So I know we're anxious to
14 vote on this. Is there any interest from the rest of the
15 Board in addressing better the privacy aspects of the data,
16 given the affective nature of the improvement plan, and
17 also parental involvement? Does anybody else on the Board
18 see this as an issue that should be addressed in the rules?
19 I support the rules. I think it's great to add GT to
20 programming. But I'm concerned about data privacy, given
21 the affective nature of the plan and parental engagement,
22 strengthening the language on parental engagement.

23 MADAM CHAIR: Angelika.

24 MS. SCHROEDER: Can you just explain? I
25 mean, if it's not unanimous it comes next month anyway. So



1 can you help me understand, do not the rules that we have
2 for districts apply to all student data? Why would we put
3 separate rules in this as opposed to the rules that we
4 have?

5 MS. SCHEFFEL: Well, maybe that's a question
6 for the Board. I guess I just see many of these rules
7 requiring data, and extensive data, and I don't know how
8 we're protecting that. I don't know what we're using, as
9 we write these rules, to ensure that sensitive information
10 about our kids, especially in the area of affective
11 development, is protected. I don't know where to put it.
12 I guess I'd like to think about it.

13 And I'm concerned about language in the
14 rules that say parents may, they could. They don't have to
15 sign off on it. They don't have to even see it. They just
16 have to show that somebody tried to contact them. And
17 having been engaged with schools, I know that sometimes
18 that doesn't happen very aggressively. So I'm concerned
19 about parental rights and privacy. I'm not sure. This
20 strikes me that this would be the place to put it, but I
21 would just entertain other thoughts.

22 UNIDENTIFIED VOICE: Mr. Commissioner, can
23 you explain what general rules we have for data privacy
24 versus what we have to put in every set of rules that
25 collect data?



1 MR. OWEN: I don't know if I can answer that
2 right now because a lot of this is local decisions and we
3 would have to put it in a particular one. Can you clarify
4 that, Jacqueline?

5 UNIDENTIFIED VOICE: I'm sorry. Madam
6 Chair.

7 MADAM CHAIR: Yes.

8 UNIDENTIFIED VOICE: Excuse me,
9 Commissioner. I couldn't understand.

10 MR. OWEN: I'm sorry. Most of this would be
11 local control issues that we would have to put in there.
12 Am I correct about that?

13 UNIDENTIFIED VOICE: Madam Chair.

14 MADAM CHAIR: Yes.

15 UNIDENTIFIED VOICE: Yes. The ALP is
16 protected under the confidentiality guidelines of the dist,
17 and the UIP never -- and not even now, for all schools --
18 it's not related to individual students. That data is
19 aggregated up. So it's retained under those privacy
20 conditions also.

21 MADAM CHAIR: I've got something to say
22 first. Thank you. This concludes the rulemaking hearing
23 for the rules for the administration of the Exceptional
24 Children's Educational Act. Is there further discussion?

25 Is the Board ready to adopt these rules, and



1 if so, is there a motion?

2 MS. SCHROEDER: I'll make a motion.

3 MADAM CHAIR: Angelika.

4 MS. SCHROEDER: I move to adopt the rules
5 for the administration of the Exceptional Children's
6 Educational Act.

7 MADAM CHAIR: Is there a second?

8 MS. GOFF: Second.

9 MADAM CHAIR: Jane.

10 Carrie, would you call the roll please?

11 MS. MARKEL: Steve Durham.

12 MR. DURHAM: Madam Chairman, I'm going to
13 vote no at this time. I don't think there's anything wrong
14 with these rules but I think the question on data deserves
15 an answer. And so I understand my no vote will postpone
16 final action until next meeting, so I'll vote no.

17 MADAM CHAIR: Go ahead.

18 MS. MARKEL: Dr. Flores.

19 MS. FLORES: Aye.

20 MS. MARKEL: Jane Goff.

21 MS. GOFF: Aye.

22 MS. MARKEL: Pam Mazanec.

23 MS. MAZANEC: No.

24 MS. MARKEL: Marcia Neal.

25 MADAM CHAIR: Aye.



1 MS. MARKEL: Dr. Scheffel.

2 MS. SCHEFFEL: No.

3 MS. MARKEL: Dr. Schroeder.

4 MS. SCHROEDER: Aye.

5 MADAM CHAIR: The vote is 4-3, as usual.

6 The motion carries.

7 UNIDENTIFIED VOICE: (Inaudible).

8 MADAM CHAIR: Pardon?

9 MS. MARKEL: It must be a unanimous vote.

10 MADAM CHAIR: It must be a unanimous vote.

11 UNIDENTIFIED VOICE: And then we'll take the
12 questions that you've brought into account.

13 UNIDENTIFIED VOICE: That would be great.

14 Thank you.

15 MADAM CHAIR: All right.

16 MS. GOFF: May I --

17 MADAM CHAIR: Thank you all for your time
18 and effort. And stay tuned, I guess, is the word.

19 Jane?

20 MS. GOFF: It doesn't have anything to do
21 with this vote today. I just have a logistics questions.
22 How does this impact any funding, timing of funding? Where
23 are schools in this process, districts, as far as planning,
24 based on this bill and these rules? How does this change
25 that?



1 MADAM CHAIR: Yes.

2 UNIDENTIFIED VOICE: Madam Chair, at this
3 moment in time it will not have any impact. The particular
4 grant through this program was administered last November
5 and December, and all the money is in the administrative
6 units, in regard to the grant.

7 MS. GOFF: Okay.

8 MR. OWEN: Madam Chair.

9 MADAM CHAIR: Yes, Dr. Owen.

10 MR. OWEN: Would staff be able to work with
11 maybe Dr. Scheffel to -- at this point the rulemaking
12 hearing is closed, so any changes to the rules that you
13 want to propose, or that you'd like to see included, we
14 would need to be able to get those together to forward to
15 you at the next Board meeting.

16 MADAM CHAIR: I think that would be great.

17 MR. OWEN: So is it appropriate? Is it okay
18 for staff to work with --

19 MADAM CHAIR: It would be very helpful.

20 MR. OWEN: -- and then bring that back?

21 MADAM CHAIR: Deb, can you make yourself
22 available?

23 MS. SCHEFFEL: Yes.

24 MADAM CHAIR: Okay. I appreciate that.

25 Thank you, Dr. Owen.



1 This session of the rulemaking is over and I
2 declare a five-minute recess break.

3 (Pause)

4 The next item on the agenda is a request to
5 issue a notice of rulemaking concerning food and nutrition
6 services. Commissioner?

7 MR. HAMMOND: Thank you very much.

8 Thank you. We have two rulemaking hearings
9 today -- and I can't get by with anything from this group.

10 Thank you. We have two notices of
11 rulemakings, which should be very short. One is around
12 food and nutrition, and that's 10.01, and 10.02 is around
13 our accounting of rules and reporting.

14 The whole purpose of these rules is really
15 simply to clean up, clarify, and reduce, and we have really
16 been trying to do that when we get to our rules. So if we
17 would just explain them very briefly to the Board, we'll
18 skip them off and then we'll bring this back to you in
19 June.

20 UNIDENTIFIED VOICE: May.

21 MR. HAMMOND: May? No, it's May. You're
22 off. Okay.

23 MADAM CHAIR: Okay.

24 MR. HAMMOND: So with that in mind, Leanne,
25 sorry about that. Thank you.



1 MADAM CHAIR: Move right ahead.

2 MS. EMM: Thank you, Madam Chair, and we'll
3 try and be very brief. But these two sets of rules are
4 somewhat interrelated because we are lifting and moving
5 some of the rules from the food and nutrition area in
6 relation to accounting over into the accounting area. But
7 I also do want to point out that I always like to tell you
8 all that when we've gone through rules, how much we've been
9 able to reduce and eliminate out of them. And so when we
10 look at the two together we've been able to eliminate one
11 and a half pages of rules, which is something. It's not
12 giant but it's something.

13 Anyway, with that I'm going to turn it over
14 to Jennifer Okes to briefly explain, very simply, what the
15 changes to the nutrition proposed rules are.

16 MADAM CHAIR: All right. Thank you.
17 Jennifer.

18 MS. OKES: Thank you, Madam Chair. Yeah, so
19 we wanted to -- one of the reasons for looking at this
20 rule, in addition to the regular want to look at rules to
21 make sure that they're still current and applicable, is
22 because there has been more fiscal oversight for the food
23 and nutrition services programs required by the U.S.
24 Department of Ag, as well as the Office of the State
25 Auditor audit report. So there's been more fiscal



1 oversight on that, so that was another impetus for us to
2 review these rules.

3 So over a year ago we began the outreach
4 process, working with nutrition directors across the state
5 as well as business managers and accountants, and started
6 to have a number of meetings. We had over a dozen meetings
7 over the course of this year, plus with those, and had
8 really great discussions with them. So again, we were
9 mindful to streamline these and also preserve the integrity
10 of the food service fund.

11 There are really four kind of groups of
12 changes that are in here. We are changing from an
13 enterprise fund to a special revenue fund for the food
14 service fund, and we believe that that is more appropriate
15 to account for the food nutrition program because it's a
16 federal grant program. We had a lot of research done on
17 this. We worked with representatives from the Colorado
18 Society of CPAs, the Office of the State Auditor, and then
19 also the business managers.

20 We also wanted to remove an outdated rule,
21 and this rule an outdated rule related to indirect costs.
22 So the Board rule says that you need a 30-percent fund
23 balance in order to charge those indirect costs, like the
24 overhead type costs. And that used to be necessary because
25 we didn't provide funding from the state match, but then



1 the state has been recently funding that state match, so
2 it's not longer necessary to keep those funds in reserve in
3 order to charge the indirects. And so by eliminating this
4 rule, we can give districts more flexibility in managing
5 their financial affairs, and we think that's a good thing.

6 And also streamlining and consolidating. As
7 Leanne said, we took the food service fund rules, moved
8 them over to the accounting. So nutrition rules are in
9 nutrition, accounting rules are in the accounting section.
10 We eliminated redundant rules, anything redundant with
11 federal regs, because, you know, it should be just stated
12 once. We don't need to restate it. You can potentially
13 get in conflict over time.

14 One thing the Office of the State Auditor
15 requested that we formally define the operating year. So
16 the federal requirement is you can't have more than three
17 months operating reserves, but they don't define, is that a
18 9-month, a 10-month, a 12-month year? And we chose to go
19 with a 9-month year, again, because it gives districts the
20 most flexibility.

21 And then we did some clarification. If
22 there was any ambiguity in the rules, or you could
23 potentially read it one way or the other, or if we had
24 questions, we tried to get more clear language. And so
25 those are the types of rules.



1 So with that I would open it up to any
2 questions.

3 MADAM CHAIR: Any questions? Deb.

4 MS. SCHEFFEL: I have a question. Thank
5 you. My question is the whole issue of the 30 minutes
6 before or after the scheduled meal service. So that wasn't
7 required but we put that in there, you put that in there,
8 because --

9 MS. OKES: Yes. Actually, the language,
10 it's more of a restatement than a new requirement. So the
11 federal regulations require that every state have a policy
12 to have competitive foods to protect that physical
13 integrity, and this rule is a restatement of the existing
14 rules. There was some question whether the old language,
15 or the current language, I should say, mean, you know, if I
16 had breakfast that start at 8, well, that would be 7:30,
17 and then lunch would go to 12:30, and so that would be the
18 whole time span between 7:30 and 1:00. And really, what
19 the intent was, no, it's half an hour before and after
20 breakfast and then half an hour before and after lunch. So
21 you could have a mid-morning. And so we just wanted to
22 clarify that.

23 MS. SCHEFFEL: So is this the right
24 assumption? It doesn't apply to vending machines. It
25 applies to competitive entities coming into districts and



1 selling food for profit. And the assumption is that the
2 food that is offered not-for-profit is healthier than the
3 for-profit food, which is why you're asking them to wait 30
4 minutes on either side. Is that assumption right?

5 MR. DURHAM: That's making some assumptions.

6 MS. SCHEFFEL: I mean, is that with the
7 obesity problem in our schools and the fact that it has
8 correlated with more and more food being offered at school,
9 both for breakfast and lunch, and now you have a
10 competitive entity coming in, maybe offering more healthy
11 food? I guess I'm concerned about the assumptions
12 underneath limiting the competition.

13 MR. HAMMOND: Madam Chair, I wouldn't want
14 to even attempt at what the Federal Government might
15 pursue, or assume, but let's take a shot at some of this,
16 okay. Some of this has to do with the competitive and the
17 pricing with the school district. So you'll hit -- as best
18 as you can.

19 MS. OKES: Okay. Yeah. So first, on the
20 vending machine, because that might be a little easier.
21 The existing language was sort of interesting because it
22 said including vending machines, except the districts could
23 choose to allow vending machines at high schools. And so
24 it seemed sort of a strange -- it's restricted unless you
25 choose not to have it restricted. And so we thought it



1 would be just more clear to say except in high school
2 vending machines can be allowed, because that's essentially
3 what the old rule said, but it went through three
4 paragraphs to say that. So we just clarified that.

5 In terms of the competition, I think it
6 really is that you don't -- the intent, again, assuming
7 what the Federal Government is to not have money -- if I'm
8 hungry and wanting to buy something on campus, buy it from
9 the food service program, not something else that would
10 direct monies to something else and could hurt the fiscal
11 integrity of the program.

12 MS. SCHEFFEL: Are we required to do this?

13 MR. HAMMOND: For federal reimbursement.

14 MADAM CHAIR: Go ahead.

15 MS. OKES: Thank you. We are required to
16 have a state policy. They don't say what that is.

17 MS. SCHEFFEL: And may I ask, Madam Chair,
18 are we required to have a state policy that limits
19 competition, encouraging kids to use the school's food
20 service, given that the quality of the food, from the kids
21 I talked to, is pretty limited. I mean, why would we want
22 to limit competition, and are we required to limit
23 competition?

24 MADAM CHAIR: I don't think we want to limit
25 competition. I'm sorry.



1 MS. SCHEFFEL: Well then, I'd like the right
2 to de minimis rules.

3 MADAM CHAIR: Go ahead.

4 MS. OKES: Thank you. So we are required to
5 have a policy about the competition for those food service
6 programs, and that's by the Federal Government. Then, in
7 addition, there is a state statute that says that all local
8 school boards are encouraged to have a policy that talks to
9 competition and limiting the competition. So that's an
10 encourage, and so --

11 UNIDENTIFIED VOICE: May I --

12 MADAM CHAIR: Yes. Oh, I thought Deb. Yes.

13 UNIDENTIFIED VOICE: You may or may not be
14 aware of this but Douglas County decided to opt out of this
15 program for that reason, because they have Subway sandwich
16 shops, whatever, selling food at their high schools that
17 the kids find much more satisfying and they make more
18 money. So they opted out of this program.

19 UNIDENTIFIED VOICE: So, Madam Chair --

20 MADAM CHAIR: Is that the only way you can
21 get out of it is to opt out of it entirely?

22 MS. OKES: Yes. You can opt out on a
23 school-by-school basis, and we have seen some high schools
24 do that.

25 MADAM CHAIR: All right. Thank you. Deb?



1 MS. SCHEFFEL: Why couldn't we have a policy
2 that was far looser and say, let's just have a policy that
3 posts the nutritional value and whatever other
4 characteristics of the food the school offers, and the
5 competitive entities can offer. I mean, why would we put
6 something restrictive like this in for 30 minutes when we
7 don't have to, when we could be far more open and give more
8 kids and more schools more opportunity for more quality
9 food in schools?

10 MADAM CHAIR: Yes, Pam.

11 MS. MAZANEC: Yes. So we kept it at the 30
12 minutes because that was the same language. I think it
13 said half an hour before, just for consistency, but you
14 could shorten the time frame during, you know, only the
15 actual lunch period, or you could do other things.

16 UNIDENTIFIED VOICE: Madam Chair.

17 MADAM CHAIR: Yes, ma'am. Sorry.

18 UNIDENTIFIED VOICE: I would like to add the
19 addition in regards to the nutrition standards, the new
20 nutrition standards have been established for competitive
21 foods are fairly regulated in regard to the requirements
22 from the feds. So even the competition would have to be
23 basically following the same nutrition standards as the
24 school nutrition operation.

25 So, all in all, there's been a lot of



1 improvement, a lot of work in the food and nutrition area
2 in the schools, nutritional standards, as I mentioned. So
3 it's kind of an umbrella for competitors as well as school
4 district operators.

5 MADAM CHAIR: Yes.

6 UNIDENTIFIED VOICE: Do we have to have
7 minutes in here? See, I would argue that we don't want
8 minutes in here, as a way of limiting competition.

9 MADAM CHAIR: Yes, ma'am.

10 UNIDENTIFIED VOICE: No, there's no
11 requirement for minutes, just the requirement for a policy
12 regarding competition.

13 MADAM CHAIR: All right. Thank you.

14 MR. HAMMOND: We can bring that back to you.

15 MADAM CHAIR: Do you want us to bring it
16 back?

17 UNIDENTIFIED VOICE: I would.

18 MR. HAMMOND: Also, notice of rulemaking
19 only, and we'll get a lot more comments from that. So
20 we'll take this initial one, your comments, into
21 consideration.

22 MADAM CHAIR: Thank you very much, and are
23 you the same ones who do the accounting reporting, the next
24 one?

25 UNIDENTIFIED VOICE: Yes, Madam Chair. I'm



1 not sure, from the procedures, do we need to have a vote on
2 doing the notice?

3 MADAM CHAIR: Well, they said they were
4 going to bring it back.

5 UNIDENTIFIED VOICE: Oh, okay.

6 MR. HAMMOND: We'll bring it back, but what
7 you have to do is take formal action, am I right, Carrie,
8 to notice the rulemaking hearing.

9 MS. MARKEL: (Inaudible).

10 MADAM CHAIR: So we don't have to do
11 anything, Robert?

12 MR. HAMMOND: You don't, but I encourage
13 you, if you can, go ahead and notice it. That will allow
14 us to get more public comment in it, and we'll take your
15 comments into consideration.

16 MADAM CHAIR: Okay.

17 MR. HAMMOND: But it's your call.

18 MADAM CHAIR: Is that okay?

19 MS. MARKEL: (Inaudible).

20 MADAM CHAIR: For next month.

21 MS. MARKEL: Two months.

22 MADAM CHAIR: Two months. Go ahead.

23 MS. SCHROEDER: I move to approve the notice
24 of rulemaking hearing concerning food and nutrition
25 services.



1 MS. GOFF: Second.

2 MADAM CHAIR: Moved and seconded. Is there
3 any discussion? Any objection?

4 We'll move forward to the next hearing.

5 MR. HAMMOND: Thank you.

6 MS. EMM: Thank you. So the next notice is
7 regarding the accounting and reporting rules, that, again,
8 we spoke quite a bit about the movement of the fund over
9 into this area, so moving from an enterprise fund to a
10 special revenue fund, and made some other clarifications
11 around the accounting for the program.

12 So, Jennifer, do you want to speak any more
13 about those?

14 MS. OKES: No. I think we've covered the
15 majority of them, the special revenue fund, and that
16 indirect cost, removing that regulation, and then again,
17 some clarification and just trying to make the wording more
18 clear.

19 MADAM CHAIR: Good. Is that it?

20 MS. OKES: Yes, that's it.

21 MR. HAMMOND: Pretty simple.

22 MADAM CHAIR: Any comments?

23 MS. SCHROEDER: I move to approve the notice
24 of rulemaking hearing concerning rules for accounting and
25 reporting.



1 MADAM CHAIR: Second?

2 MS. GOFF: Second.

3 MADAM CHAIR: Jane, this is like a record.
4 Any comments? Deb?

5 MS. SCHEFFEL: And maybe I missed the
6 discussion, but I guess I would just like to know, since
7 we're opening rulemaking and we'll have further discussion,
8 but the Colorado Preschool Program subfund or the general
9 fund, I have a hard time provisioning the implications of
10 moving from enterprise fund to special revenue fund.
11 Exactly what are the implications? If you could sketch
12 that out, especially with respect to the preschool program.

13 MADAM CHAIR: Yes, ma'am. Go ahead.

14 MS. EMM: Madam Chair. Yeah, so that
15 changed from the enterprise to the special revenue fund
16 only applies to the food service fund.

17 MS. SCHEFFEL: This is all about food
18 service only?

19 MS. EMM: Just that change. But the rest of
20 the rules do talk about other funds like the Colorado
21 Preschool Program, but that is not designated in rules as
22 an enterprise or a special revenue fund.

23 UNIDENTIFIED VOICE: Madam Chair.

24 MADAM CHAIR: Yes.

25 MS. SCHEFFEL: Is it defined somewhere what



1 an enterprise fund is for special revenue fund, that would
2 be clearly understood, and the implications of it? I mean,
3 I read the definitions but what is the real implications?
4 And we don't have to do it now. We're just opening
5 rulemaking. But I would want to know more detail, I guess,
6 what the implications are.

7 MADAM CHAIR: Go ahead.

8 MS. EMM: Thank you. We could bring back
9 the definition for the fund types.

10 MS. SCHEFFEL: And implications.

11 MS. EMM: Yes.

12 MS. SCHEFFEL: Is there greater flexibility?
13 Less flexibility? Different oversight? Different statutes
14 impinging on uses of funds? What's the impact.

15 MS. OKES: And I could give a two- or three-
16 sentence high-level overview, and I'm not a CPA so I can't
17 give too much more than that. We looked at many
18 considerations, so an enterprise fund requires you to look
19 or, you know, record all of the types of expenditures, but
20 because of federal regulations and then state statute there
21 are some things that cannot be charged to the food service
22 fund, and some of those new facilities, state statute
23 requires that if you have a new facility then that is the
24 district's responsibility, not this fund. Other type of
25 things, bad debts, cannot be charged to this. So there are



1 a number of things that can't be charged, and that's kind
2 of contrary to the enterprise fund.

3 And also the A-87 and the Omni Circular, the
4 guidance on accounting standards for grant programs, they
5 really speak to the cash basis or modified accrual basis,
6 where enterprise is more on the full accrual basis. And so
7 it just seemed to us, and we have a very lengthy
8 PowerPoint, I think 50 pages, that we went in depth with
9 the CPAs, Colorado Society, to look at this thoroughly, and
10 thought that this was more appropriate.

11 MR. HAMMOND: Madam Chair.

12 MADAM CHAIR: Yes, sir.

13 MR. HAMMOND: We'll certainly bring this
14 back. Part of the issue is we don't want to get districts
15 caught in something, if they're coding it wrong or they're
16 doing it wrong, and then they get caught in an audit. So
17 that's part of the cleanup, to specify, with clarify,
18 what's in there. But we can explain that more next time.

19 MS. SCHEFFEL: And can you address the
20 preschool piece -- not now but at some point?

21 MR. HAMMOND: Sure.

22 MS. SCHEFFEL: Why is preschool in there?
23 Is it just their food or something else?

24 MADAM CHAIR: Any more discussion? Motion?

25 MS. MARKEL: We had a motion and a second.



1 MADAM CHAIR: No, we didn't.

2 MS. MARKEL: Yeah, we did. Is it unanimous?

3 UNIDENTIFIED VOICE: It hasn't had a vote.

4 UNIDENTIFIED VOICE: That's correct. It
5 hasn't had a vote.

6 MADAM CHAIR: Is there any objection?

7 MR. DURHAM: The vote are the nods of your
8 heads?

9 UNIDENTIFIED VOICE: Rattle, rattle, rattle.

10 MADAM CHAIR: That we approve the notice of
11 rulemaking. Thank you, ladies.

12 MR. HAMMOND: Thank you.

13 MADAM CHAIR: Okay. Where are we. We are
14 on executive session. Carrie, would you like to read us
15 into executive session?

16 MS. MARKEL: The State Board will convene an
17 executive session to receive legal advice on specific on
18 specific legal questions pursuant to 24-6-402(3)(a)(II)
19 CRS, and on matters required to be kept confidential by
20 federal law, rules or state statutes pursuant to 24-6-
21 402(3)(a)(III) CRS

22 MADAM CHAIR: Do I have a motion to convene
23 an executive session?

24 UNIDENTIFIED VOICE: So moved.

25 MADAM CHAIR: Second? Any opposed?



1 The motion passes.

2 (End of Part 2)

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

I, Kimberly C. McCright, Certified Vendor and Notary, do hereby certify that the above-mentioned matter occurred as hereinbefore set out.

I FURTHER CERTIFY THAT the proceedings of such were reported by me or under my supervision, later reduced to typewritten form under my supervision and control and that the foregoing pages are a full, true and correct transcription of the original notes.

IN WITNESS WHEREOF, I have hereunto set my hand and seal this 10th day of January, 2019.

/s/ Kimberly C. McCright
Kimberly C. McCright
Certified Vendor and Notary Public

Verbatim Reporting & Transcription, LLC
1322 Space Park Drive, Suite C165
Houston, Texas 77058
281.724.8600