

**Responses to Written Comments on Draft SB 191 Rules  
Received July 27, 2011 – August 24, 2011**

	<b>Comment/Question</b>	<b>CDE Response</b>
1	<p>Quality Standard I for teachers is the only reference in the proposed standards to content knowledge. This reduces the importance of the knowledge necessary for critical literacy and math instruction and requires that somewhere else in the standards the state board outline what knowledge is needed in each teaching specialty.</p> <p>Knowledge of the content, such as the content found in the Colorado P-12 Academic Standards, is necessary but not sufficient knowledge for teaching the content.</p> <p>Researchers have outlined the “pedagogical content knowledge” needed to teach reading and mathematics. This knowledge goes beyond the content to the ability to accurately explain the concepts to others, identify where student understanding breaks down, and respond with effective instruction and feedback.</p> <p>As you go forward in your consideration of what content will be included in your newly adopted standards, I urge you to please take into consideration both what will be gained that will move Colorado’s student achievement to new heights and what will be lost if you no longer expect Colorado teachers to be prepared to teach literacy and math.</p>	<p>In response to suggestions that the Quality Standards include literacy and math standards as highly visible priorities, and also in order to ensure that the teacher quality standards are universally applicable and can be measured with the state’s model evaluation rubric, the following revision to the draft rules is recommended:</p> <p><b>3.02 (A) Quality Standard I:</b> Teachers demonstrate <del>mastery of</del> <b>KNOWLEDGE AND EXPERTISE</b> in the content they teach <del>and knowledge about student literacy development in reading, writing, speaking, viewing, and listening.</del></p> <p>3.02 (A) (1) THE ELEMENTARY TEACHER HAS A DEEP CONCEPTUAL KNOWLEDGE OF LITERACY AND MATHEMATICS, AS REQUIRED BY STANDARDS ONE AND TWO IN COLORADO’S STANDARDS FOR THE APPROVAL OF THE PROGRAM CONTENT OF PROFESSIONAL EDUCATION AND PROFESSIONAL DEVELOPMENT OF TEACHERS AND SPECIAL SERVICE PERSONNEL, CCR 2260.5-R-5.00, AND IS KNOWLEDGEABLE IN ALL OTHER CONTENT THAT THEY TEACH (E.G., SCIENCE, SOCIAL STUDIES, ARTS, PHYSICAL EDUCATION, OR WORLD LANGUAGES). THE SECONDARY TEACHER HAS A DEEP CONCEPTUAL KNOWLEDGE OF LITERACY AND MATHEMATICS, AS REQUIRED BY STANDARDS ONE AND TWO IN COLORADO’S STANDARDS FOR THE APPROVAL OF THE PROGRAM CONTENT OF PROFESSIONAL EDUCATION AND PROFESSIONAL DEVELOPMENT OF TEACHERS AND SPECIAL SERVICE PERSONNEL, CCR 2260.5-R-5.00, AND IS AN EXPERT IN HIS OR HER CONTENT ENDORSEMENT AREA(S).</p>

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2	Several experts in the field have suggested line edits for the teacher and principal quality standards. These include revisions to the teacher standards to add in components of Colorado’s existing Performance Based Standards for Teachers.	The department believes that several of these line edits have merit and is in the process of reviewing the suggested edits carefully. For the time being, several of the suggestions have been incorporated in the 8.24.11 draft of the rules.
3	Districts need the flexibility to implement their own systems within these guidelines or, at their option, decide to opt in to a system developed by the state. There is not a single mention in SB 10-191 of the phrase “state-wide standards.”	The department recommends that the following revision be made to section 6.01 (B) of the rules:  Each School District and BOCES <del>shall implement the State Model System, unless it submits an application to the Department demonstrating that the School District or BOCES has developed a</del> MAY ADOPT THE STATE MODEL SYSTEM OR DEVELOP ITS OWN distinctive personnel evaluation system that satisfies the requirements in section 5.01 of these rules <del>and the Department has approved this application.</del>
4	There are many differences among rural, urban and suburban districts and many problems that would be inherent in a one-size-fits-all system (i.e., how does a principal who is also a superintendent receive an evaluation within a statewide evaluation system?)	The draft rules do not require districts to adopt the State Model System, and permit districts to adopt evaluation systems that meet the unique circumstances of the district. The rules do, however, require the department to develop a State Model System that is adaptable for use in districts of different sizes.
5	Principals and superintendents need to be able to differentiate their evaluations based on the experience, expertise and track records of their employees.	It is intended that the draft rules do allow principals and superintendents to differentiate their evaluations. Please see sections 5.01 (F) (3) (a) – (e) and section 5.01 (F) (7) of the draft rules.
6	How is the state going to find funding for implementation when they cannot fund our educational system status quo? The evaluations of every teacher every year, every principal every year, and new teachers twice every year is going to increase the need for more evaluators in a building or in a district. Given the current evaluation processes being proposed there is no way with current job descriptions and administrative staffing that districts can do this and do it well. There will need to be more funding	The department concurs that funding limitations are a serious concern. While recognizing that working within existing resources is challenging, the department encourages districts to examine all possible solutions to ensure that all licensed personnel are evaluated using multiple, fair, transparent, timely, and credible methods and that all licensed personnel receive adequate feedback and

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	<p>going into districts for more personnel to make this happen. Additionally, Council's rule 5.01 (F) (3) (d)--"Measures of growth shall reflect all subject areas, not only those in tested areas," will increase the work load for district curriculum directors. Benchmark assessments will need to be developed for every course or subject taught. This is an area where more staffing will be needed in order to meet the criteria. Bottom line, this is another example of the many funding issues faced by public educators in Colorado.</p>	<p>professional development support to provide them a meaningful opportunity to improve their effectiveness. The department is working to support collaborative relationships that will allow districts to work efficiently and capitalize on one another's efforts, and is developing a resource bank to assist districts in their implementation efforts. The department is also seeking additional funding to support the department and districts' work in this area.</p>
7	<p>3.02 (C) (3) mentions literacy and mathematics but only specifically addresses literacy, as does 3.02 (A). It seems that the statement would be best left at something like, "including those practices specifically proven effective for literacy and mathematics."</p>	<p>Please see recommended revisions in row 1, above.</p>
8	<p>I am asked every semester why a PE or Art or Science teacher needs to know phonics, phonemic awareness, algebra and geometry and I honestly have a hard time rationalizing these professional standards. After 25 years in public schools as a principal, I definitely did not expect my high school science or K-12 music teachers to teach phonics to low and struggling readers. Nor have I witnessed any social studies or PE teachers instructing students in remedial language arts or math. From my experience, I would be more likely to observe a special education teacher or a Language Arts teacher with specific training work with secondary students who may need phonemic awareness as part of their remediation.</p> <p>If the State Board needs to see these very specific literacy and math instructional strategies included, it would seem best to designate that elementary teachers and special education teachers have these skills, yet it seems foolish, given all the demands of our curriculum, to ask us to teach all K-12 and secondary students these specialized strategies. It is part of the unfortunate narrowing of non-CSAP curriculum to suggest all content teachers have to know how to teach math and phonics with no real training.</p>	<p>The department believes that literacy and mathematic skills are essential for postsecondary and workforce readiness, and that mastery of these skills should be reinforced through all aspects of a student's education. The department believes that an understanding of evidence-based instructional practices in literacy and mathematics is essential for all educators. Please see recommended revisions to the teacher quality standards in row 1, above.</p>

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9	<p>I have no problem with the language added under 3.02; however, 3.02 (C) 3 is unreasonable from my experience. Each and every standard could be fleshed out with the level of detail ascribed to this section regarding literacy. Why are we only attending to literacy? Further, the language attributed to approaches to literacy serves to regenerate the historical divide between behavioral and more socio-cultural and cognitive approaches to instruction. When are we going to acknowledge that it takes all approaches, depending on the individual needs of students to support their literacy development? If one set of approaches truly works then why do so many students continue to struggle learning to read? I believe the answer in part is because teachers have been subjected to the politicizing of curriculum and instruction as opposed to truly looking at and responding to what works for each child. Instead of teachers being able to approach literacy based on children's needs, they are reduced to making sure they respond to over-prescriptive and dogmatic regulatory policy. I would hate for our teacher licensure standards to further contribute to this dilemma.</p>	<p>Please see the department's response in row 8, above.</p>
10	<p>I am very concerned that our teacher preparation programs are not giving our teachers enough basic knowledge of literacy. This is like sending a doctor through medical school without requiring human anatomy. As originally proposed, the new standards would remove the expectations that teachers, including elementary teachers, have knowledge of literacy content and pedagogy. Removing knowledge of literacy from the standards would mean that teacher preparation programs would no longer be held accountable for this content and that the licensing exams would not be expected to have this content either.</p> <p>Which came first? The unprepared teacher or the unprepared student? Colleges and universities complain that students come to them unprepared for higher education. Higher education is producing the teachers that prepare the students for our colleges and universities. What a conundrum. How and when will we intervene?</p>	<p>Please see recommended revisions in row 1, above.</p>

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	<p>All teachers need a deep understanding of literacy skills regardless of their level of content area. Literacy skills are the gatekeeper to every other subject. All teachers need to be literacy teachers and diagnosticians, as reading is in every subject. Statewide, approximately &lt;70% of students grades 3-10 are proficient in reading. If 30% of students are not proficient in reading how are they accessing any other subject? If they are not a proficient reader, who will help them read and understand problems in a 9<sup>th</sup> grade Algebra class?</p> <p>School districts are diverting resources from youth to teach teachers some very basic skills. Teachers are coming into schools without knowing the sounds of the language, have no foundation in basic linguistics, are unable to deeply teacher vocabulary words, cannot model comprehension strategies, or diagram even a simple sentence to break down the meaning of text.</p> <p>Please work to ensure rigor in our teacher standards so when teachers complete their training they have a deep understanding of the basic components of literacy and the English language. I would like to say that Colorado has one of the strongest teacher training programs in the country. I would like to say that Colorado teachers are prepared to increase student literacy skills at every level and in every subject area.</p>	
11	<p>We believe that locally developed evaluation systems by districts and BOCES with community, parent, teacher, and principal input to meet the State Board’s definition of education effectiveness and quality standards will insure effective implementation and improved student achievement. We urge the CDE staff and State Board to create guidelines and sample rubrics and provide this template to local districts and BOCES to use as they develop their local evaluation system. (We strongly support an “Opt In” approach rather than an “Opt Out” approach as it is currently proposed.)</p>	<p>Please see the recommended rule revision in row 3, above.</p> <p>The department also recommends the following revisions to the draft rules:</p> <p><del>2.03 (C). All School Districts and BOCES shall measure each individual Principal’s performance against the Principal Quality Standards using rubrics and tools that meet criteria outlined in technical guidelines developed by the Department and that have been identified or approved by the Department.</del>  <b>THE DEPARTMENT SHALL DEVELOP MODEL RUBRICS AND TOOLS FOR SCHOOL DISTRICTS AND BOCES TO</b></p>

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		<p>USE IN MEASURING EACH INDIVIDUAL PRINCIPAL'S PERFORMANCE AGAINST THE PRINCIPAL QUALITY STANDARDS. THE DEPARTMENT ALSO SHALL PROVIDE TECHNICAL GUIDELINES FOR SCHOOL DISTRICTS AND BOCES TO USE IN DEVELOPING THEIR OWN RUBRICS AND TOOLS.</p> <p><del>3.03 (C) All School Districts and BOCES shall measure each individual Teacher's performance against the Principal Quality Standards using rubrics and tools that meet criteria outlined in technical guidelines developed by the Department and that have been identified or approved by the Department.</del> THE DEPARTMENT WILL DEVELOP MODEL RUBRICS AND TOOLS FOR SCHOOL DISTRICTS AND BOCES TO USE IN MEASURING EACH INDIVIDUAL PRINCIPAL'S PERFORMANCE AGAINST THE PRINCIPAL QUALITY STANDARDS. THE DEPARTMENT ALSO WILL PROVIDE TECHNICAL GUIDELINES FOR SCHOOL DISTRICTS AND BOCES TO USE IN DEVELOPING THEIR OWN RUBRICS AND TOOLS.</p> <p>5.01 (F) (2) (b) Additional Measures of Principal Professional Practice. In addition to the required measures of Professional Practice, School Districts and BOCES may also consider using other sources of evidence <del>provided that these additional measures meet the criteria outlined in guidelines developed by the Department.</del> School Districts and BOCES are strongly encouraged to use measures, where appropriate, that capture evidence about the following... THE DEPARTMENT WILL DEVELOP TECHNICAL GUIDELINES THAT OUTLINE CRITERIA FOR ENSURING THAT THESE ADDITIONAL MEASURES OF PROFESSIONAL PRACTICE MEET MINIMUM STANDARDS OF CREDIBILITY, VALIDITY, AND RELIABILITY.</p> <p>5.01 (F) (6) Method for Evaluating Teacher Professional Practice. ...The method for evaluating Teachers' Professional Practice may include additional measures to</p>

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		<p><del>assess Professional Practice, provided that these additional measures meet criteria outlined in guidelines developed by the Department.</del> THE DEPARTMENT WILL DEVELOP TECHNICAL GUIDELINES THAT OUTLINE CRITERIA FOR ENSURING THAT THESE ADDITIONAL MEASURES OF PROFESSIONAL PRACTICE MEET MINIMUM STANDARDS OF CREDIBILITY, VALIDITY, AND RELIABILITY.</p>
12	<p>The Colorado BOCES Association has the following questions that we believe need to be addressed by the Council:</p> <ul style="list-style-type: none"> <li>• How will licensed Special Education Service Providers (i.e., Speech Pathologists, Social Workers, OT's, PT's, School Psychologists, etc., that work in a district or BOCES be integrated into the system? What state guidelines will local districts and BOCES have available to create their evaluation system for these people?</li> <li>• How will licensed personnel that have joint responsibilities be integrated into the system, i.e., Principal/Superintendent; Teacher/Principal; BOCES Executive Director/Sped Director; Assistant Principal/Teacher, etc.?</li> <li>• How will licensed staff that work part-time be integrated into the system when part of their job requires a license and the other part of their job does not, i.e., teacher/paraprofessional?</li> <li>•</li> </ul>	<p>The department has shared these concerns with the State Council. The Council plans to make recommendations concerning first issue (the evaluation of other categories of license personnel) in the winter of 2012. The latter two issues will be addressed by the department during the pilot period.</p>
13	<p>BOCES licensed personnel that are hired directly by a BOCES and have not previously worked for a school district are not eligible to attain non-probationary status; and thus, must be exempt from any State Board rules and processes concerning losing their non-probationary status. These licensed personnel can not lose non-probationary status that they have never been granted.</p>	<p>The department recommends adding the following clarifying language to the rules:</p> <p>3.03 (D) School Districts and BOCES shall use the indicators below for determining a Teacher's Performance Evaluation Rating and the implications for such a rating. THE STATUS IMPLICATIONS DESCRIBED BELOW DO NOT APPLY TO AT-WILL EMPLOYEES.</p>

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14	<p>Career and Technical Education programs in our Pre-K12 public schools are approved by the Colorado Community College and Occupational Education Board and system for state and federal career and technical education funding. These programs are approved and must meet standards and requirements as established by that State Board; therefore, we believe it is imperative that CDE and the State Board of Education work closely with them to determine the most effective and efficient way to establish standards that our Career and Technical Education teachers and administrators must meet under SB-191. We want to make sure that those teachers and administrators do not have multiple sets of standards and measures established by two different State Boards.</p>	<p>The department recognizes these concerns and has communicated with the State Council about the need for recommendations related to appropriate standards for career and technical education teachers and administrators.</p>
15	<p>DASSC favors districts opting in to the statewide model. The rules require that districts that do not use the state model evaluation system must opt out and then apply to CDE to obtain permission to use their own evaluation model. This expectation exceeds the statutory requirement in several ways. First, SB- 191 does not envision one state evaluation system. What the statute outlines are requirements for districts to utilize when creating district evaluation systems. A local Board of Education is responsible for the employees it hires and determines the quality of these employees' performance. If rules are written too prescriptively, it could undermine the ability of districts to design evaluation systems that conform to the statutory requirements that fit their local circumstances since these may emphasize different elements than the state model. The rules, as written, will remove opportunities for and slow the pace of innovation. The current emphasis is upon compliance and regulation. Once adopted a state evaluation system will become a permanent bottleneck for timely local reforms and expand the ongoing need for centralized bureaucracy and funding at the state level.</p> <p>What is the criteria and timeline for submitting and getting approval of a local evaluation system? Section 6.01B of the SB-191 rules states: "Each School District and BOCES shall implement the State Model System, unless</p>	<p>Please see the recommended rule revision in row 3, above.</p> <p>The department also recommends adding the following language to the draft rules:</p> <p><b>6.04 Monitoring and Reporting on Implementation of Requirements for Local Evaluation Systems.</b> The Department shall monitor School Districts' and BOCES' implementation of the requirements for local personnel evaluation systems as described in these rules and as otherwise required by federal or state statute and regulation. METHODS THAT THE DEPARTMENT MAY USE TO MONITOR LOCAL PERSONNEL EVALUATION SYSTEMS MAY INCLUDE INCORPORATING ASSURANCES RELATED TO EVALUATION SYSTEMS INTO DISTRICT ACCREDITATION CONTRACTS REQUIRED PURSUANT TO SECTION 22-11-206, C.R.S., INTEGRATING INFORMATION ABOUT EVALUATION SYSTEMS INTO ACCOUNTABILITY AND IMPROVEMENT EFFORTS, INCLUDING, IF APPLICABLE, THE SCHOOL AND</p>

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	<p>it submits and application to the Department demonstrating that the School District or BOCES has developed a distinctive personnel evaluation system that satisfied the requirements in section 5.02 of these rules and the Department has approved this application."</p> <p>Section 5.02 only addresses the process a district must go through and no criteria; nor does it address a timeline for approval/disapproval by CDE There is concern about CDE's capacity to properly review the numerous applications for local evaluation systems without criteria. Would every sub-element under sections 2.02 (Principal Quality Standards) and 2.03 (Teacher Quality Standards) of the rules be required to be in a local evaluation submission? Would districts be allowed to add standards such as English Language learning Standards?</p>	<p>DISTRICT PERFORMANCE REPORTS, REQUIRED PURSUANT TO SECTION 22-11-503, C.R.S., AND INCORPORATING MONITORING DATA INTO SCHOOL AND DISTRICT UNIFIED IMPROVEMENT PLANS.</p> <p>BEGINNING IN JULY 2013, THE DEPARTMENT WILL COLLECT AN ASSURANCE FROM EACH SCHOOL DISTRICT AND BOCES NO LATER THAN JULY 1 OF EACH YEAR, INDICATING THAT THE SCHOOL DISTRICT OR BOCES IS EITHER IMPLEMENTING THE STATE MODEL SYSTEM OR IS IMPLEMENTING ITS OWN DISTINCTIVE PERSONNEL EVALUATION SYSTEM THAT SATISFIES THE REQUIREMENTS IN SECTION 5.01 OF THESE RULES. THIS ASSURANCE SHALL BE SIGNED BY (I) THE EXECUTIVE DIRECTOR OF THE BOCES OR SUPERINTENDENT OF THE SCHOOL DISTRICT, (II) THE CHAIR OF THE BOCES OR LOCAL SCHOOL BOARD, AND (III) A REPRESENTATIVE OF THE BOCES OR SCHOOL DISTRICT ADVISORY PERSONNEL PERFORMANCE EVALUATION COUNCIL.</p>
16	<p>In numerous places, the rules describe practices where districts must conform to technical guidelines, tools, or rubrics that the Department will provide, or obtain from the Department, permission to use. Again, the rules should permit districts to opt in but not require the use of these tools. These expectations are again unnecessarily prescriptive and extend the reach of CDE far beyond the capacity of the Department. Even if the Department could meet the demand of regulating more fundamentally, is this the role of the Department, when districts may have the desire and/or expertise to design tools?</p> <p>In the 65% of classes in areas where no state assessment exists, districts welcome the Department playing a leading role in developing or facilitating the coordination among districts to develop measures</p>	<p>Please see the recommended rule revision in row 11, above.</p>

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	<p>indicating student improvement. Nevertheless, Technical guidelines for classroom assessments should be available as a resource not as a requirement.</p> <p>Rather than establish guidelines which districts must stay within, the rules require districts to obtain preapproval from the state before a district can use or change any elements of a rubric or tool they wish to use in the evaluation process. The rules often reference technical guidelines, but due to the emerging nature of this work, the technical guidelines have yet to be developed. Rather, districts should be required to meet higher level state guidelines and the state free to take enforcement actions against districts violating the law.</p>	
17	<p>When reviewing the rules, districts believe it is important to emphasize that the need/desire to have the focus of the implementation of SB 191 be on instructional improvement, coaching, feedback and support of teachers, professional development for administrators and teachers, and identifying and rewarding superior performance. Districts do not want to see that the focus is on dismissing teachers. As Linda Darling-Hammond stated recently, "You can't fire your way to Finland".</p>	<p>The department agrees that implementation of SB 191 should emphasize these activities. Please see language in section 0.0 (Statement of Basis and Purpose) and section 5.01 (A) (purposes of local evaluation systems).</p>
18	<p>In addition, the scope of reporting on the number of teachers at each performance level at the state, district, and school level outlined in the rules could prove problematic. For example, given the expected variation across districts regarding specific methods of use of the educator effectiveness ratings and with district assessments measuring student growth and achievement, the data on effectiveness will not be comparable. This could result in a great deal of confusion and misinformation about the differences in teacher effectiveness <b>within and</b> across districts <b>and</b> schools. While Colorado may eventually have a state-wide educator evaluation system, it is a concern that the level of reporting called for in the draft rules could result in the identification of individual teachers and cause parents to demand to know the level of effectiveness of their child's teacher(s).</p>	<p>The department recognizes that the data identified in section 6.04 of the rules will not be perfect and that the state will need to be careful about the inferences that can be drawn from this data. However, the department believes that these are the best measures available at this time, and that they will provide a useful means for, among other purposes, analyzing the correlation between student performance outcomes and assignment of educators to evaluation ratings and analyzing the distribution of effective and highly effective educators.</p> <p>The department is researching the issue of whether an</p>

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		evaluation rating is part of an individual’s personnel file that is not public record.
19	<p>DASSC disagrees with the prescriptiveness of the weighting, including setting minimum and maximum weights for the five domains the state is attempting to prescribe. What if a district, for example, wanted to establish minimum levels in multiple areas (i.e., if a teacher is rated 0 or 1 in a particular area, they are unsatisfactory overall)? Districts should have the flexibility to do so. We fundamentally disagree with the state mandating that all principals and teachers must receive “a single score” through a state prescribed mathematical model-both on the basis of requiring a single mathematical score and prescribing the weighting of such score. In a sophisticated profession such as teaching or school leadership, it does not make sense to seek a single mathematical formula to judge all professionals -to say that principal A is a 74.2 and principal B is a 64.3. Professionals will deeply distrust and doubt a mathematically derived rating with such false precision.</p> <p>So long as districts stay within state law on the 50% of an evaluation measured by student growth, districts should have the flexibility to give their own evaluations in which they give weight to the factors they deem most important and present it in a way they choose. Another way to envision the overall rating would be to ensure a minimum performance on all the measures a district deems important to the complicated practice of teaching and school leadership. The rules, as drafted, do not allow districts to work with professionals and determine meaningful ways to utilize data from multiple measures in a performance management environment. 3</p> <p>For these reasons, it was suggested that the:</p> <ol style="list-style-type: none"> <li>1. State should provide example common assessments for non-CSAP subjects and define a growth metric for those assessments</li> <li>2. labels for each level of the four levels of teacher and principal effectiveness should be the same across the state</li> </ol>	<p>Please see the recommended revisions to the draft rules dated 8.24.11. The department recommends that the rules do not include requirements related to weighting, other than the requirement that 50 percent of an educator’s overall score on an evaluation be based on student academic growth, and the other 50 percent be based on professional practice. The department also recommends revising the draft rules to require the department to develop a model framework and scoring matrix during the pilot period, which districts and BOCES may use as a resource.</p>

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	<p>3. State should have a rubric available for districts to use but no limitation on the opportunity for districts to have a more rigorous rubric</p> <p>4. Districts can attach rewards/sanctions to performance levels or create more levels</p>	
20	<p>When focusing on the duties of CDE, the vague language of both the Act and the latest document of rules/regulations and the directive that CDE provide approval of rubrics, tools and training of evaluators, it has become apparent that between the time that the Act was developed and the latest CDE documents providing direction have been presented, there have been changes in what CDE believes that their role will be and the oversight that they will have in this process. Originally it was thought that CDE would provide guidance, support and direction. Somewhere, this focus has diverted from guidelines to requirements.</p>	<p>The department is focused on continuous improvement and professional growth, and must also balance the statutory requirement that it monitor implementation of the law by districts. The department will focus its implementation efforts on the use of tools, training, and support. Please see the recommended revisions to the draft rules dated 8.24.11.</p>
21	<p>There are a number of places where the rules attempt to give legitimate and understandable aspirations of the state council the force of law, but those aspirations are by nature vague and imprecise with no legal standards. They do not belong in a binding legal set of rules on which lawsuits will be based. For example, 5.01G3 requires that districts "ensure that evaluation is a process rather than an event." What does that mean? How will a judge decide in a lawsuit if the evaluation is a process rather than an event? Likewise, 5.01H requires that districts ensure "that there is inter-rater reliability when the measures are applied by different evaluators." What is the legal standard for this and how will a judge decide if a principal or teacher protests a rating/decision on the ground there is not "inter-rater reliability?"</p>	<p>The department recommends the following rule revisions:</p> <p>5.01 (G) (3)...School Districts and BOCES shall collect and analyze data on <del>an ongoing basis</del> MULTIPLE OCCASIONS, in order to provide actionable feedback and support to educators on a regular basis and <del>to ensure that</del> IN AN EFFORT TO MAKE evaluation is AN ONGOING process rather than an event...</p> <p>5.01 (H) SCHOOL DISTRICTS AND BOCES ARE STRONGLY ENCOURAGED TO INCLUDE A DESCRIPTION OF the process for validating evaluation results, which <del>shall</del> MAY include...</p>
22	<p>A great deal of prescriptive language from CDE appears in their latest document. The rules require districts to obtain state pre-approval for its training of peer observer/evaluators. Again, this is cumbersome, bureaucratic and unnecessary. Districts would like the language to be less prescriptive and more guidance for districts to develop their own language</p>	<p>Statute (at section 22-9-106 (4) (a), C.R.S.) requires that evaluations be conducted by an individual with a principal or administrator license or a designee of an individual with a principal or administrator license that has received education and training in evaluation skills approved by the</p>

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	and process. CDE should provide a prototype but not mandate its usage. The Act states that "CDE has the power and duty to <b>review</b> the process and procedures", not mandate.	department. Peer coaches and observers, that are providing feedback but are not responsible for conducting an evaluation, are not subject to this requirement. Because the requirement for evaluators to participate in education and training approved by the department is already outlined in statute, and in order to make the rules less lengthy, the department recommends removing the language in sections 5.03 (B) and (C) from the rules.
23	Language in the rules is vague, specifically in the descriptive verbs and qualifiers in the latest evaluation document for both teachers and principals. Current language is also judgmental and will create issues when appeals to evaluations are made. Original language in the Act suggested only a process for evaluation; however, the latest language suggests that there will be a "single statewide" process.	The department has made several suggested revisions in the draft rules dated 8.24.11 and those recommendations may address these concerns, however the department welcomes additional, specific feedback on the rule language.
24	<p>There should not be a statewide definition of student growth, instead a minimum standard should be set and districts should be responsible for determining their own criteria.</p> <p>While we agree with the idea of a category of partially effective, we disagree that such a category is defined by someone whose performance "falls below minimal expectations." Someone whose performance falls below even minimal expectations is by definition one of your worst performers. In the framework, effective is defined as a professional who "meets expectations," Logically then, the category of partially effective should be defined as someone who "does not meet the criteria of effectiveness" or "does not fully meet expectations"; not someone who "falls below minimal expectations."</p>	<p>The department recommends the following definition of Student Academic Growth, which is intended to create a consistent understanding of what this concept entails, but also allow districts flexibility in choosing measures of growth:</p> <p>"Student Academic Growth" means the change in student achievement against Colorado Academic Standards for an individual student between two or more points in time, which shall be determined using multiple measures, one of which shall be the results of Statewide Summative Assessments, and which may include other standards-based measures that are rigorous and comparable across classrooms. Student Academic Growth also may include performance outcomes for successive student cohorts. For students with disabilities, Student Academic Growth may include progress toward academic and functional goals included in the individualized education program.</p>

	<b>Comment/Question</b>	<b>CDE Response</b>
25	<p>The rules for both teachers and principals require "further evaluation" if a teacher or principal's measures of student growth are "internally inconsistent" or the student growth measures are "inconsistent" with observations or other data. It is not clear what this means or why this is necessary. What will this "further evaluation" be? Given the purpose of the system is to obtain data from multiple sources, it should be expected that not all of this data will be "internally consistent" nor why there is a need for "further evaluation" or what that "further evaluation" should be.</p>	<p>When data used to evaluate student academic growth for a particular educator and the data used to evaluate professional practice for that educator do not seem consistent, the department encourages an evaluator to analyze why these measures may be inconsistent and to gather additional evidence in order to determine an evaluation rating. The department recommends removing the language from sections 5.01(F)(4)(d) and 5.01(F)(9)(c) from rule, and plans to provide more clarification in technical guidelines about what this process might look like.</p>
26	<p>Although the recommendation of an appeal process has not yet been recommended by the State Councilor Educator Effectiveness to the State board of Education (SBE), DASSC feels there is a significant concern about this issue and would like to provide some input and suggestions.</p> <p>First, there is the question of what the final review authority would be for any appeal of evaluations for teachers (principal's final review is with the superintendent)</p> <p>The current part in SB-191 Section 22-9-106(3.5)(b) speaks to the appeal process for Non-probationary teachers as follows:</p> <ul style="list-style-type: none"> <li>• Allows the appeal of rating of ineffective</li> <li>• Placed burden on teacher to demonstrate that a rating of effectiveness was appropriate</li> <li>• Provided for appeal to Superintendent</li> <li>• If no Collective Bargaining Agreement (CBA), appeal of Superintendent's decision by third party whose decision is final</li> </ul> <p>If CBA can opt in to statutory process</p> <ul style="list-style-type: none"> <li>• Remediation plan will be developed to include professional development</li> <li>• Non-probationary teacher given a reasonable time to remediate deficiencies</li> </ul>	<p>The department will consider these recommendations in addition to the recommendations from the State Council when drafting rules related to the appeals process.</p>

	<b>Comment/Question</b>	<b>CDE Response</b>
	<p>However, this provision is automatically repealed in SB-191 Section 22-9-106(3.5)(b) (IV) as of February 15, 2013. So the recommendation from DASSC is as follows:</p> <ul style="list-style-type: none"> <li>• Appeal to Superintendent as the final authority</li> <li>• Presumption that evaluation is valid</li> <li>• Burden on teacher to prove effective is appropriate or not</li> <li>• Appeal process to take no longer than ninety days</li> <li>• Not a legal inquiry but an educational decision</li> <li>• No statutory right of appeal past the Superintendent</li> </ul> <p>Secondly, there is a concern with CDE's, S8E and Judicial Courts capacity to address evaluation appeals if it is taken out of the district. If the appeal process resorts to the current means of due process, it will incapacitate the impact of 58-101 and result in numerous legal challenges -districts will be faced with the "\$1 million" risk of having to spend this amount of legal costs in exhausting appeal options.</p>	
27	<p>Colorado's Early Childhood Leadership Council has provided line edits to the draft quality standards for teachers and principals. Some of the suggestions are to make the language more inclusive of children who are not yet in school and families of all types and to incorporate early learning settings outside of school district jurisdiction. The group also recommends making changes that incorporate measurements of growth and development for preschool-aged children along with the academic and social measures used for older children, and that observational assessment be added to the standards.</p>	<p>The department believes that several of these line edits have merit. The department is in the process of reviewing the suggested edits carefully and will provide recommendations as soon as possible.</p>