

# Rulemaking Hearing Continued

## 1 CCR 301-39

### Discussion Questions



# High-level overview



1. Questions from Board Members and Stakeholders
2. Topic Area Conversations
3. Open Discussion



# Questions from Board Members and Stakeholders



# Important context for the proposed rules

These rules represent a significant increase in the flexibilities offered in public school funding in Colorado.

**For brick-and-mortar students**, the rules:

- Expand flexibilities for independent, asynchronous, and online instruction at the secondary level
- Expand the definition of direct teacher-pupil instruction in all grades so that learning can happen in various locations (not just a school building) and can even include synchronous virtual instruction
- Reduce burden for qualifying such learning as funded instructional time

**Online schools** can also continue to offer programming for any students in grades K-12 under existing requirements.



# Do these rules conflict with the Online Education Act?

**No.** These rules do not conflict with the Online Education Act.

**The Online Education Act allows for K-12 online education.**

- It contains the law for what is required for online programs and schools.
- It has its own provisions for handling what counts for funded instructional time.

**There is no conflict because the proposed school finance rules:**

- Cover what counts for instructional time for brick-and-mortar schools.
- Ensure that students are properly classified.
- Ensure that schools are not running fully online programs outside of the requirements of the Online Education Act.



# Would this rulemaking change anything for part-time students currently enrolled in online schools.

**No.** Students who are enrolled part-time in online schools would not be affected.

- Students who are currently part-time, **taking only online courses**, and enrolled in a brick-and-mortar school (or with their contractor), could enroll next year in online schools.
- **These rules - if approved - do not impact anyone for this year.** The earliest the new rules could be implemented would be next year.



# What do we need to do with the rules for online schools?

**A non-substantive technical edit.** The online rules, 1 CCR 301-71, refer to the school finance rules for purposes of setting the same hour requirements for part-time and full-time funding (see rule references noted below).

8.04 A full time student must have a schedule that provides for a minimum of three hundred and sixty (360) hours of teacher-pupil instruction per semester to receive full-time funding pursuant to 2254- R-5.04(3).

8.05 A part time student must have a schedule that provides for a minimum of ninety (90) hours of teacher-pupil instruction per semester to receive part-time funding pursuant to 2254-R-5.06(3).

All we need to do is update the references to the right number in your revised rules. We can get that done before next year.

***Will there be a regulatory gap?*** No.



# Are there still options for online elementary learning?

**Yes.** There would still be options for online elementary learning.

1. Under the proposed rules, elementary students enrolled in online schools and programs are fundable.
  - This could be part-time homeschool students or full-time online students.
  - If a student is only engaging in online courses, they should be enrolled in an online school or an online program.
  - This properly classifies students and ensures they are educated consistent with the quality standards.
2. Elementary students enrolled in a brick and mortar school can also participate in synchronous virtual instruction.





# Are there still options for online elementary learning?

## *Continued*

3. Elementary students can still be enrolled through a brick-and-mortar school if there is a **blend of online work and direct teacher-pupil instruction**.

Reminder

A program that provides 90 hours of direct teacher-pupil instruction in the fall semester qualifies for part-time funding.

- 90 hours in the fall = Approximately five hours/week of real-time work with a teacher. This could look like:
  - Direct instruction in a real-time zoom call;
  - Instruction in a brick-and-mortar building;
  - In-person instruction at an entirely different location (in the woods for a science course);
- In exchange, a school/district receives  $\frac{1}{2}$  of the full PPR for the student

**Discussion:** How should the rules treat asynchronous elementary learning under the supervision of a teacher inside a brick-and-mortar building? Outside the building?



# What is the legal basis for distinguishing between alternative instruction for elementary versus secondary?

Reminder

***Currently, the rules in effect do not allow for the more independent forms of instruction for either elementary or secondary.***

The proposed rules EXPAND the flexibilities for secondary.

- The legislature has shown us that they support the expansion of more flexible learning forms in the context of secondary.
- One example is §22-5-119(8), C.R.S. – mandating that every high school student be allowed to take at least one supplemental course per year

The legislature has not shown any endorsement of highly independent learning in elementary *outside of the online schools that are subject to the quality standards and funding structure of the Online Education Act.*

- This is why the proposed rules keep the same structure of counting time for elementary students.



# What is the policy basis for distinguishing between elementary and secondary for alternative teacher-pupil instruction?

- These are rules on what counts for instruction in brick-and-mortar schools.
- We would expect differences between brick-and-mortar elementary and secondary schools:
  - Elementary students typically do not leave school mid-day to participate in asynchronous virtual programs without a teacher present.
  - High school students might leave the school to engage in work-based learning or self-directed online courses.
- The proposed rules draw lines on where flexibility is allowed. Where those lines are drawn is a policy call for you all to make.

# Does this unconstitutionally limit local control to distinguish between elementary and secondary for alternative teacher-pupil instruction?

## Answer: No.

- The proposed rules expand options for how education can be delivered and count for funding.
- The local control provision of the Colorado Constitution does not mandate that local boards can determine what does or does not qualify for funding.
- The rules are within the constitutional and legal authority of the board.

# What is an educational savings account? Can they be funded?

**No.** Educational savings accounts have not been authorized by the legislature.

- Educational savings accounts give parents access to public dollars to go toward qualifying education expenses.
- This type of system has been rejected multiple times by the Colorado legislature and is **not authorized** for funding.
- It is **outside the authority** of the State Board to create educational savings accounts. That would require an act of the legislature.



# Have we seen examples of de facto educational savings accounts?

**Yes.** We have seen examples in public comment that some part-time homeschool families *are* receiving reimbursement which appears to be the equivalent of an educational savings account.





# How does the reimbursement happen in the examples we've seen?

- The district or the charter school contracts with a private provider of education services; the provider then enrolls students in a part-time program for homeschool students.
- The district or school receives funding for the student from the state. The school/district keeps some of the revenue and passes the rest to the private provider.
- The provider sets aside a portion of the funds they receive for parent reimbursements. The parent may purchase external services, technologies, and/or materials on their own. Here, the parent seeks a cash reimbursement after providing eligible receipts..
  - According to public comment, reimbursements include purchases for curriculum, computers, school supplies, sports programs, clubs, and zoo and museum memberships (p.3)
  - Another public commenter described it as getting \$1800 per student (p. 665).\*

# How do we clarify that reimbursements are not authorized? Do we need to add more to the language?

Under the current draft, CDE viewed reimbursements as being prohibited under the definition of parent-led instruction.

1.14 Parent led or parent directed instruction means the student's parent or guardian, who is not employed by or contracted with the school or district and not subject to Human Resources data collections, is substantially or primarily responsible for establishing the content of the required program of planned instruction and activities, selecting course curriculum, leading such instruction and activities, and/or directly evaluating student progress in the class. For example, even if there is a teacher of record communicating with the parent, it will still be parent-led or parent-directed if it meets the above definition.

**In short:** if the parent chooses from a large a la carte menu of resources (that could range from an online learning platform to hiring a private piano teacher) and then gets reimbursed for those educational costs, that is parent-led instruction. It is also not a student “attending public school for a portion of the day.”

**Recommendation:** *Add more language to state this more clearly.* Public funding cannot be used for the equivalent of an educational savings account – either through reimbursements or some other mechanism such as direct orders.



# Topic Area Conversations



# Topic: Parent-led and parent-directed instruction

## Proposed Rule Language:

- 1.14 - Parent led or parent directed instruction definition
- 2.05(1)(c)(V) - Instructional time for purposes of determining funding eligibility does not include parent-led or parent-directed instruction

## Rationale for the proposed change:

- For a child who is enrolled in a homeschool, parent-led instruction is part of the nonpublic home-based education program. Protections exist for this. A parent who provides instruction shall not be subject to the Colorado Educator Licensing Act, article 60.5 of Title 22, nor to article 61 of Title 22.
- The legislature further emphasizes the point by noting that CDE does not have jurisdiction over homeschool.
- CDE has communicated to the field over the last two years that parent-led instruction does not count as funding eligible instructional time. When CDE has seen such instruction being presented as parent instruction, they have clarified to providers that it cannot be used to qualify a student for public funding.

## What we are solving for:

- Because of evidence of ongoing lack of understanding in the field, the rule provides additional clarity.
- The clarification protects the independence of homeschooling. Making it free from state interference (i.e. public instruction compels Federal reporting and educator compliance with Title 22 provisions).
- This clarification helps to avoid districts submitting unallowable instruction for funding, necessitating audit exceptions.



# Topic: Parent-led and parent-directed instruction (Continued)

## Questions/Concerns

- What is the difference between parent-led instruction and asynchronous online instruction?
  - Asynchronous online instruction is still under the supervision of a licensed teacher.
  - Asynchronous online instruction is provided free of charge - it does not ask parents to purchase the materials and seek contingent reimbursements.
  - Asynchronous online instruction is responsible for meeting state standards.
  - Examples of parent-led instruction demonstrated schools/systems asking parents to track parent instructional time and using the instructional time to meet state funding requirements.

# Workbook-Based Courses



- A secondary student can do independent study based on a standards-aligned workbook and that counts as fundable if the course is teacher-led and not parent-led.
- An elementary student can do a standards-aligned workbook course if the licensed educator (or equivalent for that district/school) is in the same location as the student.
- Under current rules, it is not fundable for an elementary student to take an independent study course at home using a workbook because that would be alternative teacher-pupil instruction.

## Discussion

- Is the State Board comfortable with these approaches?

**Type of Issue:** Policy Decision for the Board





# The issue of 7 credit hours versus 12 for Early Colleges

## Proposed Rule Language:

- 5.10 (2) Pupils enrolled only in courses offered by an institution of higher education may be counted in full-time funded pupil count if the number of semester credit hours for the courses in which the pupil is enrolled on the applicable count date is equivalent to a full-time pupil credit load as defined for the institution of higher education, or is equal to at least twelve semester credit hours.

## Rationale for the proposed change:

- Consistent requirements for post-secondary courses at Early Colleges and for Concurrent Enrollment or ASCENT.

## What we are solving for:

- The current rules have different requirements for full-time funding for students taking only post-secondary courses depending on the type of school / dual enrollment program.
- Early Colleges also receive more funding flexibility as other dual enrollment programs as Early Colleges receive full Per Pupil Revenue (Full-Time or Part-Time) in years 5+ of high school, while ASCENT, TREP, P-TECH only receive the Extended High School Rate.

**Type of issue:** Policy Decision for the Board



# Examples of Current Funding Requirements of Post-Secondary Courses

Funding Level	Concurrent Enrollment	ASCENT	Early College
Part-Time	3+ credit hours at IHE	3+ credit hours at IHE	3+ credit hours at IHE
Part-Time	90+ hours at high school	90+ hours at high school	90+ hours at high school
Full-Time	12+ credit hours at IHE	12+ credit hours at IHE	7+ credit hours at IHE
Full-Time	3+ credit hours at IHE & 90+ hours at high school	3+ credit hours at IHE & 90+ hours at high school	3+ credit hours at IHE & 90+ hours at high school
Full-Time	360+ hours at high school	360+ hours at high school	360+ hours at high school



## **Proposed Rule Language:**

1.04 “Catalog of Courses Using Alternative Teacher-Pupil Instruction” means a listing of alternative teacher-pupil instruction courses that are eligible for student enrollment by a district, BOCES, innovation school, innovation zone, or charter school.

1.04 (1a) The catalog of courses using alternative teacher-pupil instruction must include a listing of courses, a description of each of the courses or identification of course provider if applicable, and the equivalent amount of instructional time or credit equivalent for work-based learning, that the course will count towards determining funding eligibility. The district must provide the basis for assigning equivalency for alternative teacher-pupil instruction courses, such as identifying the brick- and -mortar school and associated bell schedule on which the equivalency is based.



## Rationale for the Proposed Change:

- A course catalog will identify which courses are offered using alternative teacher-pupil instruction and identify the associated equivalency for calculation of instructional hours.

## What we are solving for:

- Reducing burden for schools/districts and supporting use of flexible learning
- An equivalency is needed for alternative teacher-pupil instruction courses in order to calculate instructional hours for funding requirements.
- We have seen instances of customized courses developed by the parent. The course catalog ensures that the school rather than the parent develops the standards-aligned course.
- If we aren't doing a straightforward calculation of "seat time," seeking to ensure that there is transparency and accountability.

**Type of issue:** Policy decision for the Board

# What Does a Course Catalog for Alternative Teacher-Pupil Instruction Look Like?

Edgenuity:

<https://www.edgenuity.com/wp-content/uploads/2017/07/Course-Description-Catalog.pdf>

Apex Learning:

<https://www.apexlearningvs.com/catalog>

For proposed rules, course catalog should Include:

- Course description and details - what will you learn?
- What grades can take this course?
- What is the equivalency for this course?
- What is the basis for the equivalency?
- Are there any prerequisites for this course?
- What else?

Result = Clarity and consistency for students



# Do we have enough guardrails on independent study?

## Proposed Rule Language:

1.01 “Alternative teacher-pupil instruction” includes independent study.

## Rationale for the Proposed Change:

Increased flexibility for secondary.

## What challenges do we anticipate?

Can full-time or part-time enrollment be based only on independent study?

Does it create enough transparency and accountability to only require that it be included in the course catalog?

Does independent study need to be defined?

**Type of issue:** Policy decision for the Board





# Board Member Discussion and Questions

