

# Colorado Register



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# Introduction

The *Colorado Register* is published pursuant to C.R.S. 24-4-103(11) and is the sole official publication for state agency notices of rule-making, proposed rules, attorney general's opinions relating to such rules, and adopted rules. The register may also include other public notices including annual departmental regulatory agendas submitted by principal departments to the secretary of state.

"Rule" means the whole or any part of every agency statement of general applicability and future effect implementing, interpreting, or declaring law or policy or setting forth the procedure or practice requirements of any agency. "Rule" includes "regulation". C.R.S. 24-4-102(15). Adopted rules are effective twenty days after the publication date of this issue unless otherwise specified.

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# Notice of Proposed Rulemaking

**Tracking number**

2019-00180

**Department**

700 - Department of Regulatory Agencies

**Agency**

702 - Division of Insurance

**CCR number**

3 CCR 702-4 Series 4-2

**Rule title**

LIFE, ACCIDENT AND HEALTH, Series 4-2 Accident and Health (General)

## Rulemaking Hearing

**Date**

06/03/2019

**Time**

02:00 PM

**Location**

1560 Broadway, Ste 110 D, Denver CO 80202

**Subjects and issues involved**

4-2-3 ADVERTISEMENTS OF ACCIDENT AND SICKNESS INSURANCE - The purpose of this regulation is to establish minimum criteria to assure proper and accurate description and to protect prospective purchasers with respect to the advertisement of accident and sickness insurance in the same manner as the regulation governing advertisements of Medicare supplement insurance. This regulation assures the clear and truthful disclosure of the benefits, limitations and exclusions of policies sold as accident and sickness insurance by the establishment of standards of conduct in the advertising of accident and sickness insurance in a manner that prevents unfair, deceptive and misleading advertising and is conducive to accurate presentation and description to the insurance-buying public through the advertising media and material used by insurance producers and companies.

**Statutory authority**

10-1-109 and 10-3-1110, C.R.S.

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# DEPARTMENT OF REGULATORY AGENCIES

## Division of Insurance

### 3 CCR 702-4

#### LIFE, ACCIDENT AND HEALTH

#### **Proposed** Amended Regulation 4-2-3

#### ADVERTISEMENTS OF ACCIDENT AND SICKNESS INSURANCE

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#### **Section 1 Authority**

This regulation is promulgated under the authority of §§ 10-1-109 and 10-3-1110, C.R.S.

#### **Section 2 Scope and Purpose**

The purpose of this regulation is to establish minimum criteria to assure proper and accurate description and to protect prospective purchasers with respect to the advertisement of accident and sickness insurance ~~in the same manner as the regulation governing advertisements of Medicare supplement insurance~~. This regulation assures the clear and truthful disclosure of the benefits, limitations and exclusions of policies sold as accident and sickness insurance by the establishment of standards of conduct in the advertising of accident and sickness insurance in a manner that prevents unfair, deceptive and misleading advertising and is conducive to accurate presentation and description to the insurance-buying public through the advertising media and material used by insurance producers and companies.

### Section 3      Applicability

- A. This regulation shall apply to any accident and sickness insurance “advertisement”, as that term is defined, intended for presentation, distribution or dissemination in **this StateColorado** when such presentation, distribution or dissemination is made either directly or indirectly by or on behalf of an insurer, **or producer or solicitor**, as those terms are defined in the **Insurance Code of this stateColorado Revised Statutes** and this regulation.
- B. Every insurer shall establish and at all times maintain a system of control over the content, form and method of dissemination of all advertisements of its policies. All of the insurer's advertisements, regardless of by whom written, created, designed or presented, shall be the responsibility of the insurer whose policies are advertised.
- C. Advertising materials that are reproduced in quantity shall be identified by form numbers or other identifying means. The identification shall be sufficient to distinguish an advertisement from any other advertising materials, policies, applications or other materials used by the insurer.

### Section 4      Definitions

- A. **“ACA” means, for the purposes of this regulation, the Patient Protection and Affordable Care Act, Pub. L. 111-148 and the Health Care and Education Reconciliation Act of 2010, Pub. L. 111-152.**
- AB.** “Accident and sickness insurance policy” means, for the purposes of this regulation, a policy, plan, certificate, contract, agreement, statement of coverage, rider or endorsement that provides accident or sickness benefits or medical, surgical or hospital benefits, whether on an indemnity, reimbursement, service or prepaid basis, except when issued in connection with another kind of insurance other than life and except disability, waiver of premium and double indemnity benefits included in life insurance and annuity contracts.
  - 1. An accident and sickness insurance policy does not include a Medicare supplement insurance policy or any other type of accident and sickness insurance with advertising guidelines covered by a separate statute and/or regulation.
  - 2. The language “except disability, waiver of premium and double indemnity benefits included in life insurance and annuity contracts” means it does not include disability, waiver of premium and double indemnity benefits included in life insurance, endowment or annuity contracts or contracts supplemental to the above contracts that contain only provisions that:
    - a. Provide additional benefits in case of death or dismemberment or loss of sight by accident; or
    - b. Operate to safeguard the contracts against lapse or to give a special surrender value, special benefit or an annuity in the event that the insured or annuitant **shall** becomes totally and permanently disabled as defined by the contract or supplemental contract.
- BC.** “Advertisement” means, for the purposes of this regulation, printed and published material, audio visual material, and descriptive literature of an insurer used in direct mail, newspapers, magazines, radio scripts, TV scripts, web sites and other Internet displays or communications, other forms of electronic communications, billboards and similar displays.
  - 1. “Advertisement” also **containsmeans::**

- a. Descriptive literature and sales aids of all kinds issued by an insurer, ~~or producer-or solicitor~~ for presentation to members of the insurance-buying public, such as circulars, leaflets, booklets, depictions, illustrations, form letters and lead-generating devices of all kinds;
  - b. Prepared sales talks, presentations and material for use by producers ~~and solicitors~~ whether prepared by the insurer, ~~or producer-or solicitor~~;
  - c. Summary of Benefits and Coverage (SBC) forms; and
  - d. The Colorado Supplement to the Summary of Benefits and Coverage Form as found in Colorado Insurance Regulation 4-2-20.
2. The definition of “advertisement” includes advertising material included with a policy when the policy is delivered and material used in the solicitation of renewals and reinstatements.
  3. The definition of “advertisement” extends to the use of all media for communications to the general public, ~~to the use of all media for communications to specific members of the general public,~~ and to the use of all media for communications by insurers, ~~or producers-and solicitors~~.
  4. The definition of “advertisement” does not include:
    - a. Material used solely for the training and education of an insurer’s employees or producers;
    - b. Material used in-house by insurers;
    - c. Communications within an insurer’s own organization not intended for dissemination to the public;
    - d. Individual communications of a personal nature with current policyholders other than material urging the policyholders to increase or expand coverages;
    - e. Correspondence between a prospective group or blanket policyholder and an insurer in the course of negotiating a group or blanket contract;
    - f. Court-approved material ordered by a court to be disseminated to policyholders; or
    - g. A general announcement from a group or blanket policyholder to eligible individuals on an employment or membership list that a contract or program has been written or arranged, ~~;~~ provided that the announcement clearly indicates that it is preliminary to the issuance of a booklet and that the announcement does not describe the specific benefits under the contract or program nor describe advantages as to the purchase of the contract or program. This does not prohibit a general endorsement of the program by the sponsor.

**ED.** “Certificate” means, for the purposes of this regulation, a statement of the coverage and provisions of a group accident and sickness insurance policy, which has been delivered or issued for delivery in this state and includes riders, endorsements and enrollment forms, if attached.

- DE.** “Exception” means, for the purposes of this regulation, any provision in a policy whereby coverage for a specified hazard is entirely eliminated; it is a statement of a risk not assumed under the policy.
- F.** **“Format” means, for the purposes of this regulation, the arrangement of the text and the captions.**
- EG.** “Health benefit plan” shall have the same meaning as **defined infound at** § 10-16-102(32), C.R.S.
- H.** **“Health coverage plan” shall have the same meaning as found at § 10-16-102(34), C.R.S.**
- FI.** “Institutional advertisement” means, for the purposes of this regulation, an advertisement having as its sole purpose the promotion of the reader’s, viewer’s or listener’s interest in the concept of accident and sickness insurance, or the promotion of the insurer as a seller of accident and sickness insurance. **CarriersInsurers** are required to comply with section 15.A. of the regulation, clearly identifying the name of the **carrierinsurer**.
- GJ.** “Insurer” shall have the same meaning as “carrier” as **defined infound at** § 10-16-102(8), C.R.S., and applies to any **insurercarrier** subject to Title 10, Article 16, Parts 2, 3 or 4.
- HK.** “Invitation to contract” means, for the purposes of this regulation, an advertisement that is neither an “invitation to inquire” nor an “institutional advertisement”.
- IL.** “Invitation to inquire” means, for the purposes of this regulation, an advertisement having as its objective the creation of a desire to inquire further about accident and sickness insurance and that is limited to a brief description of the loss for which benefits are payable, but may contain the dollar amount of benefits payable and the period of time during which benefits are payable.
1. An “invitation to inquire” **mayshall** not refer to cost.
  2. An “invitation to inquire” shall contain a provision in the following or substantially similar form:  
  
“This policy has [exclusions] [limitations] [reduction of benefits] [terms under which the policy may be continued in force or discontinued]. For costs and complete details of the coverage, call [or write] your insurance producer or the company [whichever is applicable].”
- M.** **“Juxtaposition” means, for the purposes of this regulation, side-by-side or immediately above or below.**
- JN.** “Lead-generating device” means, for the purposes of this regulation, any communication directed to the public that, regardless of form, content or stated purpose is intended to result in the compilation or qualification of a list containing names and other personal information to be used to solicit residents of this state for the purchase of accident and sickness insurance.
- KO.** “Limitation” means, for the purposes of this regulation, a provision that restricts coverage under the policy other than an exception or a reduction.
- LP.** “Limited benefit health coverage” means, for the purposes of this regulation, **any type of health coverage that is not provided by a health benefit plan, as found ata health policy, contract, or certificate offered or marketed as supplemental health insurance that pays specified amounts according to a schedule of benefits to defray the costs of care, services, deductibles, copayments, or coinsurance amounts not covered by a health benefit plan. “Limited benefit health coverage” does not include short-term hospital and medical expense policies, contracts or**

~~certificates, or catastrophic health policies, contracts, or certificates. Such non-supplemental plans are included under the term “health benefit plan” as defined in § 10-16-102(32), C.R.S.~~

This subsection does not apply to policies designed to provide coverage for long-term care or to Medicare supplement insurance.

- MQ.** “Marketing” means, for the purposes of this regulation, any activity or effort directed toward the public which is intended to promote or sell products or services.
- N.** ~~“Patient Protection and Affordable Care Act” and “ACA” mean, for the purposes of this regulation, the Patient Protection and Affordable Care Act, Pub. L. 111-148 and the Health Care and Education Reconciliation Act of 2010, Pub. L. 111-152;~~
- OR.** “Prominently” or “conspicuously” means, for the purposes of this regulation, that the information to be disclosed “prominently” or “conspicuously” will~~shall~~ be presented in a manner that is noticeably set apart from other information or images in the advertisement.
- PS.** “Reduction” means, for the purposes of this regulation, a provision that reduces the amount of the benefit; a risk of loss is assumed but payment upon the occurrence of the loss is limited to some amount or period less than would be otherwise payable had the reduction not been used.
- Q.** ~~“SERFF” means, for the purposes of this regulation, System for Electronic Rate and Form Filing.~~
- T.** ~~“Short-term limited duration health insurance policy” shall have the same meaning as found at § 10-16-102(60), C.R.S.~~
- RU.** “Summary of Benefits and Coverage” or “SBC” means, for the purposes of this regulation, the form required by ~~45 C.F.R. § 147.200(a) the Affordable Care Act as described in the final rule published on February 14, 2012 in Volume 77, No. 30 of the Federal Register (77 FR 8668, Summary of Benefits and Coverage and Uniform Glossary).~~

## **Section 5      Method of Disclosure of Required Information**

All information, exceptions, limitations, reductions and other restrictions required to be disclosed by this regulation shall be set out conspicuously and in close conjunction to the statements to which the information relates or under appropriate captions of such prominence that it shall not be minimized, rendered obscure or presented in an ambiguous fashion or intermingled with the context of the advertisements so as to be confusing or misleading. This regulation permits, but is not limited to, the use of either of the following methods of disclosure:

- A. Disclosure in the description of the related benefits or in a paragraph set out in close conjunction with the description of policy benefits; or
- B. Disclosure not in conjunction with the provisions describing policy benefits but under appropriate captions of such prominence that the information shall not be minimized, rendered obscure or otherwise made to appear unimportant. The phrase “under appropriate captions” means that the title must be accurately descriptive of the captioned material. Appropriate captions include the following: “Exceptions”, “Exclusions”, “Conditions Not Covered”, and “Exceptions and Reductions”. The use of captions such as the following are prohibited because they do not provide adequate notice of the significance of the material: “Extent of Coverage”, “Only these Exclusions”, or “Minimum Limitations”.

## **Section 6      Format and Content of Advertisements**



- A. The format and content of an advertisement of an accident and sickness insurance policy shall be sufficiently complete and clear to avoid deception or the capacity or tendency to mislead or deceive. **Format means the arrangement of the text and the captions.**
- B. Distinctly different advertisements are required for publication in different media, such as newspapers or magazines of general circulation as compared to scholarly, technical or business journals and newspapers. Where an advertisement consists of more than one piece of material, each piece of material must, independent of all other pieces of material, conform to the disclosure requirements of this regulation.
- C. Whether an advertisement has a capacity or tendency to mislead or deceive shall be determined by the **eCommissioner** from the overall impression that the advertisement may be reasonably expected to create within the segment of the public to which it is directed.
- D. Advertisements shall be truthful and not misleading in fact or implication. Words or phrases, the meaning of which is clear only by implication or by familiarity with insurance terminology, shall not be used.
- E. An insurer shall clearly identify its accident and sickness insurance policy as an insurance policy. A policy trade name shall be followed by the words "insurance policy" or similar words clearly identifying the fact that an insurance policy or health benefits product (in the case of health maintenance organizations, prepaid health plans and other direct service organizations) is being offered.
- F. An insurer, producer, **solicitor** or other person shall not solicit a resident of this state for the purchase of accident and sickness insurance in connection with or as the result of the use of **an** advertisement by the person or any other persons, where the advertisement:
1. Contains any misleading representations or misrepresentations, or is otherwise untrue, deceptive or misleading with regard to the information imparted, the status, character or representative capacity of the person or the true purpose of the advertisement; or
  2. Otherwise violates the provisions of this regulation.
- G. An insurer, producer, **solicitor** or other person shall not solicit residents of this state for the purchase of accident and sickness insurance through the use of a true or fictitious name that is deceptive or misleading with regard to the status, character or proprietary or representative capacity of the person or the true purpose of the advertisement.
- H. An insurer is prohibited from representing or naming any health coverage plan as a Bronze, Silver, Gold, or Platinum metal tier level of coverage unless that policy is a health benefit plan as specified in § 10-16-103.4, C.R.S. Use of these terms for a non-ACA compliant health coverage plan may be found to violate § 10-3-1104(1)(a)(V), C.R.S. **This prohibition also applies to short-term limited duration health insurance policies.**

## **Section 7      Advertisements of Benefits Payable, Losses Covered or Premiums Payable**

- A. Covered Benefits
1. The use of deceptive words, phrases or illustrations in advertisements of accident and sickness insurance is prohibited.
  2. An advertisement that fails to state clearly the type of insurance coverage being offered is prohibited.

3. An advertisement shall not omit information or use words, phrases, statements, references or illustrations if the omission of information or use of words, phrases, statements, references or illustrations has the capacity, tendency or effect of misleading or deceiving purchasers or prospective purchasers as to the nature or extent of any policy benefit payable, loss covered or premium payable. The fact that the policy offered is made available to a prospective insured for inspection prior to consummation of the sale or an offer is made to refund the premium if the purchaser is not satisfied, does not remedy misleading statements.
4. An advertisement shall not contain or use words or phrases such as “all”, “full”, “complete”, “comprehensive”, “unlimited”, “up to”, “as high as”, “this policy will help fill some of the gaps that Medicare and your present insurance leave out”, “the policy will help to replace your income” (when used to express loss of time benefits), or similar words and phrases, in a manner that exaggerates a benefit beyond the terms of the policy.
5. An advertisement of a hospital or other similar facility confinement benefit that makes reference to the benefit being paid directly to the policyholder is prohibited unless, in making the reference, the advertisement includes a statement that the benefits may be paid directly to the hospital or other health care facility if an assignment of benefits is made by the policyholder. An advertisement of medical and surgical expense benefits shall comply with this regulation in regard to the disclosure of assignments of benefits to providers of services. Phrases such as “you collect”, “you get paid”, “pays you”, or other words or phrases of similar import may be used so long as the advertisement indicates that it is payable to the insured or someone designated by the insured.
6. An advertisement for basic hospital expense coverage, basic medical-surgical expense coverage, basic hospital/medical-surgical expense coverage, hospital confinement indemnity coverage, accident only coverage, specified disease coverage, specified accident coverage, or limited benefit health coverage or for coverage that covers only a certain type of loss is prohibited if:
  - a. The advertisement refers to a total benefit maximum limit payable under the policy in any headline, lead-in or caption without, also in the same headline, a lead-in or caption specifying the applicable daily limits and other internal limits;
  - b. The advertisement states a total benefit limit without stating the periodic benefit payment, if any, and the length of time the periodic benefit would be payable to reach the total benefit limit; or
  - c. The advertisement prominently displays a total benefit limit that would not, as a general rule, be payable under an average claim.

This paragraph Section 7.A.6. does not apply to individual health benefit plans, individual basic medical expense coverage, or disability income insurance.

7. Advertisements that emphasize total amounts payable under hospital, medical or surgical accident and sickness insurance coverage or other benefits in a policy, such as benefits for private duty nursing, are prohibited unless the actual amounts payable per day for the indemnity or benefits are stated.
8. Advertisements that include examples of benefits payable under a policy shall not use examples in a way that implies that the maximum benefit payable under the policy will be paid, when less than maximum benefits are paid for an average claim.

9. When a range of benefit levels is set forth in an advertisement, it shall be clear that the insured will receive only the benefit level written or printed in the policy selected and issued. Language that implies that the insured may select the benefit level at the time of filing claims is prohibited.
10. Language in an advertisement that implies that the amount of benefits payable under a loss-of-time policy may be increased at the time of claim or disability according to the needs of the insured is prohibited.
11. Advertisements for policies with premiums that are modest because of their limited coverage or limited amount of benefits shall not describe premiums as "low", "low cost", "budget" or use qualifying words of similar import. The use of words such as "only" and "just" in conjunction with statements of premium amounts when used to imply a bargain are prohibited.
12. Advertisements that state or imply that premiums will not be changed in the future are prohibited unless the advertised policies expressly provide that the premiums will not be changed in the future.
13. An advertisement for a policy that does not require the premium to accompany the application shall not overemphasize that fact and shall clearly indicate under what circumstances coverage will become effective.
14. An advertisement that exaggerates the effects of statutorily mandated benefits or required policy provisions or that implies that the provisions are unique to the advertised policy is prohibited.
15. An advertisement that implies that a common type of policy or a combination of common benefits is "new", "unique", "a bonus", "a breakthrough", or is otherwise unusual is prohibited. The addition of a novel method of premium payment to an otherwise common plan of insurance does not render it new or unique.
16. Language in an advertisement that states or implies that each member under a family contract is covered as to the maximum benefits advertised, where that is not the fact, is prohibited.
17. An advertisement that contains statements such as "anyone can apply", or "anyone can join", other than with respect to a guaranteed issue policy for which administrative procedures exist to assure that the policy is issued within a reasonable period of time after the application is received by the insurer, is prohibited.
18. An advertisement that states or implies immediate coverage of a policy is prohibited unless administrative procedures exist so that the policy is issued within fifteen (15) business days after the insurer receives the completed application.
19. An advertisement that contains statements such as "here is all you do to apply", or "simply" or "merely" to refer to the act of applying for a policy that is not a guaranteed issue policy is prohibited unless it refers to the fact that the application is subject to acceptance or approval by the insurer.
20. An advertisement of accident and sickness insurance sold by direct response shall not state or imply that because no insurance producer will call and no commissions will be paid to producers that it is a low cost plan, or use other similar words or phrases because the cost of advertising and servicing the policies is a substantial cost in the marketing by direct response.

21. Applications, request forms for additional information and similar related materials are prohibited if they resemble paper currency, bonds, stock certificates, etc., or use any name, service mark, slogan, symbol or device in a manner that implies that the insurer or the policy advertised is connected with a government agency, such as the Social Security Administration or the **U.S.** Department of Health and Human Services.
22. An advertisement that implies in any manner that the prospective insured may realize a profit from obtaining hospital, medical or surgical insurance coverage is prohibited.
23. An advertisement that uses words such as "extra", "special" or "added" to describe a benefit in the policy is prohibited. No advertisement of a benefit for which payment is conditioned upon confinement in a hospital or similar facility shall use words or phrases such as "tax-free", "extra cash", "extra income", "extra pay", or substantially similar words or phrases because these words and phrases have the capacity, tendency or effect of misleading the public into believing that the policy advertised will, in some way, enable them to make a profit from being hospitalized.
24. An advertisement of a hospital or other similar facility confinement benefit shall not advertise that the amount of the benefit is payable on a monthly or weekly basis when, in fact, the amount of the benefit payable is based upon a daily pro rata basis relating to the number of days of confinement unless the statements of the monthly or weekly benefit amounts are in juxtaposition with equally prominent statements of the benefit payable on a daily basis. **The term "juxtaposition" means side by side or immediately above or below.** When the policy contains a limit on the number of days of coverage provided, the limit shall appear in the advertisement.
25. An advertisement of a policy covering only one disease or a list of specified diseases shall not imply coverage beyond the terms of the policy. Synonymous terms shall not be used to refer to any disease so as to imply broader coverage than is the fact.
26. An advertisement that is an invitation to contract for a specified disease policy that provides lesser benefit amounts for a particular subtype of disease, shall clearly disclose the subtype and its benefits. This provision shall not apply to institutional advertisements.
27. An advertisement of a specified disease policy providing expense benefits shall not use the term "actual" when the policy only pays up to a limited amount for expenses. Instead, the term "charges" or substantially similar language should be used that does not create the misleading impression that there is full coverage for expenses.
28. An advertisement that describes any benefits that vary by age shall disclose that fact.
29. An advertisement that uses a phrase such as "no age limit", if benefits or premiums vary by age or if age is an underwriting factor, shall disclose that fact.
30. A television, radio, internet, mail or newspaper advertisement or lead-generating device that is designed to produce leads either by use of a coupon, a request to write or e-mail or to call the **companyinsurer** or a subsequent advertisement prior to contact shall include information disclosing that a producer may contact the applicant.
31. Advertisements, applications, requests for additional information and similar materials are prohibited if they state or imply that the recipient has been individually selected to be offered insurance or has had his or her eligibility for the insurance individually determined in advance when the advertisement is directed to all persons in a group or to all persons whose names appear on a mailing list.

32. An advertisement, including invitations to inquire or invitations to contract, shall not employ devices that are designed to create undue fear or anxiety in the minds of those to whom they are directed. Examples of prohibited devices are:
- a. The use of phrases such as “cancer kills somebody every two minutes” and “total number of accidents” without reference to the total population from which the statistics are drawn;
  - b. The exaggeration of the importance of diseases rarely or seldom found in the class of persons to whom the policy is offered;
  - c. The use of phrases such as “the finest kind of treatment”, implying that the treatment would be unavailable without insurance;
  - d. The reproduction of newspaper articles, magazine articles, information from the Internet or other similar published material containing irrelevant facts and figures;
  - e. The use of images that unduly emphasize automobile accidents, disabled persons or persons confined in beds who are in obvious distress, persons receiving hospital or medical bills or persons being evicted from their homes due to their medical bills;
  - f. The use of phrases such as “financial disaster”, “financial distress”, “financial shock”, or another phrase implying that financial ruin is likely without insurance is only permissible in an advertisement for major medical expense coverage, individual basic medical expense coverage or disability income coverage, and only if the phrase does not dominate the advertisement;
  - g. The use of phrases or devices that unduly excite fear of dependence upon relatives or charity; and
  - h. The use of phrases or devices that imply that long sicknesses or hospital stays are common among the elderly.

B. Exceptions, Reductions and Limitations

1. An advertisement shall not contain descriptions of policy limitations, exceptions or reductions, worded in a positive manner to imply that it is a benefit, such as describing a waiting period as a “benefit builder” or stating “even preexisting conditions are covered after two years”. Words and phrases used in an advertisement to describe the policy limitations, exceptions and reductions shall fairly and accurately describe the negative features of the limitations, exceptions and reductions of the policy offered.
2. An advertisement that is an invitation to contract shall disclose those exceptions, reductions and limitations affecting the basic provisions of the policy.
3. When a policy contains a waiting, elimination, probationary or similar time period between the effective date of the policy and the effective date of coverage under the policy or a time period between the date a loss occurs and the date benefits begin to accrue for the loss, an advertisement that is subject to the requirements of ~~the preceding~~ paragraphSection 7.B.2. shall prominently disclose the existence of such periods.
4. An advertisement shall not use the words “only”, “just”, “merely”, “minimum”, “necessary” or similar words or phrases to describe the applicability of any exceptions, reductions,

limitations or exclusions such as: "This policy is subject to the following minimum exceptions and reductions."

5. An advertisement that is an invitation to contract that fails to disclose the amount of any deductible or the percentage of any coinsurance factor is prohibited.
6. An advertisement for loss-of-time coverage that is an invitation to contract that sets forth a range of amounts of benefit levels is prohibited unless it also states that eligibility for the benefits is based upon condition of health, income or other economic conditions, or other underwriting standards of the insurer if that is the fact.
7. An advertisement that refers to "hospitalization for injury or sickness" omitting the word "covered" when the policy excludes certain sicknesses or injuries, or that refers to "whenever you are hospitalized", "when you go to the hospital", or "while you are confined in the hospital" omitting the phrase "for covered injury or sickness", if the policy excludes certain injuries or sicknesses, is prohibited. Continued reference to "covered injury or sickness" is not necessary where this fact has been prominently disclosed in the advertisement and where the description of sicknesses or injuries not covered is prominently set forth.
8. An advertisement that fails to disclose that the definition of "hospital" does not include certain facilities that provide institutional care such as a nursing home, convalescent home or extended care facility, when the facilities are excluded under the definition of hospital in the policy, is prohibited.
9. The term "confining sickness" shall be explained in an advertisement containing the term. The explanation might be as follows: "Benefits are payable for total disability due to confining sickness only so long as the insured is necessarily confined indoors." Captions such as "Lifetime Sickness Benefits" or "Five-Year Sickness Benefits" are incomplete if the benefits are subject to confinement requirements. When sickness benefits are subject to confinement requirements, captions such as "Lifetime House Confining Sickness Benefits" or "Five-Year House Confining Sickness Benefits" would be permissible.
10. An advertisement that fails to disclose any waiting or elimination periods for specific benefits is prohibited.
11. An advertisement for a policy providing benefits for specified illnesses only, such as cancer, or for specified accidents only, such as automobile accidents, or other policies providing benefits that are limited in nature, shall clearly and conspicuously in prominent type state the limited nature of the policy. The statement shall be worded in language identical to or substantially similar to the following: "THIS IS A LIMITED POLICY", "THIS POLICY PROVIDES LIMITED BENEFITS", or "THIS IS A CANCER ONLY POLICY".

Some advertisements disclose exceptions, reductions and limitations as required, but the advertisement is so lengthy as to obscure the disclosure. Where the length of an advertisement has this effect, special emphasis must be given by changing the format to show the restrictions in a manner that does not minimize, render obscure or otherwise make them appear unimportant.

#### C. Preexisting Conditions

1. An advertisement that is an invitation to contract shall, in negative terms, disclose the extent to which any loss is not covered if the cause of the loss is traceable to a condition existing prior to the effective date of the policy. The use of the term "preexisting condition" without an appropriate definition or description shall not be used.

Negative features must be accurately set forth. Any limitation on benefits including preexisting conditions also must be restated under a caption concerning exclusions or limitations, notwithstanding that the preexisting condition exclusion has been disclosed elsewhere in the advertisement.

2. When an accident and sickness insurance policy does not cover losses resulting from preexisting conditions, an advertisement of the policy shall not state or imply that the applicant's physical condition or medical history will not affect the issuance of the policy or payment of a claim under the policy. This regulation prohibits the use of the phrase "no medical examination required" and phrases of similar import, but does not prohibit explaining "guaranteed issue". If an insurer requires a medical examination for a specified policy, the advertisement, if it is an invitation to contract, shall disclose that a medical examination is required.
3. When an advertisement contains an application form to be completed by the applicant and returned by mail, the application form shall contain a question or statement that reflects the preexisting condition provisions of the policy immediately preceding the blank space for the applicant's signature. For example, the application form shall contain a question or statement substantially as follows:

"Do you understand that this policy will not pay benefits during the first [insert number] [years, months] after the issue date for a disease or physical condition that you now have or have had in the past?

"YES"

Or substantially the following statement:

"I understand that the policy applied for will not pay benefits for any loss incurred during the first [insert number] [years, months] after the issue date on account of disease or physical condition that I now have or have had in the past."

## **Section 8      Necessity for Disclosing Policy Provisions Relating to Renewability, Cancellability and Termination**

- A. An advertisement that is an invitation to contract shall disclose the provisions relating to renewability, cancellability and termination, and any modification of benefits, losses covered, or premiums because of age or for other reasons, in a manner that shall not minimize or render obscure the qualifying conditions.
- B. Advertisements of cancellable accident and sickness insurance policies shall state that the **companyinsurer** may cancel or renew the contract using language substantially similar to the following: "This policy is renewable at the option of the company.", or "The company has the right to refuse renewal of this policy.", or "Renewable at the option of the insurer.", or "This policy can be cancelled by the company at any time."
- C. Advertisements of insurance policies that are guaranteed renewable, cancellable or renewable at the option of the **companyinsurer** shall disclose that the insurer has the right to increase premium rates if the policy so provides.
- D. Qualifying conditions that constitute limitations on the permanent nature of the coverage shall be disclosed in advertisements of insurance policies that are guaranteed renewable, cancellable or renewable at the option of the **companyinsurer**. Examples of qualifying conditions **include, but are not limited toare (1)** age limits; **(2)** reservation of a right to increase premiums; and **(3)** the establishment of aggregate limits.



1. Provisions for reduction of benefits at stated ages shall be set forth. For example, a policy may contain a provision that reduces benefits fifty percent (50%) after age sixty (60) although it is renewable to age sixty-five (65). Such a reduction shall be set forth. Also, a provision for the elimination of certain hazards at any specific ages or after the policy has been in force for a specified time shall be set forth.
2. An advertisement for a policy that provides for step-rated premium rates based upon the policy year or the insured's attained age shall disclose the rate increases and the times or ages at which the premiums increase.

## **Section 9      Standards for Marketing**

A. An insurer, directly or through its producers ~~or solicitors~~, shall:

1. Establish marketing procedures to assure that any comparison of policies by its producers ~~or solicitors~~ will be fair and accurate;
2. Establish marketing procedures assuring excessive insurance is not sold or issued, except this requirement does not apply to group health benefit plans and disability income coverage; and
3. Establish auditable procedures for verifying compliance with ~~this sub~~Section 9.

B. The following acts and practices are prohibited:

1. Twisting. Knowingly making any misleading representation or incomplete or fraudulent comparison of insurance policies or insurers for the purpose of inducing, or tending to induce, a person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert an insurance policy, or to take out a policy of insurance with another insurer;
2. High Pressure Tactics. Employing a method of marketing that has the effect of inducing the purchase of insurance, or tends to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance; and
3. Cold Lead Advertising. Making use directly or indirectly of any method of marketing that fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance producer or ~~insurance company~~insurer.

**4. The marketing of the combination of two (2) or more health coverages or policies as equivalent to a health benefit plan which meets all federal and state requirements of minimum essential coverage under the ACA.**

C. Summary of Benefits and Coverage (SBC)

1. The SBC ~~F~~orm and ~~the~~ Colorado Supplement to the Summary of Benefits and Coverage ~~F~~orm must be in compliance with the requirements of state and federal law, and Colorado Insurance Regulation 4-2-20.
2. The SBC must contain, in plain language, simple and consistent information about the benefits and coverage of the stated health benefit plan **as specified in 45 C.F.R. § 147.200(a).**



23. If upon review the Division finds that an SBC or the Colorado Supplement to the Summary of Benefits Form is misleading, deceptive, or misrepresentative of the benefits in the stated health benefit plan, the submitting carrierinsurer may be found to have violated the marketing standards found at § 10-3-1104, C.R.S.

## **Section 10 Testimonials or Endorsements by Third Parties**

- A. Testimonials and/or endorsements used in advertisements shall be genuine, represent the current opinion of the author, be applicable to the policy advertised and be accurately reproduced. The insurer, in using a testimonial or endorsement, makes as its own all of the statements contained in it, and the advertisement, including the statement, is subject to all of the provisions of this regulation. When a testimonial or endorsement is used more than one (1) year after it was originally given, a confirmation must be obtained.
- B. A person shall be deemed a "spokesperson" if the person making the testimonial or endorsement:
1. Has a financial interest in the insurer or a related entity as a stockholder, director, officer, employee or otherwise;
  2. Has been formed by the insurer, is owned or controlled by the insurer, its employees, or the person or persons who own or control the insurer;
  3. Has any person in a policy-making position who is affiliated with the insurer in any of the above described capacities; or
  4. Is in any way directly or indirectly compensated for making a testimonial or endorsement.
- C. Any person or agency acting as a spokesperson, as defined in ~~the preceding paragraph~~Section 10.B., who performs any of the following acts in an advertisement shall be considered soliciting an insurance product, and such person or agency shall be a licensed insurance producer or agency pursuant to the Colorado insurance laws:
1. Individual who solicits, negotiates, effects, procures, delivers, renews, continues or binds; or
  2. A corporation, partnership, association, or other legal entity transacting the business of insurance.
- D. The fact of a financial interest or the proprietary or representative capacity of a spokesperson shall be disclosed in an advertisement and shall be accomplished in the introductory portion of the testimonial or endorsement in the same form and with equal prominence. If a spokesperson is directly or indirectly compensated for making a testimonial or endorsement, the fact shall be disclosed in the advertisement by language substantially such as follows: "Paid Endorsement". The requirement of this disclosure may be fulfilled by use of the phrase "Paid Endorsement" or words of similar import in a type style and size at least equal to that used for the spokesperson's name or the body of the testimonial or endorsement, whichever is larger. In the case of television or radio advertising, the required disclosure shall be accomplished in the introductory portion of the advertisement and shall be given prominence.
- E. The disclosure requirements of this regulation shall not apply where the sole financial interest or compensation of a spokesperson, for all testimonials or endorsements made on behalf of the insurer, consists of the payment of union scale wages required by union rules, and if the payment is actually the scale for TV or radio performances.

- F. An advertisement shall not state or imply that an insurer or an accident and sickness insurance policy has been approved or endorsed by any individual, group of individuals, society, association or other organizations, unless that is the fact, and unless any proprietary relationship between an organization and the insurer is disclosed. If the entity making the endorsement or testimonial has been formed by the insurer or is owned or controlled by the insurer or the person or persons who own or control the insurer, the fact shall be disclosed in the advertisement. If the insurer or an officer of the insurer formed or controls the association, or holds any policy-making position in the association, that fact must be disclosed.
- G. When a testimonial refers to benefits received under an accident and sickness insurance policy, the specific claim data, including claim number, date of loss and other pertinent information shall be retained by the insurer for inspection for a period of four (4) years or until the filing of the next regular report of examination of the insurer, whichever is the longer period of time. The use of testimonials that do not correctly reflect the present practices of the insurer or that are not applicable to the policy or benefit being advertised is not permissible.

## **Section 11      Use of Statistics**

- A. An advertisement relating to the dollar amounts of claims paid, the number of persons insured, or similar statistical information relating to an insurer or policy shall not use irrelevant facts, and shall not be used unless it accurately reflects all of the current and relevant facts. The advertisement shall not imply that the statistics are derived from the policy advertised unless that is the fact, and when applicable to other policies or plans, shall specifically so state.
  - 1. An advertisement shall specifically identify the accident and sickness insurance policy to which statistics relate and where statistics are given that are applicable to a different policy, it shall be stated clearly that the data does not relate to the policy being advertised.
  - 2. An advertisement using statistics that describe an insurer, such as assets, corporate structure, financial standing, age, product lines or relative position in the insurance business, may be irrelevant and, if used at all, shall be used with extreme caution because of the potential for misleading the public. As a specific example, an advertisement for accident and sickness insurance that refers to the amount of life insurance which the **companyinsurer** has in force or the amounts paid out in life insurance benefits is not permissible unless the advertisement clearly indicates the amount paid out for each line of insurance.
- B. An advertisement shall not represent or imply that claim settlements by the insurer are "liberal" or "generous", or use words of similar import, or that claim settlements are or will be beyond the actual terms of the contract. An unusual amount paid for a unique claim for the policy advertised is misleading and shall not be used.
- C. The source of any statistics used in an advertisement shall be identified in the advertisement.

## **Section 12      Identification of Plan or Number of Policies**

- A. An advertisement that uses the word "plan" without prominently identifying it as an accident and sickness insurance policy is prohibited.
- B. When a choice of the amount of benefits is referred to, an advertisement that is an invitation to contract shall disclose that the amount of benefits provided depends upon the plan selected and that the premium will vary with the amount of the benefits selected.

- C. When an advertisement that is an invitation to contract refers to various benefits that may be contained in two (2) or more policies, other than group master policies, the advertisement shall disclose that the benefits are provided only through a combination of policies.

**D.** An advertisement for a combination of two (2) or more health coverages or separate policies that is an invitation to contract shall not give the appearance of comprehensive health coverage that is equivalent to a health benefit plan which meets federal and state requirements for minimum essential coverage under the ACA.

### **Section 13      Disparaging Comparisons and Statements**

An advertisement shall not directly or indirectly make unfair or incomplete comparisons of policies or benefits or comparisons of non-comparable policies of other insurers, and shall not disparage competitors, their policies, services or business methods, and shall not disparage or unfairly minimize competing methods of marketing insurance.

- A. An advertisement shall not contain statements such as “no red tape” or “here is all you do to receive benefits”.
- B. Advertisements that state or imply that competing insurance coverages customarily contain certain exceptions, reductions or limitations not contained in the advertised policies are prohibited unless the exceptions, reductions or limitations are contained in a substantial majority of the competing coverages.
- C. Advertisements that state or imply that an insurer’s premiums are lower or that its loss ratios are higher because its organizational structure differs from that of competing insurers are prohibited.

### **Section 14      Jurisdictional Licensing and Status of Insurer**

- A. An advertisement that is intended to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed shall not imply licensing beyond those limits.
- B. An advertisement shall not create the impression directly or indirectly that the insurer, its financial condition or status, or the payment of its claims, or the merits, desirability, or advisability of its policy forms or kinds of plans of insurance are approved, endorsed or accredited by any division or agency of the state or the federal government. Terms such as “official” or words of similar import, used to describe any policy or application form are prohibited because of the potential for deceiving or misleading the public.
- C. An advertisement shall not imply that approval, endorsement or accreditation of policy forms or advertising has been granted by any division or agency of the state or federal government. Approval of either policy forms or advertising shall not be used by an insurer to imply or state that a governmental agency has endorsed or recommended the insurer, its policies, advertising or its financial condition.
- D. For purposes of Section 14 of this regulation and the multistate plan provisions of the Patient Protection and Affordable Care Act (PPACA), a contract between the Office of Personal Management and a multistate insurer does not constitute approval, endorsement or accreditation by the federal government.

### **Section 15      Identity of Insurer**

- A. The name of the actual insurer shall be stated in all of its advertisements. The form number or numbers of the policy advertised shall be stated in an advertisement that is an invitation to contract. An advertisement shall not use a trade name, an insurance group designation, name of

the parent company of the insurer, name of a particular division of the insurer, service mark, slogan, symbol or other device that without disclosing the name of the actual insurer, would have the capacity and tendency to mislead or deceive as to the true identity of the insurer.

- B. An advertisement shall not use any combination of words, symbols, or physical materials that by their content, phraseology, shape, color or other characteristics are so similar to combination of words, symbols or physical materials used by agencies of the federal government or of this state, or otherwise appear to be of such a nature that it tends to confuse or mislead prospective insureds into believing that the solicitation is in some manner connected with an agency of the municipal, state or federal government.
- C. Advertisements, envelopes or stationery that employ words, letters, initials, symbols or other devices that are similar to those used in governmental agencies or by other insurers are not permitted if they may lead the public to believe:
  - 1. That the advertised coverages are somehow provided by or are endorsed by the governmental agencies or the other insurers; **or**
  - 2. That the advertiser is the same as is connected with or is endorsed by the governmental agencies or the other insurers.
- D. An advertisement shall not use the name of a state or political subdivision of a state in a policy name or description.
- E. An advertisement in the form of envelopes or stationery of any kind may not use any name, service mark, slogan, symbol or any device in a manner that implies that the insurer or the policy advertised, or that any producer who may call upon the consumer in response to the advertisement, is connected with a governmental agency, such as the Social Security Administration.
- F. An advertisement may not incorporate the word "Medicare" in the title of the plan or policy being advertised unless, wherever it appears, the word is qualified by language differentiating it from Medicare. The advertisement, however, shall not use the phrase "[ ] Medicare Department of the [ ] Insurance Company", or language of similar import.
- G. An advertisement may not imply that the reader may lose a right or privilege or benefit under federal, state or local law if he or she fails to respond to the advertisement.
- H. The use of letters, initials or symbols of the corporate name or trademark that would have the tendency or capacity to mislead or deceive the public as to the true identity of the insurer is prohibited unless the true, correct and complete name of the insurer is in close conjunction and in the same size type as the letters, initials or symbols of the corporate name or trademark.
- I. The use of the name of an agency or "[ ] Underwriters" or "[ ] Plan" in type, size and location so as to have the capacity and tendency to mislead or deceive as to the true identity of the insurer is prohibited.
- J. The use of an address so as to mislead or deceive as to true identity of the insurer, its location or licensing status is prohibited.
- K. An insurer shall not use, in the trade name of its insurance policy, any terminology or words so similar to the name of a governmental agency or governmental program as to have the tendency to confuse, deceive or mislead the prospective purchaser.

- L. Advertisements used by producers ~~or solicitors~~ of an insurer shall have prior written approval of the insurer before they may be used.
- M. A producer who makes contact with a consumer, as a result of acquiring that consumer's name from a lead-generating device, shall disclose that fact in the initial contact with the consumer. A producer or insurer may not use names produced from lead-generating devices that do not comply with the requirements of this regulation.

## **Section 16      Group or Quasi-Group Implications**

- A. An advertisement of a particular policy shall not state or imply that prospective insureds become group or quasi-group members covered under a group policy and as members, enjoy special rates or underwriting privileges, unless that is the fact.
- B. This regulation prohibits the solicitations of a particular class, such as governmental employees, by use of advertisements which state or imply that their occupational status entitles them to reduced rates on a group or other basis when, in fact, the policy being advertised is sold only on an individual basis at regular rates.
- C. Advertisements that indicate that a particular coverage or policy is exclusively for "preferred risks" or a particular segment of the population or that a particular segment of the population is an acceptable risk, when the distinctions are not maintained in the issuance of policies, are prohibited.
- D. An advertisement to join an association, trust or discretionary group that is also an invitation to contract for insurance coverage shall clearly disclose that the applicant will be purchasing both membership in the association, trust or discretionary group and insurance coverage. The insurer shall solicit insurance coverage on a separate and distinct application that requires a separate signature. The separate and distinct applications required need not be on separate documents or contained in a separate mailing. The insurance program shall be presented so as not to conceal the fact that the prospective members are purchasing insurance as well as applying for membership, if that is the case. Similarly, it is prohibited to use terms such as "enroll" or "join" to imply group or blanket insurance coverage when that is not the fact.
- E.** Advertisements for group or franchise group plans that provide a common benefit or a common combination of benefits shall not imply that the insurance coverage is tailored or designed specifically for that group, unless that is the fact.

## **Section 17      Introductory, Initial or Special Offers**

- A. An advertisement of an individual policy shall not directly or by implication represent that a contract or combination of contracts is an introductory, initial or special offer, or that applicants will receive substantial advantages not available at a later date, or that the offer is available only to a specified group of individuals, unless that is the fact. An advertisement shall not contain phrases describing an enrollment period as "special", "limited", or similar words or phrases when the insurer uses the enrollment periods as the usual method of marketing accident and sickness insurance.

- 1.** ~~An enrollment period during which a particular insurance product may be purchased on an individual basis shall not be offered within this state unless there has been a lapse of not less than [insert number] months between the close of the immediately preceding enrollment period for the same product and the opening of the new enrollment period. The advertisement shall indicate the date by which the applicant must mail the application, which shall be not less than ten (10) days and not more than forty (40) days from the date that the enrollment period is advertised for the first time. This regulation~~

applies to all advertising media, i.e., mail, newspapers, the Internet, radio, television, magazines and periodicals, by any one insurer. It is inapplicable to solicitations of employees or members of a particular group or association that otherwise would be eligible under specific provisions of the Insurance Code for group, blanket or franchise insurance. The phrase "any one insurer" includes all the affiliated companies of a group of insurance companies under common management or control.

**B2.** This regulation prohibits any statement or implication to the effect that only a specific number of policies will be sold, or that a time is fixed for the discontinuance of the sale of the particular policy advertised because of special advantages available in the policy, unless that is the fact.

**3.** The phrase "a particular insurance product" in paragraph 1. of this subsection means an insurance policy that provides substantially different benefits than those contained in any other policy. Different terms of renewability; an increase or decrease in the dollar amounts of benefits; an increase or decrease in any elimination period or waiting period from those available during an enrollment period for another policy shall not be sufficient to constitute the product being offered as a different product eligible for concurrent or overlapping enrollment periods.

**BC.** An advertisement shall not offer a policy that utilizes a reduced initial premium rate in a manner that overemphasizes the availability and the amount of the initial reduced premium. When an insurer charges an initial premium that differs in amount from the amount of the renewal premium payable on the same mode, the advertisement shall not display the amount of the reduced initial premium either more frequently or more prominently than the renewal premium, and both the initial reduced premium and the renewal premium must be stated in juxtaposition in each portion of the advertisement where the initial reduced premium appears.

**CD.** Special awards, such as a "safe drivers' award", shall not be used in connection with advertisements of accident and sickness insurance.

## **Section 18      Statements about an Insurer**

An advertisement shall not contain statements that are untrue in fact, or by implication misleading, with respect to the assets, corporate structure, financial standing, age or relative position of the insurer in the insurance business. An advertisement shall not contain a recommendation by any commercial rating system unless it clearly indicates the purpose of the recommendation and the limitations of the scope and extent of the recommendations.

## **Section 19      Filing Requirements**

All filings shall be submitted in accordance with the requirements located in Appendix A of this regulation, and all filings shall be submitted electronically by licensed entities.

## **Section 2019      Enforcement Procedures**

Each insurer shall maintain at its home or principal office a complete file containing every printed, published or prepared advertisement of its individual policies and typical printed, published or prepared advertisements of its blanket, franchise and group policies hereafter disseminated in this or any other state, whether or not licensed in another state, with a notation attached to each advertisement that indicates the manner and extent of distribution and the form number of any policy advertised. The file shall be subject to regular and periodical inspection by the eCommissioner. All of these advertisements shall be maintained in a file for a period of either four (4) years or until the filing of the next regular report on examination of the insurer, whichever is the longer period of time.

## **Section 210      Severability**

If any provisions of this regulation or the application thereof to any person or circumstances are for any reason held to be invalid, the remainder of the regulation shall not be affected in any way.

## **Section 221      Incorporated Materials**

The relevant portions of the final rule published on February 14, 2012 in Volume 77, No. 30 of the Federal Register (77 FR 8668, Summary of Benefits and Coverage and Uniform Glossary) 45 C.F.R. § 147.200(a) shall mean 45 C.F.R. § 147.200(a) as published on the effective date of this regulation and does not include later amendments to or editions of 45 C.F.R. § 147.200(a). A copy of 45 C.F.R. § 147.200(a) are incorporated by reference. Later amendments to this final rule are not included. Volume 77, No. 30 of the Federal Register may be examined during regular business hours at the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado 80202. A certified copy of 45 C.F.R. § 147.200(a) may be requested from the Colorado Division of Insurance, 1560 Broadway, Suite 850, Denver, Colorado 80202. A charge for certification or copies may apply. A copy may also be obtained online at [www.ecfr.gov](http://www.ecfr.gov).

## **Section 232      Enforcement**

Noncompliance with this regulation may result in the imposition of any of the sanctions made available in the Colorado statutes pertaining to the business of insurance, or other laws, which include the imposition of civil penalties, issuance of cease and desist orders, and/or suspensions or revocation of license, subject to the requirements of due process.

## **Section 243      Effective Date**

This regulation is effective April 15, September 1, 2014.

## **Section 254      History**

Originally issued as Regulation 75-2, effective December 22, 1975.  
Renumbered as Regulation 4-2-3, effective June 1, 1992.  
Amended Regulation, effective July 1, 1993.  
Repealed and Repromulgated in full, effective February 1, 2001.  
Amended Regulation, effective August 1, 2001.  
Amended Regulation, effective February 1, 2003.  
Amended Regulation, effective May 1, 2010.  
Amended Regulation, effective October 1, 2013.  
Amended Regulation, effective April 15, 2014.  
Amended regulation, effective September 1, 2019.

## APPENDIX A

The marketing filing procedures for entities subject to this regulation, as determined by the commissioner, which must be followed for all new and annual form filing submissions, are as follows:

- A. Carriers (including health care coverage cooperatives and CO-OPs) offering non-grandfathered individual and small group health and catastrophic health benefit plans, and stand-alone dental plans offering pediatric essential health benefits coverage, for sale inside or outside of the Exchange, must file:
1. The PPACA Marketing Checklist, which must be attached under the Supporting Documentation Tab in SERFF;
  2. If a carrier uses a third party to submit a form filing on its behalf, a Letter of Authority, which must be attached under the Supporting Documentation Tab in SERFF.
- B. Carriers (including health care coverage cooperatives and CO-OPs) offering non-grandfathered individual and small group health benefit plans, catastrophic health benefit plans, and/or stand-alone dental plans offering pediatric essential health benefits coverage, for sale inside of the Exchange, additionally must file:
1. A copy of the Carrier Logo, which must be submitted under the Supporting Documentation tab in the Plan Management (Binder) section of SERFF.
  2. An SBC form for each cost-sharing variation of each plan, in English and Spanish, which must be submitted under the Supporting Documentation tab in the Plan Management (Binder) section of SERFF. The submitted forms must be in compliance with the requirements of Colorado Insurance Regulation 4-2-20 and federal law.
  3. Carriers desiring to have a Marketing Brochure displayed on the Exchange website, which describes the features of all plans within a specific market (i.e. individual or small group), must attach a copy of the brochure under the Associate Schedule Item tab in the Plan Management (Binder) section of SERFF.
    - a. Carriers may submit a copy of the brochure in English and Spanish.
  4. Carriers desiring to have a Marketing Brochure displayed on the Exchange website, which describes the features of a specific plan, must attach a copy of the brochure under the Associate Schedule Item tab in the Plan Management (Binder) section of SERFF.
    - a. Carriers may submit a copy of the brochure in English and Spanish.



# Notice of Proposed Rulemaking

**Tracking number**

2019-00185

**Department**

700 - Department of Regulatory Agencies

**Agency**

711 - Division of Professions and Occupations - Audiology and Hearing Aid Provider Licensure

**CCR number**

3 CCR 711-1

**Rule title**

HEARING AID PROVIDER RULES

**Rulemaking Hearing****Date**

05/31/2019

**Time**

02:30 PM

**Location**

1560 Broadway, Conference Room 1250A (19th Floor), Denver, CO 80202

**Subjects and issues involved**

The purpose of the rulemaking hearing is for the Division Director to implement legislation from HB16-1197 (section 24-4-201 et seq., C.R.S) by streamlining pathways for hearing aid provider applicants seeking licensure that is available to individuals with training, education, or experience gained during military service. Rule 2 is a proposed amendment to a current rule, and Rule 10 is a proposed new rule.

**Statutory authority**

§ 12-5.5-301(4)

§ 12-5.5-203

§ 24-4-203

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## DEPARTMENT OF REGULATORY AGENCIES

### Office of Hearing Aid Provider Licensure

#### HEARING AID PROVIDER RULES

##### 3 CCR 711-1

##### Rule 2 – Licensure by Endorsement

The purpose of this rule is to clarify licensure by endorsement requirements pursuant to section 12-5.5 203, C.R.S.

- A. To qualify for licensure by endorsement an applicant must:
  - 1. Possess an active license in good standing to practice as a hearing aid provider in another state or territory of the United States or in a foreign country; and
  - 2. Present satisfactory proof to the Director that the active license in good standing issued required qualifications substantially equivalent to the qualifications for original licensure in Colorado.
- B. Substantially equivalent qualifications may be determined by the Director and may include the following:
  - 1. Earned a degree with a concentration in hearing aid fitting and dispensing, or completed supervised training to do so, and
  - 2. Passed an acceptable entry-level examination or obtained a certificate of competency in hearing aid fitting and dispensing.
- C. The Director may consider substituting two (2) years of active practice in good standing as a hearing aid provider within the last five (5) years prior to the date of application in place of either B.1 or 2 above.
- D. Military service shall be credited towards the requirements of active practice of Part C of this Rule, if the military experience generally conforms to the scope of practice of hearing aid providers in Colorado as specified in section 12-5.5-103, C.R.S.

**Rule 10 – Credit for Military Education, Training, or Experience and Pathways to Licensure for Veterans and Members of the Military**

The purpose of this Rule is to provide pathways to licensure for individuals with training, education, or experience gained during military service pursuant to sections 24-34-102(8.5) and 24-4-201 et seq., C.R.S.

- A. An applicant for licensure may submit information about the applicant's education, training, or experience acquired during military service. It is the applicant's responsibility to provide timely and complete information for the Director's review.
- B. In order to meet the requirements for licensure, such education, training, or experience must be substantially equivalent to the required qualifications that are otherwise applicable at the time the application is received by the Director.
- C. The Director will determine, on a case-by-case basis, whether the applicant's military education, training, or experience meet the requirements for licensure.
- D. Documentation of military experience, education, or training may include, but is not limited to, the applicant's Certificate of Release or Discharge from Active Duty (DD-214), Verification of Military Experience and Training (DD-2586), military transcript, training records, evaluation reports, or letters from commanding officers describing the applicant's practice.
- E. For applicants submitting military education, training, or experience when applying for original licensure under Rule 1(A)(2), but who do not have the degree specified in Rule 1(A)(2)(b):
  - 1. Applicants must pass the examination specified in Rule 1(A)(2).
  - 2. If the Director determines that the submitted military education, training, or experience only partially satisfies the training requirement specified in Rule 1(A)(2)(a), the Director will advise applicants on the amount of additional training, education, or experience that will be required to qualify for licensure.

# Notice of Proposed Rulemaking

**Tracking number**

2019-00184

**Department**

700 - Department of Regulatory Agencies

**Agency**

711 - Division of Professions and Occupations - Audiology and Hearing Aid Provider Licensure

**CCR number**

3 CCR 711-2

**Rule title**

AUDIOLOGY RULES

**Rulemaking Hearing****Date**

05/31/2019

**Time**

01:30 PM

**Location**

1560 Broadway, Conference Room 1250A (19th Floor), Denver, CO 80202

**Subjects and issues involved**

The purpose of the rulemaking hearing is for the Division Director to implement legislation from HB16-1197 (section 24-4-201 et seq., C.R.S) by streamlining pathways for audiologist applicants seeking licensure that is available to individuals with training, education, or experience gained during military service. Proposed amendments are being made to Rule 2, and Rule 11 is a new proposed rule.

**Statutory authority**

§ 12-29.9-109(5)

§ 12-29.9-106

§ 24-4-203

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## DEPARTMENT OF REGULATORY AGENCIES

### Audiology and Hearing Aid Provider Licensure

#### AUDIOLOGY RULES

##### 3 CCR 711-2

##### Rule 2 – Licensure by Endorsement

The purpose of this rule is to clarify licensure by endorsement requirements pursuant to section 12-29.9-106, C.R.S.

- A. To qualify for licensure by endorsement an applicant must:
1. Possess an active license in good standing to practice audiology in another state or territory of the United States or in a foreign country; and
  2. Present satisfactory proof to the Director that the active license in good standing issued required qualifications substantially equivalent to the qualifications for original licensure in Colorado.
- B. Substantially equivalent qualifications may be determined by the Director and may include the following:
1. Earned a doctoral degree in audiology from a program, that is or, at the time the applicant was enrolled and graduated, was offered by an institution of higher education or postsecondary education accredited by:
    - a. The Council on Academic Accreditation (CCA) within the American Speech-Language-Hearing Association (ASHA), or
    - b. The Accreditation Commission for Audiology Education (ACAE), which is recognized by the Council for Higher Education Accreditation (CHEA) and approved by the Director.
  2. In the alternative, substantially equivalent qualifications may include:
    - a. Earned a master's degree from a program with a concentration in audiology, and
    - b. Passed an acceptable entry-level examination or obtained a certificate of competency in audiology.
- C. The Director may consider substituting either:
1. Five (5) years of active practice in good standing as an audiologist, completed within the eight (8) years prior to the date of application, in place of either B.(1 or 2)(a) above, or
  2. Documentation of 1,820 hours of active practice in good standing as an audiologist, completed within the three (3) years prior to the date of application in place of the acceptable entry-level examination or obtained certificate of competency in audiology in section (B)(2)(b) of this Rule.

D. The practice of audiology as part of military service, including a clinical audiology externship, shall be credited towards the requirements of active practice of section (C) of this Rule.

**Rule 11 – Credit for Military Education, Training, or Experience and Pathways to Licensure for Veterans and Members of the Military**

The purpose of this Rule is to provide pathways to licensure for individuals with training, education, or experience gained during military service pursuant to sections 24-34-102(8.5) and 24-4-201 et seq., C.R.S.

- A. An applicant for licensure may submit information about the applicant's education, training, or experience acquired during military service. It is the applicant's responsibility to provide timely and complete information for the Director's review.
- B. In order to meet the requirements for licensure, such education, training, or experience must be substantially equivalent to the required qualifications that are otherwise applicable at the time the application is received by the Director.
- C. The Director will determine, on a case-by-case basis, whether the applicant's military education, training, or experience meet the requirements for licensure.
- D. Documentation of military experience, education, or training may include, but is not limited to, the applicant's Certificate of Release or Discharge from Active Duty (DD-214), Verification of Military Experience and Training (DD-2586), military transcript, training records, evaluation reports, or letters from commanding officers describing the applicant's practice.

# Notice of Proposed Rulemaking

**Tracking number**

2019-00181

**Department**

700 - Department of Regulatory Agencies

**Agency**

715 - Division of Professions and Occupations - Occupational Therapy Licensure

**CCR number**

3 CCR 715-1

**Rule title**

OCCUPATIONAL THERAPY RULES

**Rulemaking Hearing****Date**

05/31/2019

**Time**

10:30 AM

**Location**

1560 Broadway, Suite 1250A (19th Floor), Denver, CO 80202

**Subjects and issues involved**

The purpose of the rulemaking hearing is for the Division Director to implement legislation from HB16-1197 (section 24-4-201 et seq., C.R.S) by streamlining pathways for occupational therapist applicants and occupational therapy assistant applicants seeking licensure that is available to individuals with training, education, or experience gained during military service.

**Statutory authority**

§ 12-40.5-112

§ 24-34-102(8.5)

§ 24-4-203

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## DEPARTMENT OF REGULATORY AGENCIES

### Office of Occupational Therapy Licensure

#### OCCUPATIONAL THERAPY RULES

##### 3-CCR 715-1

#### **Rule 14 Credit for Military Experience and Pathways to Licensure for Veterans and Members of the Military (§§ 24-34-102(8.5) and 24-4-201 et seq., C.R.S.)**

- A. An applicant for licensure may submit information about the applicant's education, training, or experience acquired during military service. It is the applicant's responsibility to provide timely and complete information for the Director's review.
- . In order to meet the requirements for licensure, such education, training, or experience must be substantially equivalent to the required qualifications that are otherwise applicable at the time the application is received by the Director.
- C. The Director will determine, on a case-by-case basis, whether the applicant's military education, training, or experience meet the requirements for licensure.
- D. Documentation of military experience to satisfy requirements in Rule 1, Rule 2, or section (E) of this Rule may include, but is not limited to, the applicant's Certificate of Release or Discharge from Active Duty (DD-214), Verification of Military Experience and Training (DD-2586), military transcript, training records, evaluation reports, or letters from commanding officers describing the applicant's practice as an occupational therapist and/or an occupational therapy assistant.
- E. Pathways to occupational therapist licensure or occupational therapy assistant licensure for veterans and members of the military may include:
  - 1. Veteran or military applicants with a current, valid license or registration as an occupational therapist or an occupational therapy assistant from another jurisdiction shall apply for licensure by endorsement, as described in Rule 2 for occupational therapist applicants or as described in Rule 11 for occupational therapy assistant applicants.
  - a. If the occupational therapist applicant does not meet any of the competency requirements as specified in Rule 2(B), the Director will evaluate whether the applicant's military service otherwise demonstrates the applicant has maintained competency as an occupational therapist, pursuant to Rule 2(B)(1). For this evaluation, the Director, in her discretion, may determine that an applicant has maintained competency if the applicant has actively practiced occupational therapy in the military for at least 400 hours in the two (2) years immediately preceding the date of application.
  - b. If the occupational therapy assistant applicant does not meet any of the competency requirements as specified in Rule 11(D)(2), the Director will evaluate whether the applicant's military service otherwise demonstrates the applicant has maintained competency as an occupational therapy assistant, pursuant to Rule 11(D)(2)(a). For this evaluation, the Director may determine that an applicant has maintained competency if the applicant actively practiced as an occupational therapy assistant in the military for at least 400 hours in the three (3) years immediately preceding the date of application.

2. Veteran or military applicants who do not hold a current, valid license or registration as an occupational therapist or occupational therapy assistant from another jurisdiction shall apply for licensure by examination, as described in Rule 1 for occupational therapist applicants or as described in Rule 10 for occupational therapy assistant applicants.

a. If the occupational therapist applicant's passing score on the required examination was not achieved in the time frame specified in Rule 1(D)(1), but the occupational therapist applicant has practiced occupational therapy in the military on a regular basis since passing the examination, with no single gap in practice of more than two (2) years, then the Director may waive the time limitation in Rule 1(D)(1), pursuant to the authority granted in Rule 1(D)(2)(c).

b. Occupational therapy assistant applicants must:

(1) Meet the education requirements of section 12-40.5-106.5(1), C.R.S., and Rule 10(B); and

(2) Pass an examination as outlined in section 12-40.5-106.5(3), C.R.S., and Rule 10(C). If the occupational therapy assistant applicant's passing score on the required examination was not achieved in the time frame specified in Rule 10(D)(2), but the occupational therapy assistant applicant has practiced as an occupational therapy assistant in the military on a regular basis since passing the examination, with no single gap in practice of more than two (2) years, then the Director may waive the time limitation in Rule 10(D)(2), pursuant to authority granted in Rule 10(D)(3)(c).

# Notice of Proposed Rulemaking

**Tracking number**

2019-00182

**Department**

700 - Department of Regulatory Agencies

**Agency**

730 - Division of Professions and Occupations - Board of Architects, Engineers, and Land Surveyors

**CCR number**

4 CCR 730-1

**Rule title**

BYLAWS AND RULES OF THE STATE BOARD OF LICENSURE FOR ARCHITECTS,  
PROFESSIONAL ENGINEERS, AND PROFESSIONAL LAND SURVEYORS

**Rulemaking Hearing****Date**

06/14/2019

**Time**

09:15 AM

**Location**

1560 Broadway, Ste TBD; Denver, CO

**Subjects and issues involved**

The purpose for the revision of the following rules is to revise existing rules Section 4, Rules of Administrative Procedure, 4.6 Engineering and Land Surveying Application Criteria, and 4.8 Examinations, in order to advance expedited handling and facilitation of the licensure process as set forth in sections 12-25-110 through 12-25-114, C.R.S. and sections 12-25-210 through 12-25-214, C.R.S., in regards to engineer and land surveyor application for enrollment and licensure in:

- o Rule 4.6.5; and
- o Rule 4.8.1

**Statutory authority**

12-25-107(1)(a), C.R.S. and  
12-25-207(1)(a), C.R.S.

**Contact information****Name**

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**Title**

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**Bylaws and Rules  
of  
The State Board of Licensure for Architects,  
Professional Engineers and Professional Land Surveyors**

- 4.6.5 Short-Term Duration Employment Not Counted.** No engineering or land surveying experience of less than three months continuous duration with one employer shall be credited.
- 4.8.1 Applicants Must Receive Board Approval to Take an Examination.** No applicant may take the Architect Registration Examination or the State Specific Land Surveying Examination until the Board has established that the applicant is eligible for the examination. An applicant may be disallowed from taking or re-taking any of the licensing exams if there is evidence of socially unacceptable behavior (e.g. cheating, violence, or threats of violence or other disruptive behavior), in an exam setting.



**COLORADO**

Department of  
Regulatory Agencies

Division of Professions and Occupations

### NOTICE OF RULEMAKING HEARING

Pursuant to section 12-25-107(1)(a) and 12-25-207(1)(a) of the Colorado Revised Statutes, you are hereby advised that the Colorado State Board of Licensure for Architects, Professional Engineers, and Professional Land Surveyors will be holding a **public rulemaking hearing on June 14, 2019, commencing at 9:15 a.m. at 1560 Broadway, Suite TBD** (*due to construction and timely posted publically*), Denver, Colorado, for the purpose of revising the following rules:

Rule No.	Current Title
Rule 4.6.5	Short-Term Duration Employment Not Counted
Rule 4.8.1	Applicants Must Receive Board Approval to Take an Examination

A copy of the proposed rules and a statement of statutory authority, basis, and purpose are attached. Please be advised that these rules may be changed after public comment and formal hearing. The rules will be effective August 10, 2019.

At the time and place stated in this notice, the Colorado State Board of Licensure for Architects, Professional Engineers, and Professional Land Surveyors will afford interested parties an opportunity to submit written data, views, or arguments, and to submit briefly (two (2) minutes per item) the same orally, if they so desire. **It is requested that written testimony be submitted to the Colorado State Board of Licensure for Architects, Professional Engineers, and Professional Land Surveyors at least ten (10) days prior to the rulemaking hearing.**

Submissions should be emailed to the office of the Colorado State Board of Licensure for Architects, Professional Engineers, and Professional Land Surveyors at [DORA\\_AESBoard@state.co.us](mailto:DORA_AESBoard@state.co.us). All submissions will be considered.

Dated this 30th day of April, 2019.

**BY ORDER OF THE COLORADO STATE BOARD OF LICENSURE FOR ARCHITECTS, PROFESSIONAL ENGINEERS, AND PROFESSIONAL LAND SURVEYORS**

Joyce J. Young, Program Director



**Bylaws and Rules  
of  
The State Board of Licensure for Architects,  
Professional Engineers and Professional Land Surveyors**

**4.6.5 Short-Term Duration Employment Not Counted.** No engineering or land surveying experience of less than ~~six~~ THREE months continuous duration with one employer shall be credited. EFFECTIVE 5/15/19

**4.8.1 Applicants Must Receive Board Approval to Take an Examination.** No applicant may take the Architect Registration Examination, ~~the Fundamentals of Engineering Examination, the Principles and Practice of Engineering Examination, the Fundamentals of Surveying Examination, the Principles and Practice of Surveying Examination,~~ or the State Specific Land Surveying Examination until the Board has established that the applicant is eligible for the examination. An applicant may be disallowed from taking or re-taking any of the licensing exams if there is evidence of socially unacceptable behavior (e.g. cheating, violence, or threats of violence or other disruptive behavior), in an exam setting. EFFECTIVE 5/15/19

**Bylaws and Rules  
of  
The State Board of Licensure for Architects,  
Professional Engineers and Professional Land Surveyors**

- 4.6.5 Short-Term Duration Employment Not Counted.** No engineering or land surveying experience of less than three months continuous duration with one employer shall be credited.
- 4.8.1 Applicants Must Receive Board Approval to Take an Examination.** No applicant may take the Architect Registration Examination or the State Specific Land Surveying Examination until the Board has established that the applicant is eligible for the examination. An applicant may be disallowed from taking or re-taking any of the licensing exams if there is evidence of socially unacceptable behavior (e.g. cheating, violence, or threats of violence or other disruptive behavior), in an exam setting.



**COLORADO**

Department of  
Regulatory Agencies

Division of Professions and Occupations

Program Branch  
State Board of Licensure for Architects, Professional  
Engineers and Professional Land Surveyors

## **STATEMENT OF BASIS AND PURPOSE**

### **Basis:**

The basis for the revision of the following rules are provided in sections 12-25-107(1)(a) and 12-25-207(1)(a) of the Colorado Revised Statutes.

### **Purpose:**

The purpose for the revision of the following rules is to revise existing rules *Section 4, Rules of Administrative Procedure, 4.6 Engineering and Land Surveying Application Criteria*, and *4.8 Examinations*, in order to advance expedited handling and facilitation of the licensure process as set forth in sections 12-25-110 through 12-25-114, C.R.S. and sections 12-25-210 through 12-25-214, C.R.S., in regards to engineer and land surveyor application for enrollment and licensure in:

- Rule 4.6.5; and
- Rule 4.8.1



# Notice of Proposed Rulemaking

**Tracking number**

2019-00173

**Department**

1000 - Department of Public Health and Environment

**Agency**

1001 - Air Quality Control Commission

**CCR number**

5 CCR 1001-8

**Rule title**

REGULATION NUMBER 6 STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

**Rulemaking Hearing****Date**

07/18/2019

**Time**

09:00 AM

**Location**

Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Sabin Conference Room

**Subjects and issues involved**

To consider revisions to incorporate by reference New Source Performance Standards (NSPS), Emission Guidelines, and performance specifications amendments of 40 C.F.R. Part 60 into Regulation Number 6, Part A. These references need updated citations to ensure that the corresponding federal rules are enforceable under Colorado law. The proposed revisions may also correct any typographical, grammatical, and formatting errors found through the regulation.

**Statutory authority**

Sections 25-7-105(1)(b) and 25-7-109, 25-7-106(6), 24-4-103 and 25-7-110, 110.5 and 110.8 C.R.S., as applicable and amended.

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## DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

### Air Quality Control Commission

#### REGULATION NUMBER 6

#### Standards of Performance for New Stationary Sources

##### 5 CCR 1001-8

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

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### PART A

#### Federal Register Regulations Adopted by Reference

The regulations promulgated by the United States Environmental Protection Agency (EPA) listed below, found in Part 60, Chapter I, Title 40 and Part 75, Chapter 1, Title 40 of the Code of Federal Regulations (CFR) and in effect as of the dates indicated, but not including later amendments, were adopted by the Colorado Air Quality Control Commission and are hereby incorporated by reference. Copies of the material incorporated by reference are available for public inspection during regular business hours at the Office of the Commission, located at 4300 Cherry Creek Drive South, Denver, Colorado 80246-1530. Parties wishing to inspect these materials should contact the Technical Secretary of the Commission, located at the Office of the Commission. The material incorporated by reference is also available through the United States Government Printing Office, online at [www.gpo.gov/fdsys](http://www.gpo.gov/fdsys).

All new sources of air pollution and all modified or reconstructed sources of air pollution shall comply with the standards, criteria, and requirements set forth herein. For the purpose of this regulation, the word "Administrator" as used in Part 60, Chapter I, Title 40, of the CFR shall mean the Colorado Air Pollution Control Division, except that in the sections in Table 1, "Administrator" shall mean both the Administrator of the Environmental Protection Agency or his authorized representative and the Colorado Air Pollution Control Division. For the purpose of this regulation, the word "Administrator" as used in Part 75, Chapter 1, Title 40, shall mean the Administrator of the Environmental Protection Agency or his authorized representative for everything except mercury monitoring, recordkeeping and reporting requirements (separately addressed in Part B, Section VIII. of this Regulation Number 6. Other deviations from these federal standards, as presented in the CFR and which the Colorado Air Quality Control Commission ordered, are noted in the affected Subpart, and/or included in Part B of the Regulation. Table 2 identifies Part 75, Chapter I, Title 40 of the CFR requirements incorporated by reference.

TABLE 1

40 CFR Part 60 Subpart*	Section(s)
A	60.8(b)(2) and (b)(3) and those sections throughout the standards that reference 60.8(b)(2) and (b)(3), 60.11(b) and (e).
Da	60.45a.
Ka	60.114a.
Kb	60.111b(f)(4), 60.114b, 60.116b (e)(3)(iii) and (e)(3)(iv), 60.116b(f)(2)(iii).

40 CFR Part 60 Subpart*		Section(s)
S	60.195(b).	
DD	60.302(d)(3).	
GG	60.332(a)(3), 60.335(a).	
VV	60.482-1(c)(2), 60.484.	
WW	60.493(b)(2)(i)(A), 60.496(a)(1).	
XX	60.502(e)(6).	
GGG	60.592(c).	
JJJ	60.623.	
KKK	60.634.	

\*And any other section which 40 CFR Part 60 specifically states will not be delegated to the States.

Subpart A General Provisions. 40 CFR Part 60, Subpart A (~~July 1, 2017~~ [July 1, 2018](#)).

(See Part B of this Regulation Number 6 for Additional Requirements Regarding Modifications)

Subpart Cb Emission Guidelines and Compliance Times for Existing Sources: Municipal Waste Combustors That Are Constructed On or Before September 20, 1994. 40 CFR Part 60, Subpart Cb (~~July 1, 2017~~ [July 1, 2018](#)).

Subpart Cc Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills. 40 CFR Part 60, Subpart Cc (~~July 1, 2017~~ [July 1, 2018](#)).

For clarification regarding requirements applicable to existing municipal solid waste landfills, designated facilities as defined in 40 CFR Part 60, Section 60.32c which meet the condition in 40 CFR Part 60, Section 60.33c(a)(1) shall submit to the Division an initial design capacity report and an initial emission rate report in accordance with 40 CFR Part 60, Section 60.757 within 90 days of the effective date of this regulation. If the design capacity report reflects that the facility meets the condition in 40 CFR Part 60, Section 60.33c(a)(2) and the initial NMOC emission rate report reflects that the facility meets the condition in 40 CFR Part 60, Section 60.33c(a)(3), the facility shall comply with the collection and control system requirements in 40 CFR Part 60, Section 60.752(b)(2)(ii), applicable control device requirements in 40 CFR Part 60, Section 60.33c(c)(1), (2) and (3), test methods and procedures requirements in 40 CFR 60.754, operational standards in 40 CFR Part 60, Section 60.753, compliance provisions in 40 CFR Part 60, Section 60.755, monitoring provisions in 40 CFR Part 60, Section 60.756 and reporting and recordkeeping provisions in 40 CFR Part 60, Sections 60.757 and 60.758, respectively. Such facilities must complete installation of air emission collection and control equipment capable of meeting the requirements of this subpart no later than 30 months from the effective date of these requirements or the date on which the source becomes subject to this subpart pursuant to 40 CFR Part 60, Section 60.36c(b) (the date on which the condition in 60.33c(a)(3) is met (i.e., the date of the first annual report in which the non-methane organic compounds emission rate equals or exceeds 50 megagrams per year)), whichever occurs later. These facilities must submit a final collection and control system design plan pursuant to 40 CFR Part 60, Section 60.757(c) within one year of the effective date of these requirements, which must be reviewed and approved by the state. The final collection and control system design plan must specify: (1) the date by which contracts for control systems/process modifications shall be awarded, (which shall be no later

than 20 months after the effective date); (2) the date by which on-site construction or installation of the air pollution control device(s) or process changes will begin, (which shall be no later than 24 months after the effective date); and (3) the date by which the construction or installation of the air pollution control device(s) or process changes will be complete (which shall be no later than 30 months after the effective date).

In addition, the plan shall include site-specific design plans for the gas collection and control system(s). These facilities shall comply with the approved final collection and control system design plan and shall demonstrate compliance with these emission standards in accordance with 40 CFR Part 60, Section 60.8 not later than 180 days following initial startup of the collection and control system.

The Commission designates the effective date of Colorado's 111(d) plan, including the state emission standard for existing municipal solid waste landfills, as the date on which the EPA promulgates a final rule approving the state plan under Section 111(d) of the Clean Air Act.

Subpart Ce Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators. 40 CFR Part 60, Subpart Ce (~~July 1, 2017~~July 1, 2018).

Designated facilities to which this subpart applies must comply with the minimum requirements in Subpart Ce, as provided in Colorado's 111(d) plan for Existing Hospital/Medical/Infectious Waste Incinerators. Colorado's 111(d) plan for Hospital/Medical/Infectious Waste Incinerators will be submitted to EPA once approved by the Commission and is effective once approved by EPA in 40 CFR Part 62, Subpart G.

Specifically, designated facilities are defined in Section 60.32e and additional definitions are specified in Section 60.31e. Designated facilities must comply with applicable emission limits as provided in Sections 60.33e(a)(1)-(3), (b)(1)-(2), and (c)(1)-(2). Designated facilities must comply with applicable operating training and qualification requirements as specified in Section 60.34e (referencing 40 CFR Part 60 Subpart Ec Section 60.53c). Designated facilities must comply with applicable waste management plan requirements as specified in Section 60.35e (referencing 40 CFR Part 60 Subpart Ec Section 60.55c). Designated facilities must comply with applicable inspection requirements as specified in Section 60.36e(a)(1)-(2), (b), (c)(1)-(2), and (d). Designated facilities must comply with applicable compliance and performance testing requirements as specified in Sections 60.37e(a) (referencing 40 CFR Part 60 Subpart Ec Section 60.56c) or (a)(1)-(2), (b) (referencing 40 CFR Part 60 Subpart Ec Section 60.56c) or (b)(1)-(2), and (c)(1)-(4). Designated facilities must comply with applicable monitoring requirements as specified in Sections 60.37e(d) (referencing 40 CFR Part 60 Subpart Ec Section 60.57c), (e)(1)-(3), and (f). Designated facilities must comply with applicable notification and recordkeeping requirements as specified in Sections 60.32e(b)(1)-(2) and (c)(1)-(3). Designated facilities must comply with applicable reporting and recordkeeping requirements as specified in Sections 60.38e(a) (referencing 40 CFR Part 60 Subpart Ec Section 60.58c(b)-(g)) or (a)(1)-(2) and (b)(1)-(2). Designated facilities must comply with applicable compliance times as specified in Section 60.39e.

The Commission designates the effective date of Colorado's 111(d) plan as the date on which the EPA promulgates a final rule in 40 CFR Part 62, Subpart G approving the state plan under Section 111(d) of the Clean Air Act. The compliance schedule for designated facilities can be found in Colorado's 111(d) plan for Existing Hospital/Medical/Infectious Waste Incinerators. Colorado's 111(d) plan for Existing Hospital/Medical/Infectious Waste Incinerators was adopted May 18, 2017, and is obtainable from the Commission Office.

Subpart Cf Emission Guidelines and Compliance Times for Municipal Solid Waste Landfills. 40 CFR Part 60, Subpart Cf (~~July 1, 2017~~July 1, 2018).

Designated facilities to which this subpart applies must comply with the minimum requirements in Subpart Cf as provided in Colorado's 111(d) plan for Municipal Solid Waste Landfills. Colorado's 111(d) plan for Existing Municipal Solid Waste Landfills will be submitted to EPA once approved by the Commission and is effective once approved by EPA in 40 CFR Part 62, Subpart G.

Specifically, designated facilities are defined in Section 60.31f and additional definitions are specified in Section 60.41f. Designated facilities must comply with applicable emission limits for designated facilities specified in Section 60.33f. Designated facilities must comply with applicable operational standards for collection and control systems as specified in Section 60.34f. Designated facilities must comply with applicable test methods and procedures and compliance requirements as specified in Sections 60.35f-60.36f. Designated facilities must comply with applicable monitoring requirements as specified in Section 60.37f. Designated facilities must comply with applicable reporting and recordkeeping requirements as specified in Sections 60.38f-60.39f. Designated facilities must comply with applicable requirements for active collective systems as specified in Section 60.40f.

The Commission designates the effective date of Colorado's 111(d) plan as the date on which the EPA promulgates a final rule in 40 CFR Part 62, Subpart G approving the state plan under Section 111(d) of the Clean Air Act. The compliance schedule for designated facilities can be found in Colorado's 111(d) plan for Existing Municipal Solid Waste Landfills. Colorado's 111(d) plan for Existing Municipal Solid Waste Landfills was adopted May 18, 2017, and is obtainable from Commission Office.

Subpart D Standards of Performance for Fossil-Fuel-Fired Steam Generators for which Construction is Commenced after August 17, 1971. 40 CFR Part 60, Subpart D (~~July 1, 2017~~July 1, 2018).

Subpart Da Standards of Performance for Electric Utility Steam Generators for which Construction is Commenced after September 18, 1978. 40 CFR Part 60, Subpart Da (~~July 1, 2017~~July 1, 2018).

(See Regulation Number 6, Part B, Section VIII. and Regulation Number 8, Part E, Subpart UUUUU for additional requirements regarding Electric Utility Steam Generating Units)

Subpart Db Standards of Performance for Industrial-Commercial-Institutional Steam Generating Units. 40 CFR Part 60, Subpart Db (~~July 1, 2017~~July 1, 2018).

(See Part B, Section III.D. of this Regulation Number 6 for Additional Requirements)

Subpart Dc Standards of Performance for Small Industrial-Commercial- Institutional Steam Generating Units. 40 CFR Part 60, Subpart Dc (~~July 1, 2017~~July 1, 2018).

Subpart E Standards of Performance for Incinerators. 40 CFR Part 60, Subpart E (~~July 1, 2017~~July 1, 2018).

(See Part B, Sections V, VI and VII of this Regulation Number 6 for Additional Requirements)

Subpart Ea Standards of Performance for Municipal Waste Combustors For Which Construction Is Commenced After December 20, 1989 and On or Before September 20, 1994. 40 CFR Part 60, Subpart Ea (~~July 1, 2017~~July 1, 2018).

Subpart Eb Standards of Performance for Municipal Waste Combustors For Which Construction Is Commenced After September 20, 1994. 40 CFR Part 60, Subpart Eb (~~July 1, 2017~~July 1, 2018).

(See Part B, Section VI of this Regulation Number 6 for Additional Requirements)

Subpart Ec Standards of Performance for Hospital/Medical/Infectious Waste Incinerators for Which Construction is Commenced After June 20, 1996. 40 CFR Part 60, Subpart Ec (~~July 1, 2017~~July 1, 2018).

(See Part B, Section V of this Regulation Number 6 for Additional Requirements)

Subpart F Standards of Performance for Portland Cement Plants. 40 CFR Part 60, Subpart F (~~July 1, 2017~~July 1, 2018).

Subpart G Standards of Performance for Nitric Acid Plants. 40 CFR Part 60, Subpart G (~~July 1, 2017~~July 1, 2018).

Subpart Ga Standards of Performance for Nitric Acid Plants for Which Construction, Reconstruction, or Modification Commenced After October 14, 2011. 40 CFR Part 60, Subpart Ga (~~July 1, 2017~~July 1, 2018).

Subpart H Standards of Performance for Sulfuric Acid Plants. 40 CFR Part 60, Subpart H (~~July 1, 2017~~July 1, 2018).

Subpart I Standards of Performance for Hot Mix Asphalt Facilities. 40 CFR Part 60, Subpart I (~~July 1, 2017~~July 1, 2018).

Subpart J Standards of Performance for Petroleum Refineries. 40 CFR Part 60, Subpart J (~~July 1, 2017~~July 1, 2018).

Subpart Ja Standards of Performance for Petroleum Refineries for Which Construction, Reconstruction, or Modification Commenced After May 14, 2007. 40 CFR Part 60, Subpart Ja (~~July 1, 2017~~July 1, 2018), as amended November 11, 2018 (83 FR 60696).

Subpart K Standards of Performance for Storage Vessels for Petroleum Liquids Constructed after June 11, 1973 and prior to May 19, 1978. 40 CFR Part 60, Subpart K (~~July 1, 2017~~July 1, 2018).

Subpart Ka Standards of Performance for Storage Vessels for Petroleum Liquids Constructed after May 18, 1978, and prior to July 23, 1984. 40 CFR Part 60, Subpart Ka (~~July 1, 2017~~July 1, 2018).

Subpart Kb Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for which Construction, Reconstruction, or Modification Commenced after July 23, 1984. 40 CFR Part 60, Subpart Kb (~~July 1, 2017~~July 1, 2018).

Subpart L Standards of Performance for Secondary Lead Smelters. 40 CFR Part 60, Subpart L (~~July 1, 2017~~July 1, 2018).

Subpart M Standards of Performance for Secondary Brass and Bronze Production Plants. 40 CFR Part 60, Subpart M (~~July 1, 2017~~July 1, 2018).

Subpart N Standards of Performance for Iron and Steel Plants. 40 CFR Part 60, Subpart N (~~July 1, 2017~~July 1, 2018).

Subpart Na Standards of Performance for Basic Oxygen Process Furnaces. 40 CFR Part 60, Subpart Na (~~July 1, 2017~~July 1, 2018).

Subpart O Standards of Performance for Sewage Treatment Plants. 40 CFR Part 60, Subpart O (~~July 1, 2017~~July 1, 2018).

Subpart P Standards of Performance for Primary Copper Smelters. 40 CFR Part 60, Subpart P (~~July 1, 2017~~[July 1, 2018](#)).

Subpart Q Standards of Performance for Primary Zinc Smelters. 40 CFR Part 60, Subpart Q (~~July 1, 2017~~[July 1, 2018](#)).

Subpart R Standards of Performance for Primary Lead Smelters. 40 CFR Part 60, Subpart R (~~July 1, 2017~~[July 1, 2018](#)).

Subpart S Standards of Performance for Primary Aluminum Reduction Plants. 40 CFR Part 60, Subpart S (~~July 1, 2017~~[July 1, 2018](#)).

Subpart T Standards of Performance for the Phosphate Fertilizer Industry: Wet-Process Phosphoric Acid Plants. 40 CFR Part 60, Subpart T (~~July 1, 2017~~[July 1, 2018](#)).

Subpart U Standards of Performance for the Phosphate Fertilizer Industry: Superphosphoric Acid Plants. 40 CFR Part 60, Subpart U (~~July 1, 2017~~[July 1, 2018](#)).

Subpart V Standards of Performance for the Phosphate Fertilizer Industry: Diammonium Phosphate Plants. 40 CFR Part 60, Subpart V (~~July 1, 2017~~[July 1, 2018](#)).

Subpart W Standards of Performance for the Phosphate Fertilizer Industry: Triple Superphosphate Plants. 40 CFR Part 60, Subpart W (~~July 1, 2017~~[July 1, 2018](#)).

Subpart X Standards of Performance for the Phosphate Fertilizer Industry: Granular Triple Superphosphate Storage Facilities. 40 CFR Part 60, Subpart X (~~July 1, 2017~~[July 1, 2018](#)).

Subpart Y Standards of Performance for Coal Preparation Plants. 40 CFR Part 60, Subpart Y (~~July 1, 2017~~[July 1, 2018](#)).

Subpart Z Standards of Performance for Ferroalloy Production Facilities. 40 CFR Part 60, Subpart Z (~~July 1, 2017~~[July 1, 2018](#)).

Subpart AA Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed after October 21, 1974, and on or before August 17, 1983. 40 CFR Part 60, Subpart AA (~~July 1, 2017~~[July 1, 2018](#)).

Subpart AAa Standards of Performance for Steel Plants: Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed after August 17, 1983. 40 CFR Part 60, Subpart AAa (~~July 1, 2017~~[July 1, 2018](#)).

Subpart BB Standards of Performance for Kraft Pulp Mills. 40 CFR Part 60, Subpart BB (~~July 1, 2017~~[July 1, 2018](#)).

Subpart BBa Standards of Performance for Kraft Pulp Mill Affected Sources for Which Construction, Reconstruction, or Modification Commenced After May 23, 2013. 40 CFR Part 60, Subpart BBa (~~July 1, 2017~~[July 1, 2018](#)).

Subpart CC Standards of Performance for Glass Manufacturing Plants. 40 CFR Part 60, Subpart CC (~~July 1, 2017~~[July 1, 2018](#)).

Subpart DD Standards of Performance for Grain Elevators. 40 CFR Part 60, Subpart DD (~~July 1, 2017~~[July 1, 2018](#)).



Subpart EE Standards of Performance for Surface Coating of Metal Furniture. 40 CFR Part 60, Subpart EE (~~July 1, 2017~~[July 1, 2018](#)).

Subpart GG Standards of Performance for Stationary Gas Turbines. 40 CFR Part 60, Subpart GG (~~July 1, 2017~~[July 1, 2018](#)).

(See Subpart KKKK of this Regulation Number 6 for additional requirements for Stationary Combustion Turbines)

Subpart HH Standards of Performance for Lime Manufacturing Plants. 40 CFR Part 60, Subpart HH (~~July 1, 2017~~[July 1, 2018](#)).

Subpart KK Standards of Performance for Lead-Acid Battery Manufacturing Plants. 40 CFR Part 60, Subpart KK (~~July 1, 2017~~[July 1, 2018](#)).

Subpart LL Standards of Performance for Metallic Mineral Processing Plants. 40 CFR Part 60, Subpart LL (~~July 1, 2017~~[July 1, 2018](#)).

Subpart MM Standards of Performance for Automobile and Light-Duty Truck Surface Coating Operations. 40 CFR Part 60, Subpart MM (~~July 1, 2017~~[July 1, 2018](#)).

Subpart NN Standards of Performance for Phosphate Rock Plants. 40 CFR Part 60, Subpart NN (~~July 1, 2017~~[July 1, 2018](#)).

Subpart PP Standards of Performance for Ammonium Sulfate Manufacture. 40 CFR Part 60, Subpart PP (~~July 1, 2017~~[July 1, 2018](#)).

Subpart QQ Standards of Performance for the Graphic Arts Industry: Publication Rotogravure Printing. 40 CFR Part 60, Subpart QQ (~~July 1, 2017~~[July 1, 2018](#)).

Subpart RR Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations. 40 CFR Part 60, Subpart RR (~~July 1, 2017~~[July 1, 2018](#)).

Subpart SS Standards of Performance for Industrial Surface Coating: Large Appliances. 40 CFR Part 60, Subpart SS (~~July 1, 2017~~[July 1, 2018](#)).

Subpart TT Standards of Performance for Metal Coil Surface Coating. 40 CFR Part 60, Subpart TT (~~July 1, 2017~~[July 1, 2018](#)).

Subpart UU Standards of Performance for Asphalt Processing and Asphalt Roofing Manufacture. 40 CFR Part 60, Subpart UU (~~July 1, 2017~~[July 1, 2018](#)).

Subpart VV Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for which Construction, Reconstruction or Modification Commenced after January 5, 1981, and on or Before November 7, 2006. 40 CFR Part 60, Subpart VV (~~July 1, 2017~~[July 1, 2018](#)).

Subpart VVa Standards of Performance for Equipment Leaks of VOC in the Synthetic Organic Chemicals Manufacturing Industry for which Construction, Reconstruction or Modification Commenced after November 7, 2006. 40 CFR Part 60, Subpart VVa (~~July 1, 2017~~[July 1, 2018](#)).

Subpart WW Standards of Performance for the Beverage Can Surface Coating Industry. 40 CFR Part 60, Subpart WW (~~July 1, 2017~~[July 1, 2018](#)).



Subpart XX Standards of Performance for Bulk Gasoline Terminals. 40 CFR Part 60, Subpart XX (~~July 1, 2017~~[July 1, 2018](#)).

Subpart BBB Standards of Performance for the Rubber Tire Manufacturing Industry. 40 CFR Part 60, Subpart BBB (~~July 1, 2017~~[July 1, 2018](#)).

Subpart DDD Standards of Performance for Volatile Organic Compound (VOC) Emissions from the Polymer Manufacturing Industry. 40 CFR Part 60, Subpart DDD (~~July 1, 2017~~[July 1, 2018](#)).

Subpart FFF Standards of Performance for Flexible Vinyl and Urethane Coating and Printing. 40 CFR Part 60, Subpart FFF (~~July 1, 2017~~[July 1, 2018](#)).

Subpart GGG Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for which Construction, Reconstruction, or Modification Commenced After January 4, 1983, and On or Before November 7, 2006. 40 CFR Part 60, Subpart GGG (~~July 1, 2017~~[July 1, 2018](#)).

Subpart GGGa Standards of Performance for Equipment Leaks of VOC in Petroleum Refineries for which Construction, Reconstruction, or Modification Commences After November 7, 2006. 40 CFR Part 60, Subpart GGGa (~~July 1, 2017~~[July 1, 2018](#)).

Subpart HHH Standards of Performance for Synthetic Fiber Production Facilities. 40 CFR Part 60, Subpart HHH (~~July 1, 2017~~[July 1, 2018](#)).

Subpart III Standards of Performance for Volatile Organic Compound (VOC) Emissions From Synthetic Organic Chemical Manufacturing Industry (SOCMI) Air Oxidation Unit Processes. 40 CFR Part 60, Subpart III (~~July 1, 2017~~[July 1, 2018](#)).

Subpart JJJ Standards of Performance for Petroleum Dry Cleaners. 40 CFR Part 60, Subpart JJJ (~~July 1, 2017~~[July 1, 2018](#)).

Subpart KKK Standards of Performance for Equipment Leaks of VOC from Onshore Natural Gas Processing Plants. 40 CFR Part 60, Subpart KKK (~~July 1, 2017~~[July 1, 2018](#)).

Subpart LLL Standards of Performance for Onshore Natural Gas Processing: SO<sub>2</sub> Emissions. 40 CFR Part 60, Subpart LLL (~~July 1, 2017~~[July 1, 2018](#)).

Subpart NNN Standards of Performance for Volatile Organic Compound Emissions from Synthetic Organic Chemical Manufacturing Industry Distillation Operations. 40 CFR Part 60, Subpart NNN (~~July 1, 2017~~[July 1, 2018](#)).

Subpart OOO Standards of Performance for Nonmetallic Mineral Processing Plants. 40 CFR Part 60, Subpart OOO (~~July 1, 2017~~[July 1, 2018](#)).

Subpart PPP Standards of Performance for Wool Fiberglass Insulation Manufacturing Plants. 40 CFR Part 60, Subpart PPP (~~July 1, 2017~~[July 1, 2018](#)).

Subpart QQQ Standards of Performance for VOC Emissions from Petroleum Refinery Wastewater Systems. 40 CFR Part 60, Subpart QQQ (~~July 1, 2017~~[July 1, 2018](#)).

Subpart RRR Standards of Performance for Volatile Organic Compounds (VOC) Emissions from Synthetic Organic Chemical Manufacturing Industry (SOCMI) Reactor Processes. 40 CFR Part 60, Subpart RRR (~~July 1, 2017~~[July 1, 2018](#)).

Subpart SSS Standards of Performance for the Magnetic Tape Manufacturing Industry. 40 CFR Part 60, Subpart SSS (~~July 1, 2017~~[July 1, 2018](#)).

Subpart TTT Standards of Performance for Industrial Surface Coating of Plastic Parts for Business Machines. 40 CFR Part 60, Subpart TTT (~~July 1, 2017~~July 1, 2018).

Subpart UUU Standards of Performance for Calciners and Dryers in Mineral Industries. 40 CFR Part 60, Subpart UUU (~~July 1, 2017~~July 1, 2018).

Subpart VVV Standards of Performance for Polymeric Coating of Supporting Substrates. 40 CFR Part 60, Subpart VVV (~~July 1, 2017~~July 1, 2018).

Subpart WWW Standards of Performance for Municipal Solid Waste Landfills. 40 CFR Part 60, Subpart WWW (~~July 1, 2017~~July 1, 2018).

Subpart AAAA Standards of Performance for Small Municipal Waste Combustion Units for which Construction is Commenced after August 30, 1999 or for which Modification or Reconstruction is Commenced after June 6, 2001. 40 CFR Part 60, Subpart AAAA (~~July 1, 2017~~July 1, 2018).

Subpart CCCC Standards of Performance for Commercial and Industrial Solid Waste Incineration Units for which Construction is Commenced after November 30, 1999 or for which Modification or Reconstruction is Commenced on or after June 1, 2001. 40 CFR Part 60, Subpart CCCC (~~July 1, 2017~~July 1, 2018).

Subpart DDDD Emissions Guidelines and Compliance Times for Commercial and Industrial Solid Waste Incineration Units that Commenced Construction On or Before November 30, 1999. 40 CFR Part 60, Subpart DDDD (~~July 1, 2017~~July 1, 2018).

Designated facilities to which this subpart applies must comply with the minimum requirements in Subpart DDDD as provided in Colorado's 111(d) plan for Existing Commercial and Industrial Solid Waste Incineration Units. Colorado's 111(d) plan for Existing Commercial and Industrial Solid Waste Incineration Units will be submitted to EPA once approved by the Commission and is effective once approved by EPA in 40 CFR Part 62, Subpart G.

Specifically, designated facilities are defined in Sections 60.2550 and 60.2555 and additional definitions are specified in Section 60.2875. Designated facilities must comply with applicable emission and operating limits for designated facilities as specified in Sections 60.2670-60.2680. Designated facilities must comply with applicable operator training and qualification requirements as specified in Sections 60.2635-60.2665. Designated facilities must comply with applicable waste management plan requirements as specified in Section 60.2620 and specified in Sections 60.2625 and 60.2630. Designated facilities must comply with applicable performance testing requirements as specified in Sections 60.2690-60.2695. Designated facilities must comply with applicable compliance requirements as specified in Sections 60.2700-60.2725. Designated facilities must comply with applicable monitoring requirements as specified in Sections 60.2730-60.2735. Designated facilities must comply with applicable notification and recordkeeping requirements as specified in Sections 60.2555(a)(1)-(2), (e)(1)-(4), and (f)(1)-(4). Designated facilities must comply with applicable reporting and recordkeeping requirements as specified in Sections 60.2740-60.2800. Designated facilities must comply with applicable air curtain incinerator requirements as specified in Sections 60.2810-60.2870. Designated facilities must comply with applicable compliance times as specified in Section 60.2535.

The Commission designates the effective date of Colorado's 111(d) plan as the date on which the EPA promulgates a final rule in 40 CFR Part 62, Subpart G approving the state plan under Section 111(d) of the Clean Air Act. The compliance schedule for designated facilities can be found in Colorado's 111(d) plan for Existing Commercial and Industrial Solid Waste Incineration Units. Colorado's 111(d) plan for Existing Commercial and Industrial Solid Waste Incineration Units was adopted May 18, 2017, and is obtainable from the Commission Office).

Subpart EEEE Standards of Performance for Other Solid Waste Incineration Units for which Construction is Commenced after December 9, 2004 or for which Modification or Reconstruction is Commenced on or after June 16, 2006. 40 CFR Part 60, Subpart EEEE (~~July 1, 2017~~[July 1, 2018](#)).

Subpart FFFF Emission Guidelines and Compliance Times for Other Solid Waste Incineration Units that Commenced Construction on or before December 9, 2004. 40 CFR Part 60, Subpart FFFF, Sections 60.2991 through 60.2994, 60.3000 through 60.3078, and Tables 1-5 (~~July 1, 2017~~[July 1, 2018](#)).

Subpart HHHH Emission Guidelines and Compliance Times for Coal-Fired Electric Steam Generating Units. Repealed: This rule was vacated by the February 8, 2008 D.C. Circuit Court of Appeals decision.

Subpart IIII Standards of Performance for Stationary Compression Ignition Internal Combustion Engines. 40 CFR Part 60, Subpart IIII, excluding the 100-hour emergency exemption in subsection 60.4211(f)(2)(ii)-(iii) pursuant to the court's decision in *Delaware Dept. of Natural Res. & Env't'l Control, et al. v. EPA*, 785 F. 3d 1 (DC Cir. 2015) (~~July 1, 2017~~[July 1, 2018](#)).

Subpart KKKK Standards of Performance for Stationary Combustion Turbines. 40 CFR Part 60, Subpart KKKK (~~July 1, 2017~~[July 1, 2018](#)).

(See Subpart GG for additional requirements for Stationary Gas Turbines)

Subpart LLLL Standards of Performance for New Sewage Sludge Incineration Unit. 40 CFR Part 60, Subpart LLLL (~~July 1, 2017~~[July 1, 2018](#)).

Subpart MMMM Emission Guidelines and Compliance Times for Existing Sewage Sludge Incineration Units. 40 CFR Part 60, Subpart MMMM (~~July 1, 2017~~[July 1, 2018](#)).

Subpart OOOO Standards of Performance for Crude Oil and Natural Gas Production, Transmission and Distribution. 40 CFR Part 60, Subpart OOOO, (~~July 1, 2017~~[July 1, 2018](#)).

APPENDIX A to Part 60 Test Methods. 40 CFR Part 60 (~~July 1, 2017~~[July 1, 2018](#)).

APPENDIX B to Part 60 Performance Specifications. 40 CFR Part 60 (~~July 1, 2017~~[July 1, 2018](#)), as amended ~~July 7, 2017 (80 FR 38628)~~.

APPENDIX C to Part 60 Determination of Emission Rate Change. 40 CFR Part 60 (~~July 1, 2017~~[July 1, 2018](#)).

APPENDIX D to Part 60 Required Emission Inventory Information. 40 CFR Part 60 (~~July 1, 2017~~[July 1, 2018](#)).

APPENDIX F to Part 60 Quality Assurance Procedures. 40 CFR Part 60 (~~July 1, 2017~~[July 1, 2018](#)).

APPENDIX I to Part 60 Removable Label and Owner's Manual. 40 CFR Part 60 (~~July 1, 2017~~[July 1, 2018](#)).

TABLE 2

40 CFR Part 75 Subpart**	Section(s)
A	75.1-75.8
B	75.10-75.19

40 CFR Part 75 Subpart**	Section(s)
C	75.20-75.24
D	75.30-75.39
E	75.40-75.48
F	75.50-75.59
G	75.60-75.67
H	75.70-75.75

\*\* 40 CFR Part 75, Subparts A through H (~~July 1, 2017~~[July 1, 2018](#)).

APPENDIX A to Part 75 Specifications and Test Procedures, 40 CFR Part 75 (~~July 1, 2017~~[July 1, 2018](#)).

APPENDIX B to Part 75 Quality Assurance and Quality Control Procedures, 40 CFR Part 75 (~~July 1, 2017~~[July 1, 2018](#)).

APPENDIX C to Part 75 Missing Data Estimation Procedures, 40 CFR Part 75 (~~July 1, 2017~~[July 1, 2018](#)).

APPENDIX D to Part 75 Optional SO<sub>2</sub> Emissions Data Protocol for Gas-Fired Peaking Units and Oil-Fired Peaking Units, 40 CFR Part 75 (~~July 1, 2017~~[July 1, 2018](#)).

APPENDIX E to Part 75 Optional NO<sub>x</sub> Emissions Data Protocol for Gas-Fired Peaking Units and Oil-Fired Peaking Units, 40 CFR Part 75 (~~July 1, 2017~~[July 1, 2018](#)).

APPENDIX F to Part 75 Conversion Procedures, 40 CFR Part 75 (~~July 1, 2017~~[July 1, 2018](#)).

APPENDIX G to Part 75 Determination of CO<sub>2</sub> Emissions, 40 CFR Part 75 (~~July 1, 2017~~[July 1, 2018](#)).

APPENDIX H to Part 75 Revised Traceability Protocol Number 1 (Reserved), 40 CFR Part 75 (~~July 1, 2017~~[July 1, 2018](#)).

APPENDIX I to Part 75 Optional F--Factor/Fuel Flow Method (Reserved), 40 CFR Part 75 (~~July 1, 2017~~[July 1, 2018](#)).

APPENDIX J to Part 75 Compliance Dates for Revised Recordkeeping Requirements and Missing Data Procedures (Reserved), 40 CFR Part 75 (~~July 1, 2017~~[July 1, 2018](#)).

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## STATEMENTS OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE (For Part A)

[XXVI. Adopted July 18, 2019](#)

### [Background](#)

[This Statement of Basis, Specific Statutory Authority, and Purpose complies with the requirements of the Colorado Administrative Procedures Act, Section 24-4-103, C.R.S., the Colorado Air Pollution Prevention and Control Act, Sections 25-7-110 and 25-7-110.5, C.R.S., and the Air Quality Control Commission's \("Commission"\) Procedural Rules.](#)

## Basis

The Commission has incorporated by reference New Source Performance Standards ("NSPS"), Emission Guidelines, and performance specifications amendments of 40 C.F.R. Part 60 into Regulation Number 6, Part A. These references need updated citations to ensure that the corresponding federal rules are enforceable under Colorado law.

## Specific Statutory Authority

The Colorado Air Pollution Prevention and Control Act, Sections 25-7-105(1)(b) and 25-7-109, C.R.S. authorize the Commission to adopt emission control regulations, including emission control regulations relating to new stationary sources, for the development of an effective air quality control program. Further, Section 25-7-106(6) authorizes the Commission to require testing, monitoring, and recordkeeping.

## Purpose

Updating citation references of 40 C.F.R. Part 60 allows the Division to implement and enforce the Emission Guidelines and Compliance Times for applicable source categories.

Adoption of the rules will not impose additional requirements upon sources beyond the minimum required by federal law and may benefit the regulated community by providing sources with up-to-date information and regulatory certainty.

Further, these revisions will correct any typographical, grammatical and formatting errors found within the regulation.



# COLORADO

## Air Quality Control Commission

Department of Public Health & Environment

### NOTICE OF WRITTEN COMMENT ONLY RULEMAKING HEARING

Regarding proposed revisions to:

#### Regulation Number 6, Part A

#### **SUBJECT:**

The Air Quality Control Commission will hold a rulemaking hearing to consider revisions to incorporate by reference New Source Performance Standards (NSPS), Emission Guidelines, and performance specifications amendments of 40 C.F.R. Part 60 into Regulation Number 6, Part A. These references need updated citations to ensure that the corresponding federal rules are enforceable under Colorado law. The proposed revisions may also correct any typographical, grammatical, and formatting errors found through the regulation.

All required documents for this rulemaking can be found on the Commission website at: <https://www.colorado.gov/pacific/cdphe/aqcc>

#### **HEARING SCHEDULE:**

DATE: July 18, 2019  
TIME: 9:00 AM  
PLACE: Colorado Department of Public Health and Environment  
4300 Cherry Creek Drive South, Sabin Conference Room  
Denver, CO 80246

#### **PUBLIC COMMENT:**

This is a written comment only rulemaking hearing. The Commission encourages all interested persons to provide their views in writing prior to or at the hearing. The Commission encourages that written comments be submitted by **July 1, 2019** so that Commissioners have the opportunity to review the information prior to the hearing.

Electronic submissions are preferred and should be emailed to:  
[cdphe.aqcc-comments@state.co.us](mailto:cdphe.aqcc-comments@state.co.us)

Written submissions should be mailed to:  
Colorado Air Quality Control Commission  
Colorado Department of Public Health and Environment  
4300 Cherry Creek Drive South, EDO-AQCC-A5  
Denver, Colorado 80246

All submissions should include: your name, address, phone number, email address, and the name of the group that you are representing (if applicable).

**STATUTORY AUTHORITY FOR THE COMMISSION'S ACTIONS:**

The Colorado Air Pollution Prevention and Control Act, Sections 25-7-105(1)(b) and 25-7-109, C.R.S. authorize the Commission to adopt emission control regulations, including emission control regulations relating to new stationary sources, for the development of an effective air quality control program. Further, Section 25-7-106(6) authorizes the Commission to require testing, monitoring, and recordkeeping.

The rulemaking hearing will be conducted in accordance with Sections 24-4-103 and 25-7-110, 110.5 and 110.8 C.R.S., as applicable and amended, the Commission's Procedural Rules, and as otherwise stated in this notice. This list of statutory authority is not intended as an exhaustive list of the Commission's statutory authority to act in this matter.

Dated this 18th day of April 2019 at Denver, Colorado

Colorado Air Quality Control Commission

A handwritten signature in purple ink, appearing to read "Trisha Oeth", is written over a faint circular stamp.

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Trisha Oeth, Administrator

# Notice of Proposed Rulemaking

**Tracking number**

2019-00174

**Department**

1000 - Department of Public Health and Environment

**Agency**

1001 - Air Quality Control Commission

**CCR number**

5 CCR 1001-10

**Rule title**

REGULATION NUMBER 8 CONTROL OF HAZARDOUS AIR POLLUTANTS

## Rulemaking Hearing

**Date**

07/18/2019

**Time**

09:00 AM

**Location**

Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Sabin Conference Room

**Subjects and issues involved**

To consider revisions Regulation Number 8, Parts A and E (MACT Standards) to incorporate by reference changes the EPA made to its National Emission Standards for Hazardous Air Pollutants rules. The proposed revisions may also correct any typographical, grammatical, and formatting errors found through the regulation.

**Statutory authority**

Sections 25-7-105(1)(b) and 25-7-109(2)(h) and 109(4), 24-4-103 and 25-7-110, 110.5 and 110.8 C.R.S., as applicable and amended.

## Contact information

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**Title**

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## DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

### Air Quality Control Commission

#### REGULATION NUMBER 8

#### Control of Hazardous Air Pollutants

#### 5 CCR 1001-10

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

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### PART A Federal NESHAPs

#### I. Federal NESHAPs

The provisions of Part 61, Chapter I, Title 40, of the Code of Federal Regulations (CFR), promulgated by the U.S. Environmental Protection Agency listed in this section are hereby incorporated by reference by the Air Quality Control Commission and made a part of the Colorado Air Quality Control Commission Regulations. Materials incorporated by reference are those in existence as of the dates indicated and do not include later amendments. The material incorporated by reference is available for public inspection during regular business hours at the Office of the Commission, located at 4300 Cherry Creek Drive South, Denver, Colorado 80246. Parties wishing to inspect these materials should contact the Technical Secretary of the Commission, located at the Office of the Commission. The material incorporated by reference is also available through the United States Government Printing Office, online at [www.gpo.gov/fdsys](http://www.gpo.gov/fdsys).

All new sources of air pollution and all modified or reconstructed sources of air pollution shall comply with the standards, criteria, and requirements set forth herein. For the purpose of this regulation "Administrator" shall mean both the Administrator of the Environmental Protection Agency or his/her authorized representative and the Colorado Air Pollution Control Division.

Subpart A General Provisions 40 C.F.R. Part 61 (July 1, ~~2017~~2018).

Subpart B Repealed – Reserved for National Emission Standards for Radon Emissions from Underground Uranium Mines 40 C.F.R. Part 61.

Subpart C National Emission Standard for Beryllium 40 C.F.R. Part 61 (July 1, ~~2017~~2018).

Subpart D National Emission Standard for Beryllium Rocket Motor Firing 40 C.F.R. Part 61 (July 1, ~~2017~~2018).

Subpart E National Emission Standard for Mercury 40 C.F.R. Part 61 (July 1, ~~2017~~2018).

Subpart F National Emission Standard for Vinyl Chloride 40 C.F.R. Part 61 (July 1, ~~2017~~2018).

Subpart H Repealed – Reserved for National Emission Standards for Emissions of Radionuclides Other Than Radon From Department of Energy Facilities 40 C.F.R. Part 61.

Subpart J National Emission Standard for Equipment leaks (fugitive Emission sources) of Benzene 40 C.F.R. Part 61 (July 1, ~~2017~~2018).

Subpart K Repealed – Reserved for National Emission Standards for Radionuclide Emissions from Elemental Phosphorous Plants 40 C.F.R. Part 61.

Subpart L National Emission Standard for Benzene Emissions from Coke By-Product Recovery Plants 40 C.F.R. Part 61 (July 1, ~~2017~~2018).

Subpart N National Emission Standard for Inorganic Arsenic Emissions from Glass Manufacturing Plants 40 C.F.R. Part 61 (July 1, ~~2017~~2018).

Subpart O National Emission Standard for Inorganic Arsenic Emissions from Primary Copper Smelters 40 C.F.R. Part 61 (July 1, ~~2017~~2018).

Subpart P National Emission Standard for Inorganic Arsenic Emissions from Arsenic Trioxide and Metallic Arsenic Production Facilities 40 C.F.R. Part 61 (July 1, ~~2017~~2018).

Subpart Q Repealed – Reserved for National Emission Standards for Radon Emissions From Department of Energy Facilities 40 C.F.R. Part 61.

Subpart R Repealed – Reserved for National Emission Standards for Radon Emissions from Phosphogypsum Stacks, 40 C.F.R. Part 61.

Subpart T Repealed – Reserved for National Emission Standards for Radon Emissions from the Disposal of Uranium Mill Tailings 40 C.F.R. Part 61.

Subpart V National Emission Standard for Equipment Leaks (Fugitive Emission Sources) 40 C.F.R. Part 61 (July 1, ~~2017~~2018).

Subpart W Repealed – Reserved for National Emission Standards for Radon Emissions from Operating Mill Tailings 40 C.F.R. Part 61.

Subpart Y National Emission Standard for Benzene Emissions from Benzene Storage Vessels 40 C.F.R. Part 61 (July 1, ~~2017~~2018).

Subpart BB National Emission Standard for Benzene Emissions from Benzene Transfer Operations 40 C.F.R. Part 61 (July 1, ~~2017~~2018).

Subpart FF National Emission Standard for Benzene Waste Operations 40 C.F.R. Part 61 (July 1, ~~2017~~2018).

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## II. Statements of Basis, Specific Statutory Authority and Purpose for Part A

[II.Q. Adopted July 18, 2019](#)

[Incorporation by reference of federal standards in 40 C.F.R. Part 61 into Regulation Number 8, Part A.](#)

[Background](#)

[This Statement of Basis, Specific Statutory Authority, and Purpose complies with the requirements of the Colorado Administrative Procedures Act, C.R.S., Sections 24-4-103\(4\) and -103\(12.5\) for adopted or modified regulations, and with the requirements of regulations incorporated by reference; the Colorado Air Pollution Prevention and Control Act, Sections 25-7-](#)



### III. Federal Maximum Achievable Control Technology

The regulations promulgated by the U. S. Environmental Protection Agency listed in this section are hereby incorporated by reference by the Air Quality Control Commission and made a part of the Colorado Air Quality Control Commission Regulations. Materials incorporated by reference are those in existence as of the dates indicated and do not include later amendments. The material incorporated by reference is available for public inspection during regular business hours at the Office of the Commission, located at 4300 Cherry Creek Drive South, Denver, Colorado 80246, or may be examined at any state publications depository library. Parties wishing to inspect these materials should contact the Technical Secretary of the Commission, located at the Office of the Commission.

"Administrator" as used in the C. F. R. shall mean the Colorado Air Pollution Control Division.

Subpart F National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry, 40 C. F. R. Part 63, Subparts F (July 1, [20172018](#)).

Subpart G National Emission Standards for Organic Hazardous Air Pollutants From the Synthetic Organic Chemical Manufacturing Industry for Process Vents, Storage Vessels, Transfer Operations, and Wastewater, 40 C. F. R. Part 63, Subparts G (July 1, [20172018](#)).

Subpart H National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks, 40 C. F. R. Part 63, Subparts H (July 1, [20172018](#)).

Subpart I National Emission Standards for Organic Hazardous Air Pollutants for Certain Processes Subject to the Negotiated Regulation for Equipment Leaks, 40 C. F. R. Part 63, Subparts I (July 1, [20172018](#)).

Subpart J National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production, 40 C.F.R. Part 63, Subpart J (July 1, [20172018](#)).

Subpart M National Perchloroethylene Air Emission Standards for Dry Cleaning Facilities, 40 C. F. R. Part 63, Subpart M (July 1, [20172018](#)). The owner or operator of any source required pursuant to 40 C.F.R. Part 63, Subpart M to obtain a Regulation No. 3, Part C Operating Permit, if not a major source or located at a major source as that term is defined at 40 C.F.R. Part 70.2, is permanently exempted from submitting an application for such permit as of December 19, 2005 (70 FR 75319).

Subpart N National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks, 40 C.F.R. Part 63, Subpart N (July 1, [20172018](#)). The owner or operator of any source required pursuant to 40 C.F.R. Part 63, Subpart N to obtain a Regulation No. 3, Part C Operating Permit, if not a major source or located at a major source as that term is defined at 40 C.F.R. Part 70.2, is permanently exempted from submitting an application for such permit as of December 19, 2005 (70 FR 75319).

Subpart O National Emission Standards for Hazardous Air Pollutants for Ethylene Oxide Sterilization and Fumigation Operations, 40 C.F.R. Part 63, Subpart O (July 1, [20172018](#)). The owner or operator of any source required pursuant to 40 C.F.R. Part 63, Subpart O to obtain a Regulation No. 3, Part C Operating Permit, if not a major source or located at a major source as that term is defined at 40 C.F.R. Part 70.2, is permanently exempted from submitting an application for such permit as of December 19, 2005 (70 FR 75319).

- Subpart Q National Emissions Standards for Hazardous Air Pollutants for Industrial Process Cooling Towers, 40 C.F.R. Part 63, Subpart Q (July 1, [20172018](#)).
- Subpart R National Emission Standards for Hazardous Air Pollutants for Source Categories: Gasoline Distribution Facilities (Bulk Gasoline Terminals and Pipeline Breakout Stations), 40 C.F.R. Part 63, Subpart R (July 1, [20172018](#)).
- Subpart S National Emission Standards for Hazardous Air Pollutants for Source Category: Pulp and Paper Production, 40 C.F.R. Part 63, Subpart S (July 1, [20172018](#)).
- Subpart T National Emission Standards for Hazardous Air Pollutants: Halogenated Solvent Cleaning, 40 C.F.R. Part 63, Subpart T (July 1, [20172018](#)). The owner or operator of any source required pursuant to 40 C.F.R. Part 63, Subpart T to obtain a Regulation No. 3, Part C Operating Permit, if not a major source or located at a major source as that term is defined at 40 C.F.R. Part 70.2, is permanently exempted from submitting an application for such permit as of December 19, 2005 (70 FR 75319).
- Subpart U National Emission Standards for Hazardous Air Pollutants: Group 1 Polymers and Resins, 40 C.F.R. Part 63, Subpart U (July 1, [20172018](#)).
- Subpart W National Emissions Standards for Hazardous Air Pollutants: Epoxy Resins Production and Non-Nylon Polyamides Production, 40 C.F.R. Part 63, Subpart W (July 1, [20172018](#)).
- Subpart X National Emissions Standards for Hazardous Air Pollutants from Secondary Lead Smelting, 40 C.F.R. Part 63, Subpart X (July 1, [20172018](#)). The owner or operator of any source required pursuant to 40 C.F.R. Part 63, Subpart X to obtain a Regulation No. 3, Part C Operating Permit, if not a major source or located at a major source as that term is defined at 40 C.F.R. Part 70.2, is deferred from submitting an application for such permit until December 9, 2005.
- Subpart AA National Emission Standards for Hazardous Air Pollutants for Source Category: Phosphoric Acid Manufacturing, 40 C.F.R. Part 63, Subpart AA (July 1, [20172018](#)).
- Subpart BB National Emission Standards for Hazardous Air Pollutants for Phosphate Fertilizers Production, 40 C.F.R. Part 63, Subpart BB (July 1, [20172018](#)).
- Subpart CC National Emission Standards for Hazardous Air Pollutants: Petroleum Refineries, 40 C.F.R. Part 63, Subpart CC (July 1, [20172018](#)), [as amended November 26, 2018 \(83 FR 60696\)](#).
- Subpart DD National Emission Standards for Hazardous Air Pollutants: Off-Site Waste and Recovery Operations, 40 C.F.R. Part 63, Subpart DD (July 1, [20172018](#)), ~~[as amended January 29, 2018 \(83 FR 3986\)](#)~~.
- Subpart EE National Emission Standards for Hazardous Air Pollutants Final Standards for Hazardous Air Pollutant Emissions from Magnetic Tape Manufacturing Operations, 40 C.F.R. Part 63, Subpart EE (July 1, [20172018](#)).
- Subpart GG National Emission Standards for Hazardous Air Pollutants for Source Categories: Aerospace Manufacturing and Rework Facilities, 40 C.F.R. Part 63, Subpart GG (July 1, [20172018](#)).

Subpart HH National Emission Standards for Hazardous Air Pollutants for Source Category: Oil and Natural Gas Production and Natural Gas Transmission and Storage, 40 C.F.R. Part 63, Subparts HH (July 1, [20172018](#)).

Subpart II National Emission Standards for Hazardous Air Pollutants: Shipbuilding and Ship Repair, 40 C.F.R. Part 63, Subpart II (July 1, [20172018](#)).

Subpart JJ National Emission Standards for Hazardous Air Pollutants: Wood Furniture Manufacturing Operations, 40 C.F.R. Part 63, Subpart JJ (July 1, [20172018](#)).

Subpart KK National Emission Standards for Hazardous Air Pollutants: Printing and Publishing Industry, 40 C.F.R. Part 63, Subpart KK (July 1, [20172018](#)).

Subpart LL National Emission Standards for Hazardous Air Pollutants for Source Category: Primary Aluminum Reduction Plants, 40 C.F.R. Part 63, Subpart LL (July 1, [20172018](#)).

Subpart MM National Emission Standards for Hazardous Air Pollutants for Source Category: Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-alone Semi-chemical Pulp Mills, 40 C.F.R. Part 63, Subpart MM (July 1, [20172018](#)), ~~as amended October 11, 2017 (82 FR 47328)~~.

Subpart OO National Emission Standards for Tanks - Level 1, 40 C.F.R., Part 63, Subpart OO (July 1, [20172018](#)).

Subpart PP National Emission Standards for Containers, 40 C.F.R., Part 63, Subpart PP (July 1, [20172018](#)).

Subpart XX National Emission Standards for Ethylene Manufacturing Process Units: Heat Exchange Systems and Waste Operations, 40 C.F.R. Part 63, Subpart XX (July 1, [20172018](#)).

Subpart YY National Emission Standards for Hazardous Air Pollutants for Source Category: Generic Maximum Achievable Control Technology Standard for Acetal Resins Production, Acrylic and Modacrylic Fiber Production, Hydrogen Fluoride Production, and Polycarbonate(s) Production, 40 C.F.R. Part 63, Subpart YY (July 1, [20172018](#)).

Subpart CCC National Emission Standards for Hazardous Air Pollutants for Source Category: Steel Pickling-HCL Process Facilities and Hydrochloric Acid Regeneration Plants, 40 C.F.R. Part 63, Subpart CCC (July 1, [20172018](#)).

Subpart DDD National Emission Standards for Hazardous Air Pollutants for Source Category: Mineral Wool Production, 40 C.F.R. Part 63, Subpart DDD (July 1, [20172018](#)).

Subpart EEE National Emission Standards for Hazardous Air Pollutants for Source Category: Hazardous Waste Combustors, 40 C.F.R. Part 63, Subpart EEE (July 1, [20172018](#)).

Subpart GGG National Emission Standards for Hazardous Air Pollutants for Source Category: Pharmaceuticals Production, 40 C.F.R. Part 63, Subpart GGG (July 1, [20172018](#)).

Subpart HHH National Emission Standards for Hazardous Air Pollutants for Source Category: Oil and Natural Gas Production and Natural Gas Transmission and Storage, 40 C.F.R. Part 63, Subparts HHH (July 1, [20172018](#)).

Subpart III National Emission Standards for Hazardous Air Pollutants for Source Category: Flexible Polyurethane Foam Production, 40 C.F.R. Part 63, Subpart III (July 1, ~~2017~~2018).

Subpart JJJ National Emission Standards for Hazardous Air Pollutants: Group IV Polymers and Resins, 40 C.F.R. Part 63, Subpart JJJ (July 1, ~~2017~~2018).

Subpart LLL National Emission Standards for Hazardous Air Pollutants for Source Category: Portland Cement Manufacturing, 40 C.F.R. Part 63, Subpart LLL (July 1, ~~2017~~2018), as amended ~~August 22, 2017 (82 FR 39671)~~, July 25, 2018 (83 FR 35122).

Subpart MMM National Emission Standards for Hazardous Air Pollutants for Source Category: Pesticide Active Ingredient Production, 40 C.F.R. Part 63, Subpart MMM (July 1, ~~2017~~2018).

Subpart NNN National Emission Standards for Hazardous Air Pollutants for Source Category: Wool Fiberglass Manufacturing, 40 C.F.R. Part 63, Subpart NNN (July 1, ~~2017~~2018), as amended ~~December 26, 2017 (82 FR 60873)~~.

Subpart OOO National Emission Standards for Hazardous Air Pollutants for Source Category: Amino/Phenolic Resins Production, 40 C.F.R. Part 63, Subpart OOO (July 1, ~~2017~~2018).

Subpart PPP National Emission Standards for Hazardous Air Pollutants for Source Category: Polyether Polyols Production, 40 C.F.R. Part 63, Subpart PPP (July 1, ~~2017~~2018).

Subpart QQQ National Emission Standards for Hazardous Air Pollutants for Primary Copper, 40 C.F.R. Part 63, Subpart QQQ (July 1, ~~2017~~2018).

Subpart RRR National Emission Standards for Hazardous Air Pollutants for Source Category: Secondary Aluminum Production, 40 C.F.R. Part 63, Subpart RRR (July 1, 2007). The owner or operator of any source required pursuant to 40 C.F.R. Part 63, Subpart RRR to obtain a Regulation No. 3., Part C Operating Permit, if not a major source or located at a major source as that term is defined at 40 C.F.R. Part 70.2, is permanently exempted from submitting an application for such permit as of December 19, 2005 (70 FR 75319).

Subpart TTT National Emission Standards for Hazardous Air Pollutants for Source Category: Primary Lead Smelting, 40 C.F.R. Part 63, Subpart TTT (July 1, ~~2017~~2018).

Subpart UUU National Emission Standards for Hazardous Air Pollutants for Catalytic Cracking Units, Catalytic Reforming Units and Sulfur Plants at Petroleum Refineries, 40 C.F.R. Part 63, Subpart UUU (July 1, ~~2017~~2018).

Subpart VVV National Emission Standards for Hazardous Air Pollutants for Source Category: Publicly Owned Treatment Works, 40 C.F.R. Part 63, Subpart VVV (July 1, ~~2017~~2018), as amended ~~October 26, 2017 (82 FR 49513)~~.

Subpart XXX National Emission Standards for Hazardous Air Pollutants for Source Category: Ferroalloys Production: Ferromanganese and Silicomanganese, 40 C.F.R. Part 63, Subpart XXX (July 1, ~~2017~~2018).

Subpart AAAA National Emission Standards for Hazardous Air Pollutants for Municipal Solid Waste Landfills, 40 C.F.R. Part 63, Subpart AAAA (July 1, ~~2017~~2018).



Subpart CCCC National Emission Standards for Hazardous Air Pollutants for Source Category: Manufacturing of Nutritional Yeast, 40 C.F.R. Part 63, Subpart CCCC (July 1, ~~2017~~2018), ~~as amended October 16, 2017 (82 FR 48156)~~.

Subpart DDDD National Emissions Standards for Hazardous Air Pollutants: Plywood and Composite Wood Products, 40 C.F.R. Part 63, Subpart DDDD (July 1, ~~2017~~2018).

Subpart EEEE National Emissions Standards for Hazardous Air Pollutants: Organic Liquids Distribution (Non-Gasoline), 40 C.F.R. Part 63, Subpart EEEE (July 1, ~~2017~~2018).

Subpart FFFF National Emissions Standards for Hazardous Air Pollutants: Miscellaneous Organic Chemical Manufacturing, 40 C.F.R. Part 63, Subpart FFFF (July 1, ~~2017~~2018).

Subpart GGGG National Emission Standards for Hazardous Air Pollutants for Source Category: Solvent Extraction for Vegetable Oil Production, 40 C.F.R. Part 63, Subpart GGGG (July 1, ~~2017~~2018).

Subpart HHHH National Emission Standards for Hazardous Air Pollutants for Wet Formed Fiberglass Mat Production, 40 C.F.R. Part 63, Subpart HHHH (July 1, ~~2017~~2018), ~~as amended February 28, 2019 (84 FR 6676)~~.

Subpart IIII National Emissions Standards for Hazardous Air Pollutants: Surface Coating of Automobiles and Light-Duty Trucks, 40 C.F.R. Part 63, Subpart IIII (July 1, ~~2017~~2018).

Subpart JJJJ National Emission Standards for Hazardous Air Pollutants for Paper and Other Web Coating, 40 C.F.R. Part 63, Subpart JJJJ (July 1, ~~2017~~2018).

Subpart KKKK National Emissions Standards for Hazardous Air Pollutants: Surface Coating of Metal Cans, 40 C.F.R. Part 63, Subpart KKKK (July 1, ~~2017~~2018).

Subpart MMMM National Emissions Standards for Hazardous Air Pollutants: Surface Coating of Miscellaneous Metal Parts and Products, 40 C.F.R. Part 63, Subpart MMMM (July 1, ~~2017~~2018).

Subpart NNNN National Emission Standards for Hazardous Air Pollutants for Large Appliance Manufacturing, 40 C.F.R. Part 63, Subpart NNNN (July 1, ~~2017~~2018).

Subpart OOOO National Emission Standards for Hazardous Air Pollutants for Printing, Coating, and Dyeing of Fabrics and Other Textiles, 40 C.F.R. Part 63, Subpart OOOO (July 1, ~~2017~~2018).

Subpart PPPP National Emissions Standards for Hazardous Air Pollutants: Surface Coating of Plastic Parts and Products, 40 C.F.R. Part 63, Subpart PPPP (July 1, ~~2017~~2018).

Subpart QQQQ National Emission Standards for Hazardous Air Pollutants for Surface Coating of Wood Building Products, 40 C.F.R. Part 63, Subpart QQQQ (July 1, ~~2017~~2018), ~~as amended March 4, 2019 (84 FR 7682)~~.

Subpart RRRR National Emission Standards for Hazardous Air Pollutants for Surface Coating of Metal Furniture, 40 C.F.R. Part 63, Subpart RRRR (July 1, ~~2017~~2018).

Subpart SSSS National Emission Standards for Hazardous Air Pollutants for Surface Coating of Metal Coil, 40 C.F.R. Part 63, Subpart SSSS (July 1, ~~2017~~2018).



Subpart TTTT National Emission Standards for Hazardous Air Pollutants for Leather Finishing Operations, 40 C.F.R. Part 63, Subpart TTTT (July 1, [20172018](#)).

Subpart UUUU National Emission Standards for Hazardous Air Pollutants for Cellulose Production Manufacturing, 40 C.F.R. Part 63, Subpart UUUU (July 1, [20172018](#)).

Subpart VVVV National Emission Standards for Hazardous Air Pollutants for Boat Manufacturing, 40 C.F.R. Part 63, Subpart VVVV (July 1, [20172018](#)).

Subpart WWWW National Emission Standards for Hazardous Air Pollutants for Reinforced Plastic Composites Production, 40 C.F.R. Part 63, Subpart WWWW (July 1, [20172018](#)).

Subpart XXXX National Emission Standards for Hazardous Air Pollutants for Tire Manufacturing, 40 C.F.R. Part 63, Subpart XXXX (July 1, [20172018](#)).

Subpart YYYY National Emissions Standards for Hazardous Air Pollutants for Stationary Combustion Turbines, 40 C.F.R. Part 63, Subpart YYYY (July 1, [20172018](#)).

Subpart ZZZZ National Emissions Standards for Hazardous Air Pollutants for Stationary Reciprocating Internal Combustion Engines, 40 C.F.R. Part 63, Subpart ZZZZ (July 1, 2007).

Subpart AAAAA National Emissions Standards for Hazardous Air Pollutants for Lime Manufacturing Plants, 40 C.F.R. Part 63, Subpart AAAAA (July 1, [20172018](#)).

Subpart BBBB National Emission Standards for Hazardous Air Pollutants for Semiconductor Manufacturing, 40 C.F.R. Part 63, Subpart BBBB (July 1, [20172018](#)).

Subpart CCCCC National Emission Standards for Hazardous Air Pollutants for Coke Ovens: Pushing, Quenching, and Battery Stacks, 40 C.F.R. Part 63, Subpart CCCCC (July 1, [20172018](#)).

Subpart DDDDD National Emission Standards for Hazardous Air Pollutants for Major Sources: Industrial, Commercial, and Institutional Boilers and Process Heaters, 40 C.F.R. Part 63, Subpart DDDDD (July 1, [20172018](#)).

Subpart EEEEE National Emissions Standards for Hazardous Air Pollutants for Iron and Steel Foundries, 40 C.F.R. Part 63, Subpart EEEEE (July 1, [20172018](#)).

Subpart FFFFF National Emission Standards for Hazardous Air Pollutants for Integrated Iron and Steel Manufacturing, 40 C.F.R. Part 63, Subpart FFFFF (July 1, [20172018](#)).

Subpart GGGGG National Emission Standards for Hazardous Air Pollutants: Site Remediation, 40 C.F.R. Part 63, Subpart GGGGG (July 1, [20172018](#)).

Subpart HHHHH National Emissions Standards for Hazardous Air Pollutants: Miscellaneous Coating Manufacturing, 40 C.F.R. Part 63, Subpart HHHHH (July 1, [20172018](#)).

Subpart IIIII National Emissions Standards for Hazardous Air Pollutants: Mercury Emissions from Mercury Cell Chlor-Alkali Plants, 40 C.F.R. Part 63, Subpart IIIII (July 1, [20172018](#)).

Subpart JJJJJ National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Manufacturing, 40 C.F.R. Part 63, Subpart JJJJJ (July 1, [20172018](#)).

Subpart KKKKK National Emission Standards for Hazardous Air Pollutants for Clay Ceramics Manufacturing, 40 C.F.R. Part 63, Subpart KKKKK (July 1, [20172018](#)).

Subpart LLLLL National Emission Standards for Hazardous Air Pollutants for Asphalt Processing and Asphalt Roofing Manufacturing, 40 C.F.R. Part 63, Subpart LLLLL (July 1, [20172018](#)).

Subpart MMMMM National Emission Standards for Hazardous Air Pollutants for Flexible Polyurethane Foam Fabrication, 40 C.F.R. Part 63, Subpart MMMMM (July 1, [20172018](#)).

Subpart NNNNN National Emission Standards for Hazardous Air Pollutants for Hydrochloric Acid Production, 40 C.F.R. Part 63, Subpart NNNNN (July 1, [20172018](#)).

Subpart PPPPP National Emission Standards for Hazardous Air Pollutants for Engine Test Cells/Standards, 40 C.F.R. Part 63, Subpart PPPPP (July 1, [20172018](#)).

Subpart QQQQQ National Emission Standards for Hazardous Air Pollutants for Friction Materials Manufacturing Facilities, 40 C.F.R. Part 63, Subpart QQQQQ (July 1, [20172018](#)), as amended February 2, 2019 ([84 FR 2742](#)).

Subpart RRRRR National Emission Standards for Hazardous Air Pollutants: Taconite Iron Ore Processing, 40 C.F.R. Part 63, Subpart RRRRR (July 1, [20172018](#)).

Subpart SSSSS National Emission Standards for Hazardous Air Pollutants for Refractory Products Manufacturing, 40 C.F.R. Part 63, Subpart SSSSS (July 1, [20172018](#)).

Subpart TTTTT National Emissions Standards for Hazardous Air Pollutants for Primary Magnesium Refining, 40 C.F.R. Part 63, Subpart TTTTT (July 1, [20172018](#)).

Subpart UUUUU National Emission Standards for Hazardous Air Pollutants: Coal- and Oil-Fired Electric Utility Steam Generating Units, 40 C.F.R. Part 63, Subpart UUUUU (July 1, [20172018](#)).

(See Regulation Number 6, Part A, Subpart Da and Part B, Section VIII. for additional requirements regarding Electric Utility Steam Generating Units)

Subpart WWWW National Emission Standards for Hospital Ethylene Oxide Sterilizers, 40 C.F.R. Part 63, Subpart WWWW (July 1, [20172018](#)).

Subpart YYYYY National Emission Standards for Hazardous Air Pollutants for Area Sources: Electric Arc Furnace Steelmaking Facilities, 40 C.F.R. Part 63, Subpart YYYYY (July 1, [20172018](#)).

Subpart ZZZZ National Emission Standards for Hazardous Air Pollutants for Iron and Steel Foundries Area Sources, 40 C.F.R. Part 63, Subpart ZZZZ (July 1, [20172018](#)).

Subpart DDDDD National Emission Standards for Hazardous Air Pollutants for Polyvinyl Chloride and Copolymers Production Area Sources, 40 C.F.R. Part 63, Subpart DDDDD (July 1, [20172018](#)).

Subpart EEEEE National Emission Standards for Hazardous Air Pollutants for Primary Copper Smelting Area Sources, 40 C.F.R. Part 63, Subpart EEEEE (July 1, [20172018](#)).



Incorporation by reference of federal rules and amendments to federal standards in 40 C.F.R. Part 63 into Regulation Number 8, Part E.

This Statement of Basis, Specific Statutory Authority, and Purpose complies with the requirements of the Colorado Administrative Procedure Act Sections 24-4-103, C.R.S. and the Colorado Air Pollution Prevention and Control Act Sections 25-7-110 and 25-7-110.5, C.R.S., and the Air Quality Control Commission's ("Commission") Procedural Rules.

#### Basis

The EPA promulgated new standards in 40 C.F.R. Part 63, Subparts CC, DD, LLL, UUU, HHHH, QQQQ, and QQQQQ. The State of Colorado is required under Section 112 of the Clean Air Act to adopt such revisions and new standards into its regulations.

#### Authority

Sections 25-7-105(1)(b) and 25-7-109(2)(h) and 25-7-109(4), C.R.S. authorize the Commission to adopt emission control regulations and emission control regulations relating to hazardous air pollutants, respectively.

#### Purpose

Adoption of the federal rules and amendments to federal standards in 40 C.F.R. Part 63, Subparts CC, DD, LLL, UUU, HHHH, QQQQ, and QQQQQ make these rules and revisions enforceable under Colorado law.

Further, these revisions may correct typographical, grammatical, and formatting errors throughout the regulation.



## COLORADO

### Air Quality Control Commission

Department of Public Health & Environment

## NOTICE OF WRITTEN COMMENT ONLY RULEMAKING HEARING

Regarding proposed revisions to:

### Regulation Number 8, Parts A and E

#### **SUBJECT:**

The Air Quality Control Commission will hold a rulemaking hearing to consider revisions Regulation Number 8, Parts A and E (MACT Standards) to incorporate by reference changes the EPA made to its National Emission Standards for Hazardous Air Pollutants rules. The proposed revisions may also correct any typographical, grammatical, and formatting errors found through the regulation.

All required documents for this rulemaking can be found on the Commission website at: <https://www.colorado.gov/pacific/cdphe/aqcc>

#### **HEARING SCHEDULE:**

DATE: July 18, 2019  
TIME: 9:00 AM  
PLACE: Colorado Department of Public Health and Environment  
4300 Cherry Creek Drive South, Sabin Conference Room  
Denver, CO 80246

#### **PUBLIC COMMENT:**

This is a written comment only rulemaking hearing. The Commission encourages all interested persons to provide their views in writing prior to or at the hearing. The Commission encourages that written comments be submitted by **July 1, 2019** so that Commissioners have the opportunity to review the information prior to the hearing.

Electronic submissions are preferred and should be emailed to:

[cdphe.aqcc-comments@state.co.us](mailto:cdphe.aqcc-comments@state.co.us)

Written submissions should be mailed to:

Colorado Air Quality Control Commission  
Colorado Department of Public Health and Environment  
4300 Cherry Creek Drive South, EDO-AQCC-A5  
Denver, Colorado 80246

All submissions should include: your name, address, phone number, email address, and the name of the group that you are representing (if applicable).

**STATUTORY AUTHORITY FOR THE COMMISSION'S ACTIONS:**

Sections 25-7-105(1)(b) and 25-7-109(2)(h) and 109(4), C.R.S. authorize the Commission to adopt emission control regulations and emission control regulations relating to hazardous air pollutants, specifically.

The rulemaking hearing will be conducted in accordance with Sections 24-4-103 and 25-7-110, 110.5 and 110.8 C.R.S., as applicable and amended, the Commission's Procedural Rules, and as otherwise stated in this notice. This list of statutory authority is not intended as an exhaustive list of the Commission's statutory authority to act in this matter.

Dated this 18th day of April 2019 at Denver, Colorado

Colorado Air Quality Control Commission



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Trisha Oeth, Administrator

# Notice of Proposed Rulemaking

**Tracking number**

2019-00175

**Department**

1000 - Department of Public Health and Environment

**Agency**

1001 - Air Quality Control Commission

**CCR number**

5 CCR 1001-25

**Rule title**

Control of Volatile Organic Compounds from Consumer Products and Architectural and Industrial Maintenance Coatings

**Rulemaking Hearing****Date**

07/18/2019

**Time**

09:00 AM

**Location**

Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Sabin Conference Room

**Subjects and issues involved**

To consider a new Regulation Number 21 to limit the volatile organic compound (VOC) content in consumer products and architectural and industrial maintenance (AIM) coatings manufactured or sold in Colorado.

**Statutory authority**

Sections 25-7-105(1)(a), 25-7-201 through 25-7-206, 25-7-210, 25-7-301, and 25-7-302, 105(1)(b) and 109, 24-4-103 and 25-7-110, 110.5 and 110.8 C.R.S., as applicable and amended.

**Contact information****Name**

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**Title**

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## DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

### Air Quality Control Commission

#### REGULATION NUMBER 21

#### Control of Volatile Organic Compounds from Consumer Products and Architectural and Industrial Maintenance Coatings

##### 5 CCR 1001-25

[Editor's Notes follow the text of the rules at the end of this CCR Document.]

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#### Outline of Regulation

##### I. Applicability

##### II. Consumer Products

##### III. Architectural and Industrial Maintenance Coatings

##### IV. Definitions

##### V. Statements of Basis, Specific Statutory Authority, and Purpose

Pursuant to Colorado Revised Statutes Section 24-4-103(12.5), materials incorporated by reference are available for public inspection during normal business hours or copies may be obtained at a reasonable cost from the Air Quality Control Commission (Commission), 4300 Cherry Creek Drive South, Denver, Colorado 80246-1530. The material incorporated by reference may also be available through the United States Government Printing Office, online at [www.govinfo.gov](http://www.govinfo.gov). Materials incorporated by reference are those editions in existence as of the date indicated and do not include any later amendments.

#### I. **APPLICABILITY**

I.A. This regulation applies to any person who sells, supplies, offers for sale, distributes for sale, or manufactures for sale consumer products; any person who supplies, sells, offers for sale, or manufactures any architectural or industrial maintenance coating; and any person who applies or solicits the application of any architectural or industrial maintenance coating in:

I.A.1. The 8-hour Ozone Control Area.

I.A.2. (State Only) Colorado. As marked by (State Only), the requirements are not federally enforceable.

#### II. **CONSUMER PRODUCTS**

##### II.A. Applicability

II.A.1. Except as provided in Section II.A.2., this section applies to any person who sells, supplies, offers for sale, distributes for sale, or manufactures for sale consumer products in Colorado.



II.A.2. This Section II. does not apply to

II.A.2.a. Consumer products manufactured in Colorado solely for shipment and use outside of Colorado.

II.A.2.b. Consumer products that have been granted an Innovative Product exemption by the California Air Resources Board (CARB) under the Innovative Products provisions in Subchapter 8.5, Article 2, Section 94511 (October 20, 2010) or Subchapter 8.5, Article 1, Section 94503.5 (March 30, 1996) of Title 17 of the California Code of Regulations are exempt from the VOC content limits in Table 1 for the period of time during which the CARB Innovative Products exemption remains in effect.

II.A.2.c. Consumer products that have been granted an Alternative Control Plan (ACP) by the CARB under the provisions in Subchapter 8.5, Article 4, Sections 94540-94555 (February 15, 2019) of Title 17 of the California Code of Regulations are exempt from the VOC content limits in Table 1 for the period of time during which the CARB ACP agreement remains in effect.

II.B. Standards

II.B.1. On or after May 1, 2020, no person can manufacture for sale in Colorado any consumer product with a VOC content in excess of the VOC limit specified in Table 1.

II.B.2. No person can sell, supply, offer for sale, or distribute for sale in Colorado any consumer product manufactured on or after May 1, 2020, with a VOC content in excess of the VOC limit specified in Table 1.

II.B.3. On or after May 1, 202, no person can manufacture for sale in Colorado any consumer product registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA; 7 USC Section 136-136y (1996)) in excess of the VOC content limits in Table 1.

II.B.4. No person can sell, supply, offer for sale, or distribute for sale in Colorado any consumer product registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA; 7 USC Section 136-136y (1996)) and manufactured on or after May 1, 2021, with a VOC content in excess of the VOC content limits in Table 1.

II.B.5. Effective May 1, 2020, and until May 1, 2021, no person can manufacture for sale, sell, supply, or offer for sale any flammable or extremely flammable, as labeled or meeting the criteria in Title 16 CFR Section 1500.3(c)(6) (February 27, 2018), paint thinner or multi-purpose solvent labeled as a clean-up solvent or paint clean-up product unless the product is clearly and prominently labeled with:

II.B.5.a. "DANGER," "WARNING," or "CAUTION" and "Formulated to meet California VOC limits; see warnings on label"; or

II.B.5.b. The common name of the chemical compound (e.g., acetone, methyl acetate, etc) that results in the product meeting the criteria for flammable or extremely flammable.

II.B.6. Charcoal lighter material products must be issued a certification in accordance with Subchapter 8.5, Article 2, Section 94509(h) (January 1, 2019) of Title 17 of the California Code of Regulations.

II.B.7. For consumer products for which the label, packaging, or accompanying literature specifically states that the product should be diluted with water or non-VOC solvent prior to use, the limits specified in Table 1 apply to the product only after the minimum recommended dilution has taken place. For purposes of this section, "minimum recommended dilution" does not include recommendations for incidental use of a concentrated product to deal with limited special applications such as hard to remove soils or stains.

II.B.8. For consumer products for which the label, packaging, or accompanying literature states that the product should be diluted with any VOC solvent prior to use, the limits specified in Table 1 apply to the product only after the maximum recommended dilution has taken place.

II.B.9. For consumer products for which the label, packaging, or accompanying literature indicates that the product may be used, or is suitable for use, as a consumer product for which a lower VOC limit is specified in Table 1, then the lowest VOC limit applies. Aerosol lawn and garden insecticides may claim to kill insects or other arthropods. This requirement does not apply to general purpose cleaners, antiperspirant/deodorant products, or insecticide foggers.

II.B.10. Consumer products specified in Table 1 cannot contain any of the following:

II.B.10.a. CFC-11 (trichlorofluoromethane).

II.B.10.b. CFC-12 (dichlorodifluoromethane).

II.B.10.c. CFC-113 (1,1,1-trichloro-2,2,2-trifluoroethane).

II.B.10.d. CFC-114 (1-chloro-1,1-difluoro-2-chloro-2,2-difluoroethane).

II.B.10.e. CFC-115 (chloropentafluoroethane).

II.B.10.f. Halon 1211 (bromochlorodifluoromethane).

II.B.10.g. Halon 1301 (bromotrifluoromethane).

II.B.10.h. Halon 2402 (dibromotetrafluoroethane).

II.B.10.i. HCFC-22 (chlorodifluoromethane).

II.B.10.j. HCFC-123 (2,2-dichloro-1,1,1-trifluoroethane).

II.B.10.k. HCFC-124 (2-chloro-1,1,1,2-tetrafluoroethane).

II.B.10.l. HCFC-141b (1,1-dichloro-1-fluoroethane).

II.B.10.m. HCFC-142b (1-chloro-1,1-difluoroethane).

II.B.10.n. 1,1,1-trichloroethane.

II.B.10.o. Carbon tetrachloride.

II.B.11. The following consumer products cannot contain trichloroethylene in a combined amount greater than 0.01 percent by weight (i.e., an impurity):

- II.B.11.a. Adhesive removers.
- II.B.11.b. Aerosol adhesives.
- II.B.11.c. Bathroom and tile cleaners.
- II.B.11.d. Contact adhesives.
- II.B.11.e. Construction, panel, floor covering adhesives.
- II.B.11.f. Electrical cleaners.
- II.B.11.g. Electronic cleaners.
- II.B.11.h. Electronic cleaners labeled as energized electronic equipment use only.
- II.B.11.i. Footwear or leather care products.
- II.B.11.j. General purpose cleaners.
- II.B.11.k. General purpose degreasers.
- II.B.11.l. Graffiti removers.
- II.B.11.m. Multi-purpose solvent.
- II.B.11.n. Oven or grill cleaners.
- II.B.11.o. Paint thinners.

II.B.12. The medium volatility organic compound (MVOC) content specified for antiperspirants or deodorants does not apply to ethanol.

II.B.13. Paint thinners and multi-purpose solvents cannot contain greater than one percent (1%) aromatic compound content by weight.

II.B.14. The VOC content limits in Table 1 do not apply to:

- II.B.14.a. Any LVP-VOC.
- II.B.14.b. Fragrances up to a combined level of 2 percent by weight.
- II.B.14.c. Colorants up to a combined level of 2 percent by weight in any antiperspirant or deodorant.
- II.B.14.d. VOCs in antiperspirants or deodorants that contain more than 10 carbon atoms per molecule and for which the vapor pressure is unknown or 2 mm Hg or less at 20°C.
- II.B.14.e. Air fresheners that are comprised entirely of fragrance, less compounds exempt from the definition of VOC.
- II.B.14.f. Adhesives sold in containers of 1 fluid ounce or less.

II.B.14.g. Bait station insecticides designed to be ingested by insects, composed of solid material feeding stimulants with less than 5 percent active ingredients, and in containers less than or equal to 0.5 ounce by weight.

II.B.14.h. Solid air fresheners, insecticides, and toilet/urinal care products containing at least 98% para-dichlorobenzene.

<u>Table 1 – VOC content limits for consumer products manufactured on or after May 1, 2020</u>	
<u>Product category</u>	<u>VOC content limit (percent VOCs by weight)</u>
<b><u>Adhesive removers</u></b>	
<u>* Floor or wall covering</u>	<u>5</u>
<u>* Gasket or thread locking</u>	<u>50</u>
<u>* General purpose</u>	<u>20</u>
<u>* Specialty</u>	<u>70</u>
<b><u>Adhesives</u></b>	
<u>* Aerosol mist spray</u>	<u>65</u>
<u>* Aerosol web spray</u>	<u>55</u>
<u>* Specialty purpose spray adhesive – mounting, automotive engine compartment, and flexible vinyl</u>	<u>70</u>
<u>* Specialty purpose spray adhesive – polystyrene foam and automotive headliner</u>	<u>65</u>
<u>* Specialty purpose spray adhesive – polyolefin and laminate repair/edgebanding</u>	<u>60</u>
<u>* Construction, panel, and floor covering contact</u>	<u>7</u>
<u>* Contact general purpose</u>	<u>80</u>
<u>* Contact special purpose</u>	<u>55</u>
<u>* General purpose</u>	<u>10</u>
<u>* Structural waterproof</u>	<u>15</u>

<b><u>Air fresheners</u></b>	
* <u>Single-phase aerosol</u>	<u>30</u>
* <u>Double-phase aerosol</u>	<u>25</u>
* <u>Dual purpose air freshener/disinfectant aerosol</u>	<u>60</u>
* <u>Liquid/pump sprays</u>	<u>18</u>
* <u>Solids/semisolids</u>	<u>3</u>
<b><u>Antiperspirants</u></b>	
* <u>Aerosol</u>	<u>40 HVOC, 10 MVOC</u>
* <u>Non-aerosol</u>	<u>0 HVOC, 0 MVOC</u>
<b><u>Anti-static product</u></b>	
* <u>Aerosol</u>	<u>80</u>
* <u>Non-aerosol</u>	<u>11</u>
<u>Automotive rubbing and polishing compound</u>	<u>17</u>
<b><u>Automotive wax, polish, sealant, or glaze</u></b>	
* <u>Hard paste waxes</u>	<u>45</u>
* <u>Instant detailers</u>	<u>3</u>
* <u>All other forms</u>	<u>15</u>
<u>Automotive windshield cleaner</u>	<u>35</u>
<u>Automotive windshield washer fluids</u>	<u>35</u>
<b><u>Bathroom and tile cleaners</u></b>	
* <u>Aerosol</u>	<u>5</u>
* <u>Non-aerosol</u>	
* <u>All other forms</u>	<u>1</u>
<u>Brake cleaner</u>	<u>10</u>
<u>Bug and tar remover</u>	<u>10</u>

<u>Carburetor or fuel-injection air intake cleaners</u>	<u>10</u>
<b><u>Carpet and upholstery cleaners</u></b>	
<u>* Aerosol</u>	<u>7</u>
<u>* Non-aerosol (dilutables)</u>	<u>0.1</u>
<u>* Non-aerosol (ready-to-use)</u>	<u>3</u>
<u>Charcoal lighter material</u>	<u>See Section II.B.6.</u>
<u>Cooking spray, aerosol</u>	<u>18</u>
<b><u>Deodorants</u></b>	
<u>* Aerosol</u>	<u>0 HVOC, 10 MVOC</u>
<u>* Non-aerosol</u>	<u>0 HVOC, 0 MVOC</u>
<b><u>Disinfectant</u></b>	
<u>* Aerosol</u>	<u>70</u>
<u>* Non-aerosol</u>	<u>1</u>
<b><u>Dusting aids</u></b>	
<u>* Aerosol</u>	<u>25</u>
<u>* Non-aerosol</u>	<u>7</u>
<u>Electrical cleaner</u>	<u>45</u>
<u>Electronic cleaner</u>	<u>75</u>
<b><u>Engine degreasers</u></b>	
<u>* Aerosol</u>	<u>10</u>
<u>* Non-aerosol</u>	<u>5</u>
<u>Fabric protectants</u>	<u>60</u>
<b><u>Fabric refresher</u></b>	
<u>* Aerosol</u>	<u>15</u>
<u>* Non-aerosol</u>	<u>6</u>
<b><u>Floor polishes or waxes</u></b>	

* <u>Resilient flooring materials</u>	<u>1</u>
* <u>Non-resilient flooring materials</u>	<u>1</u>
* <u>Wood floor wax</u>	<u>90</u>
<b><u>Footwear or leather care products</u></b>	
* <u>Aerosol</u>	<u>75</u>
* <u>Solid</u>	<u>55</u>
* <u>Other forms</u>	<u>15</u>
<b><u>Furniture maintenance products</u></b>	
* <u>Aerosol</u>	<u>17</u>
* <u>Non-aerosol (except solid or paste)</u>	<u>3</u>
* <u>All other forms (except solid or paste)</u>	
<b><u>General purpose cleaners</u></b>	
* <u>Aerosol</u>	<u>8</u>
* <u>Non-aerosol</u>	<u>4</u>
<b><u>General purpose degreasers</u></b>	
* <u>Aerosol</u>	<u>10</u>
* <u>Non-aerosol</u>	
<b><u>Glass cleaners</u></b>	
* <u>Aerosol</u>	<u>12</u>
* <u>Non-aerosol</u>	<u>4</u>
<b><u>Graffiti remover</u></b>	
* <u>Aerosol</u>	<u>50</u>
* <u>Non-aerosol</u>	<u>30</u>
<u>Hair mousses</u>	<u>6</u>
<u>Hairshines</u>	<u>55</u>
<u>Hairsprays</u>	<u>55</u>

<b><u>Hair styling products</u></b>	
* <u>Aerosol and pump sprays</u>	<u>6</u>
* <u>All other forms</u>	<u>2</u>
<u>Heavy-duty hand cleaner or soap</u>	<u>8</u>
<b><u>Insecticides</u></b>	
* <u>Crawling bug, aerosol</u>	<u>15</u>
* <u>Crawling bug, all other forms</u>	<u>20</u>
* <u>Flea and tick</u>	<u>25</u>
* <u>Flying bug, aerosol</u>	<u>25</u>
* <u>Flying bug, all other forms</u>	<u>35</u>
* <u>Foggers</u>	<u>45</u>
* <u>Lawn and garden, non-aerosol</u>	<u>20</u>
* <u>Lawn and garden, all other forms</u>	<u>3</u>
* <u>Wasp and hornet</u>	<u>40</u>
<b><u>Laundry prewash</u></b>	
* <u>Aerosols/solids</u>	<u>20</u>
* <u>All other forms</u>	<u>5</u>
<u>Laundry starch/sizing/fabric finish products</u>	<u>4.5</u>
<u>Metal polishes/cleansers</u>	<u>30</u>
<u>Multi-purpose lubricant (excluding solid or semi-solid products)</u>	<u>50</u>
<u>Multi-purpose solvent</u>	<u>3</u>
<u>Nail polish remover</u>	<u>1</u>
<u>Non-selective terrestrial herbicide, non-aerosols</u>	<u>3</u>
<b><u>Oven or grill cleaners</u></b>	
* <u>Aerosol/pump sprays</u>	<u>8</u>



<u>* Non-aerosol</u>	
<u>* Liquids</u>	
<u>Paint remover or strippers</u>	<u>50</u>
<u>Paint thinner</u>	<u>3</u>
<u>Penetrants</u>	<u>50</u>
<b><u>Rubber/vinyl protectants</u></b>	
<u>* Aerosol</u>	<u>10</u>
<u>* Non-aerosol</u>	<u>3</u>
<b><u>Sanitizer</u></b>	
<u>* Aerosol</u>	<u>70</u>
<u>* Non-aerosol</u>	<u>1</u>
<u>Sealants and caulking compounds</u>	<u>4</u>
<u>Shaving creams</u>	<u>5</u>
<u>Shaving gel</u>	<u>4</u>
<u>Silicone-based multi-purpose lubricants (excluding solid or semi-solid products)</u>	<u>60</u>
<b><u>Spot removers</u></b>	
<u>* Aerosol</u>	<u>25</u>
<u>* Non-aerosol</u>	<u>8</u>
<u>Temporary hair color, aerosol</u>	<u>55</u>
<u>Tire sealants and inflators</u>	<u>20</u>
<b><u>Toilet/urinal care</u></b>	
<u>* Aerosol</u>	<u>10</u>
<u>* Non-aerosol</u>	<u>3</u>
<u>Undercoatings, aerosol</u>	<u>40</u>
<b><u>Wood cleaner</u></b>	
<u>* Aerosol</u>	<u>17</u>

## II.C. Container labeling

- II.C.1. The manufacturer of any consumer product, except products registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA; 7 U.S.C. Section 136-136y) (1996) and products containing VOCs at 0.10 percent by weight or less, must clearly display on the container or package the date the product was manufactured or a date code representing the date of manufacture. The date or date code must be displayed on the container such that it is readily observable without removing or disassembling any portion of the product container or packaging.
- II.C.2. If the label on a special purpose spray adhesive indicates that the product is suitable for use on any substrate or application not listed in the definition for special purpose spray adhesive, the product must be classified as either a web spray adhesive or mist spray adhesive and meet the associated limit in Table 1.
- II.C.3. The label on non-aerosol floor wax strippers must specify a dilution ratio for light or medium build-up of polish that results in an as-used VOC concentration of 3 percent by weight or less. The label on a non-aerosol floor wax stripper that is also intended to be used for removal of heavy build-up of polish that results must specify a dilution ratio for heavy build-up of polish that results in an as-used VOC concentration of 12 percent by weight or less.
- II.C.4. The label on energized electrical cleaners must clearly display "Energized equipment use only. Not to be used for motorized vehicle maintenance or their parts."
- II.C.5. The label on zinc rich primers must clearly display "for professional use only," "for industrial use only," or "not for residential use" or "not intended for residential use."
- II.C.5. The label on aerosol adhesives, adhesive removers, electronic cleaners, electrical cleaners, energized electrical cleaners, and contact adhesive products must clearly display:
- II.C.5.a. The product category.
- II.C.5.b. The applicable VOC standard for the product, except energized electrical cleaners, as a percentage by weight.
- II.C.5.c. For special purpose spray adhesives, the applicable substrate and/or application that qualifies the product as special purpose.

## II.D. Recordkeeping

- II.D.1. Manufacturers of a solid air freshener, insecticide, or toilet/urinal care consumer product that contains at least 98% para-dichlorobenzene must maintain records necessary to demonstrate the para-dichlorobenzene content. These records must be maintained for a minimum of five (5) years and made available to the Division upon request.
- II.D.2. Manufacturers of consumer products that have been granted an Innovative Product exemption must maintain records necessary to demonstrate that the exemption applies and remains in effect. These records must be maintained for a minimum of five (5) years and made available to the Division upon request.

- II.D.3. Manufacturers of consumer products that have been granted an Alternative Control Plan agreement must maintain records necessary to demonstrate that the agreement applies and during what time period the agreement was in effect. These records must be maintained for a minimum of five (5) years and made available to the Division upon request.
- II.D.4. Manufacturers of a product subject to a VOC content limit in Table 1 must maintain the following records for at least five (5) years and make records available to the Division upon request:
- II.D.4.a. The company name of the responsible party, address, telephone number, and designated contact person.
- II.D.4.b. The consumer product brand name, product form, product label, and product category.
- II.D.4.c. Colorado sales in pounds per year, to the nearest pound, and the method used to calculate Colorado sales for each consumer product.
- II.D.4.d. For each consumer product brand name, the identity, including the specific chemical name and associated Chemical Abstract Services (CAS) number, of:
- II.D.4.d.(i) Each Table B compound.
- II.D.4.d.(ii) Each LVP-VOC that is not a fragrance.
- II.D.4.e. For each consumer product brand name, the net percent by weight of the total product, less container and packaging, rounded to the nearest one-tenth of a percent, for each of the following:
- II.D.4.e.(i) Total Table B compounds.
- II.D.4.e.(ii) Total LVP-VOCs that are not fragrances.
- II.D.4.e.(iii) Total all other carbon-containing compounds that are not fragrances.
- II.D.4.e.(iv) Total fragrance.
- II.D.4.e.(v) For consumer products containing greater than two percent by weight fragrance, the percent of fragrance that are LVP-VOCs and the percent of fragrance that are all other carbon-containing compounds.
- II.D.4.e.(vi) Total all non-carbon-containing compounds.
- II.D.4.e.(vii) Total para-dichlorobenzene.
- II.D.4.f. The type of propellant (e.g., Type A, Type B, or a blend of the different types) and weight percent comprised of propellant for each consumer product, if applicable.
- II.D.4.g. The net percent by weight of each ozone-depleting compound listed in Section II.B.2. and contained in any amount greater than 0.1 percent be weight, if applicable.

## II.E. Test methods

II.E.1. Testing to determine compliance with the requirements of this section may be performed using CARB Method 310, Determination of Volatile Organic Compounds (VOC) in Consumer Products, adopted September 25, 1997, and as last amended on May 5, 2005; a test method demonstrated to accurately determine the concentration of VOCs in a subject product or its emissions; or from records of the amounts of constituents used to make the product if:

II.E.1.a. The manufacturer keeps accurate records for each day of production of the amount and chemical composition of the individual product constituents. Records must be maintained for five (5) years and made available to the Division upon requests; and

II.E.1.b. VOC content is calculated according to the following equation:

$$\text{VOC content} = ((B-C)/A) \times 100$$

Where

A = total net weight of unit (excluding container and packaging)

B = total weight of all VOCs, per unit

C = total weight of exempt VOCs in Section III.B.9., per unit

II.E.1.c. If product records are contradicted by product testing performed using CARB Method 310, the results of CARB Method 310 take precedence.

II.E.2. Testing to determine whether a product is a liquid or solid must be performed using ASTM D4359-90(2000)e1 (2012).

## III. ARCHITECTURAL AND INDUSTRIAL MAINTENANCE COATINGS

### III.A. Applicability

III.A.1. Except as provided in Section III.A.2., this section applies to any person who sells, supplies, offers for sale, manufacturers for sale, applies, or solicits the application of any architectural or industrial maintenance coating in Colorado.

III.A.2. This Section III. does not apply to:

III.A.2.a. Any architectural or industrial maintenance coating that is sold, supplied, offered for sale, or manufactured for use outside Colorado or shipped to other manufacturers for reformulation or repackaging.

III.A.2.b. Any aerosol coating product.

III.A.2.c. Any architectural or industrial maintenance coating that is sold in a container with a volume of one liter (1.057 quart) or less, including kits containing containers of different colors, types, or categories of coatings and two component products. This exemption includes multiple containers or one liter or less that are packaged and shipped together with no intent or requirement to ultimately sell as one unit. This exemption does not include bundling of containers one liter or less

that are sold together as a unit or any type of marketing that implies that multiple containers one liter or less be combined into one container. This exemption does not include packaging from which the coating cannot be applied.

### III.B. Standards

III.B.1. On or after May 1, 2020, no person can manufacture or blend for sale in Colorado any architectural or industrial maintenance coating with a VOC content in excess of the VOC limit specified in Table 2.

III.B.2. No person can supply, sell, offer for sale, repackage for sale, apply, or solicit for application in Colorado any architectural or industrial maintenance coating manufactured or blended on or after May 1, 2020, with a VOC content in excess of the VOC limit specified in Table 2.

III.B.3. If an architectural or industrial maintenance coating is recommended for use for more than one of the coating categories listed in Table 2, then the most restrictive VOC content limit shall apply. This provision does not apply to the following coating categories:

III.B.3.a. Aluminum roof coatings.

III.B.3.b. Bituminous roof primers.

III.B.3.c. High temperature coatings.

III.B.3.d. Industrial maintenance coatings.

III.B.3.e. Low-solids coatings.

III.B.3.f. Metallic pigmented coatings.

III.B.3.g. Pretreatment wash primers.

III.B.3.h. Shellacs.

III.B.3.i. Specialty primers, sealers, and undercoaters.

III.B.3.j. Wood coatings.

III.B.3.k. Wood preservatives.

III.B.3.l. Zinc-rich primers.

III.B.3.m. Calcimine recoaters.

III.B.3.n. Impacted immersion coatings.

III.B.3.o. Nuclear coatings.

III.B.3.p. Thermoplastic rubber coatings and mastic.

III.B.3.q. Concrete surface retarders.

- III.B.4. For any architectural or industrial maintenance coating that is not identified in Table 2, the VOC content limit will be determined by classifying the coating as a flat coating, nonflat coating, or nonflat-high gloss coating and the corresponding coating limit of Table 2 applies.
- III.B.5. No person who applies or solicits the application of any architectural or industrial maintenance coating can apply the coating if additional solvent has been added to thin the coating such that the addition causes the coating to exceed the applicable VOC limit specified in Table 2.
- III.B.6. Containers of architectural and industrial maintenance coatings that are applied directly to a surface from the container by pouring, siphoning, brushing, rolling, padding, ragging, or other means must be closed when not in use. These containers include, but are not limited to, drums, buckets, cans, pails, trays, or other application containers. Containers of any VOC-containing materials used for thinning and cleanup must also be closed when not in use.

<u>Table 2 – VOC content limits for architectural and industrial maintenance coatings manufactured on or after May 1, 2020</u>	
<u>Coating category</u>	<u>VOC content limit (grams per liter)*</u>
<u>Flat coatings</u>	<u>50</u>
<u>Nonflat coatings</u>	<u>100</u>
<u>Nonflat – high gloss coatings</u>	<u>150</u>
<b><u>Specialty coatings</u></b>	
<u>* Aluminum roof</u>	<u>450</u>
<u>* Basement specialty coatings</u>	<u>400</u>
<u>* Bituminous roof coating</u>	<u>270</u>
<u>* Bituminous roof primers</u>	<u>350</u>
<u>* Bond breakers</u>	<u>350</u>
<u>* Calcimine recoaters</u>	<u>475</u>
<u>Concrete curing compounds</u>	<u>350</u>
<u>Concrete/masonry sealer</u>	<u>100</u>
<u>Concrete surface retarders</u>	<u>780</u>
<u>Conjugated oil varnishes</u>	<u>450</u>
<u>Conversion varnish</u>	<u>725</u>

<u>Driveway sealers</u>	<u>50</u>
<u>Dry fog coatings</u>	<u>150</u>
<u>Faux finishing coatings</u>	<u>350</u>
<u>Fire-resistive coatings</u>	<u>350</u>
<u>Floor coatings</u>	<u>100</u>
<u>Form-release compounds</u>	<u>250</u>
<u>Graphic arts coating (sign paints)</u>	<u>500</u>
<u>High temperature coatings</u>	<u>420</u>
<u>Impacted immersion coatings</u>	<u>780</u>
<u>Industrial maintenance coatings</u>	<u>250</u>
<u>Low-solids coatings</u>	<u>120</u>
<u>Magnesite cement coatings</u>	<u>450</u>
<u>Mastic texture coatings</u>	<u>100</u>
<u>Metallic pigmented coatings</u>	<u>500</u>
<u>Multi-color coating</u>	<u>250</u>
<u>Nuclear coatings</u>	<u>450</u>
<u>Pre-treatment wash primers</u>	<u>420</u>
<u>Primers, sealers, and undercoaters</u>	<u>100</u>
<u>Reactive penetrating sealer</u>	<u>350</u>
<u>Reactive penetrating carbonate stone sealer</u>	<u>500</u>
<u>Recycled coatings</u>	<u>250</u>
<u>Roof coatings</u>	<u>250</u>
<u>Rust preventative coatings</u>	<u>250</u>
<b><u>Shellacs</u></b>	
<u>* Clear</u>	<u>730</u>
<u>* Opaque</u>	<u>550</u>

<u>Specialty primers, sealers, and undercoaters</u>	<u>100</u>
<u>Stains</u>	<u>250</u>
<u>Stone consolidant</u>	<u>450</u>
<u>Swimming pool coatings</u>	<u>340</u>
<u>Thermoplastic rubber coatings and mastics</u>	<u>550</u>
<u>Traffic marking coatings</u>	<u>100</u>
<u>Tub and tile refinish</u>	<u>420</u>
<u>Waterproofing membranes</u>	<u>250</u>
<u>Wood coatings</u>	<u>275</u>
<u>Wood preservatives</u>	<u>350</u>
<u>Zinc-rich primer</u>	<u>340</u>

\* Limits are expressed as VOC content, thinned to the manufacturer's maximum thinning recommendation, excluding any colorant added to tint bases.

### III.C. Container labeling

III.C.1. The manufacturer of any architectural or industrial maintenance coating must clearly display on the container label, lid, or bottom such that it is readily observable without disassembling the container or package the date the coating was manufactured or a date code representing the date of manufacture. The date or date code must be displayed on the product such that it is readily observable without removing or disassembling any portion of the product container or packaging.

III.C.2. The manufacturer of any architectural or industrial maintenance coating must clearly display on the container label or lid a statement of the manufacturer's recommendation regarding thinning of the coating. This requirement does not apply to the thinning of coatings with water. If thinning is not necessary prior to use, the recommendation must specify that the coating is to be applied without thinning.

III.C.3. The manufacturer of any architectural or industrial maintenance coating must clearly display on the container label, lid, or bottom the VOC content in grams per liter of coating. If the manufacturer recommends thinning, the container must display the VOC content including the maximum amount of thinning solvent recommended by the manufacturer. If the coating is a multi-component product, the container must display the VOC content as mixed or catalyzed. If the coating contains silanes, siloxanes, or other ingredient that generate ethanol or other VOCs during the curing process, the VOC content must include the VOCs emitted during curing.

III.C.4. The manufacturer must clearly display on the container label:



III.C.4.a. For any architectural or industrial maintenance coating, at least one of the following statements:

III.C.4.a.(i) “For industrial use only”

III.C.4.a.(ii) “For professional use only”

III.C.4.a.(iii) “Not for residential use” or “Not intended for residential use”

III.C.4.b. For any specialty primer, sealer, or undercoating, at least one of the following statements:

III.C.4.b.(i) “For blocking stains”

III.C.4.b.(ii) “For fire-damaged substrates”

III.C.4.b.(iii) “For smoke-damaged substrates”

III.C.4.b.(iv) “For water-damaged substrates”

III.C.4.c. For any clear topcoat faux finishing coating, “This product can only be sold or used as part of a faux finishing coating system.”

III.C.4.d. For any clear brushing lacquer, “For brush application only” and “This product must not be thinned or sprayed.”

III.C.4.e. For any non-flat high-gloss coating, “High gloss.”

III.C.4.f. For any rust preventative coating, “For metal substrates only.”

III.C.4.g. For any reactive penetrating sealer, “Reactive penetrating sealer.”

III.C.4.h. For any stone consolidant, “Stone consolidant – for professional use only.”

III.C.4.i. For any wood coating, “For wood substrates only.”

III.C.4.j. For any zinc rich primer, at least one of the following statements:

III.C.4.j.(i) “For industrial use only”

III.C.4.j.(ii) “For professional use only”

III.C.4.j.(iii) “Not for residential use” or “Not intended for residential use”

### III.D. Recordkeeping

III.D.1. Manufacturers of a product subject to a VOC content limit in Table 2 must maintain the following records for at least five (5) years and make records available to the Division upon request:

III.D.1.a. The name and mailing address of the manufacturer.

III.D.1.b. The name, address, and telephone number of a contact person.

- III.D.1.c. The name of the coating product as it appears on the label and the application coating category.
- III.D.1.d. Whether the product is marketed for interior or exterior use or both.
- III.D.1.e. Whether the product is marketed as solvent-borne, waterborne, or 100% solids.
- III.D.1.f. Whether the coating is a single-component or multi-component product.
- III.D.1.g. The description of resin or binder in the product.
- III.D.1.h. The number of gallons sold in Colorado in containers greater than one liter (1.057 quart) and in containers equal to or less than one liter (1.057 quart.)
- III.D.1.i. The regulatory VOC content and actual VOC content in grams per liter. If thinning is recommended, the regulatory VOC content and the actual VOC content after maximum recommended thinning. If containers less than one liter have a different VOC content than containers greater than one liter, list separately. If the coating is a multi-component product, provide the VOC Content as mixed or catalyzed.
- III.D.1.j. The names and CAS numbers of the VOC constituents in the product.
- III.D.1.k. The names and CAS numbers of the VOC constituents in the product that are exempted from the definition of VOC.
- III.D.1.l. The density of the product in pounds per gallon.
- III.D.1.m. The percent by weight of solids, all volatile materials, water, and any compounds in the product that are exempted from the definition of VOC.
- III.D.1.n. The percent by volume of solids, water, and any compounds in the product that are exempted from the definition of VOC.

### III.E. Testing and methods

III.E.1. Manufacturers of architectural or industrial maintenance coatings must possess documentation that such coating complies with the VOC content limits in Table 2.

III.E.1.a. The VOC content of a coating will be determined as follows:

III.E.1.a.(i) For coatings that are low solids coatings:

$$\text{VOC content} = (W_s - W_w - W_{ec})/V_m$$

Where:

VOC content = grams of VOC per liter of coating (must include the maximum amount of thinning solvent recommended by the manufacturer)

W<sub>s</sub> = weight of volatiles in grams

Ww = weight of water in grams

Wec = weight of exempt compounds in grams

Vm = volume of coating in liters

III.E.1.a.(ii) For coatings that are not low solids coatings:

VOC content = (Ws – Ww – Wec)/(Vm – Vw – Vec)

Where:

VOC content = grams of VOC per liter of coating (must include the maximum amount of thinning solvent recommended by the manufacturer)

Ws = weight of volatiles in grams

Ww = weight of water in grams

Wec = weight of exempt compounds in grams

Vm = volume of coating in liters

Vw = volume of water in liters

Vec = volume of exempt compounds in liters

III.E.1.a.(ii)(A) The VOC content of multi-component products must be calculated as mixed or catalyzed.

III.E.1.a.(ii)(B) The VOC content of coatings containing silanes, siloxanes, or other ingredients that generate ethanol or other VOCs during the curing process must include the VOCs emitting during curing.

III.E.1.a.(iii) The VOC content of a tint base must be determined without colorant that is added after the tint base is manufactured.

III.E.1.b. The physical properties of a coating must be determined using EPA Method 24 (40 CFR Part 60, Appendix A) (February 27, 2014), SCAQMD Method 303-91 "Determination of Exempt Compounds" (revised 1993), or other test method demonstrated to provide results acceptable for purposes of determining the physical properties of a coating.

III.E.1.c. The exempt compounds content of a coating must be determined using ASTM D 3960-05 "Standard Practice for Determining Volatile Organic Compound (VOC) Content of Paints and Related Coatings" (2018), SCAQMD Method 303-91 "Determination of Exempt Compounds" (revised 1993), BAAQMD Method 43 "Determination of Volatile Methylsiloxanes in Solvent-Based Coatings, Inks, and Related Materials" (adopted 1996), BAAQMD Method 41 "Determination of Volatile Organic Compounds in Solvent-Based Coatings and Related Materials Containing Parachlorobenzotrifluoride" (adopted 1995), or other test method

demonstrated to provide results acceptable for purposes of determining the exempt compounds content.

III.E.1.d. The VOC content of a coating must be determined using EPA Method 24 (40 CFR Part 60, Appendix A) (February 27, 2014), formulation data, other reasonable means for predicting that the coating has been formulated as intended (e.g., quality assurance checks, recordkeeping), or other test method demonstrated to provide result acceptable for purposes of determining the VOC content. If there are inconsistencies between EPA Method 24 results and other means for determining VOC content, the Method 24 results will govern.

III.E.1.e. The analysis of methacrylate multicomponent coatings used as traffic marking coatings shall be conducted according to a modification of EPA Method 24 "Determination of Volatile Matter Content of Methacrylate Multicomponent Coatings Used as Traffic Marking Coatings" (40 CFR 59, subpart D, Appendix A) (September 11, 1998).

#### **IV. DEFINITIONS**

IV.A. "8-Hour Ozone Control Area" means the Counties of Adams, Arapahoe, Boulder (includes part of Rocky Mountain National Park), Douglas, and Jefferson; the Cities and Counties of Denver and Broomfield; and the following portions of the Counties of Larimer and Weld:

IV.A.1. For Larimer County (includes part of Rocky Mountain National Park), that portion of the county that lies south of a line described as follows: Beginning at a point on Larimer County's eastern boundary and Weld County's western boundary intersected by 40 degrees, 42 minutes, and 47.1 seconds north latitude, proceed west to a point defined by the intersection of 40 degrees, 42 minutes, 47.1 seconds north latitude and 105 degrees, 29 minutes, and 40.0 seconds west longitude, thence proceed south on 105 degrees, 29 minutes, 40.0 seconds west longitude to the intersection with 40 degrees, 33 minutes and 17.4 seconds north latitude, thence proceed west on 40 degrees, 33 minutes, 17.4 seconds north latitude until this line intersects Larimer County's western boundary and Grand County's eastern boundary.

IV.A.2. For Weld County, that portion of the county that lies south of a line described as follows: Beginning at a point on Weld County's eastern boundary and Logan County's western boundary intersected by 40 degrees, 42 minutes, 47.1 seconds north latitude, proceed west on 40 degrees, 42 minutes, 47.1 seconds north latitude until this line intersects Weld County's western boundary and Larimer County's eastern boundary.

IV.B. "Adhesive" means any chemical substance that is applied for the purpose of bonding two surfaces together other than by mechanical means. Adhesive does not include products used on humans, animals, adhesive tape, contact paper, wallpaper, shelf liners, or other product with an adhesive incorporated onto or in an inert substrate.

IV.C. "Adhesive remover" means a product designed to remove adhesive from either a specific substrate or a variety of substrates but does not include products that remove adhesives intended exclusively for use on humans or animals.

IV.C.1. "Floor and wall covering adhesive remover" means a product designed or labeled to remove floor or wall coverings and associated adhesive from the underlying substrate.

IV.C.2. "Gasket or thread locking adhesive remover" means a product designed or labeled to remove gaskets or thread locking adhesives. Gasket or thread locking adhesive remover

includes products labeled for dual use as a paint stripper and gasket remover and/or thread locking adhesive remover.

IV.C.3. "General purpose adhesive remover" means a product designed or labeled to remove cyanoacrylate adhesives as well as non-reactive adhesives or residues from a variety of substrates. General purpose adhesive remover includes, but is not limited to, products that remove thermoplastic adhesives; pressure sensitive adhesives; dextrin or starchbased adhesives; casein glues; rubber or latex-based adhesives; and stickers, decals, stencils, or similar materials.

IV.C.4. "Specialty adhesive remover" means a product designed to remove reactive adhesives from a variety of substrates. Reactive adhesives include adhesives that require a hardener or catalyst in order for the bond to occur such as, but not limited to, epoxies, urethanes, and silicones.

IV.D. "Aerosol adhesive" means an aerosol product in which the spray mechanism is permanently housed in a non-refillable can designed for hand-held application of adhesive without the need for ancillary hoses or spray equipment.

IV.E. "Aerosol coating product" means a pressurized coating product containing pigments or resins that dispenses product ingredients by means of a propellant, and is packaged in a disposable can for hand-held application, or for use in specialized equipment for ground traffic/marketing applications.

IV.F. "Aerosol cooking spray" means any aerosol product designed either to reduce sticking on cooking and baking surfaces or to be applied on food, or both.

IV.G. "Aerosol product" means a pressurized spray system that dispenses product ingredients by means of a propellant contained in a product or a product's container or a mechanically induced force but does not include pump spray.

IV.H. "Agricultural use" means the use of any pesticide or method or device for the control of pests in connection with the commercial production, storage, or processing of any animal or plant crop. Agricultural use does not include the sale or use of pesticides in properly labeled packages or containers which are intended for home use, use in structural pest control, industrial use, or institutional use.

IV.I. "Air freshener" means any product including, but not limited to, sprays, wicks, wipes, diffusers, powders, and crystals, designed or labeled for the purpose of masking odors, or freshening, cleaning, scenting, or deodorizing the air. Air fresheners includes dual purpose air freshener/disinfectant products and spray disinfectants or other products expressly represented for use as air fresheners. Air freshener does not include products that are used on the human body, products that function primarily as cleaning products as indicated on the product label, toilet/urinal care products, or disinfectants when offered for sale solely through institutional and industrial channels of distribution.

IV.J. "All other carbon-containing compounds" means other compounds which contain at least one carbon atom and are not a table B compound or a LVP-VOC.

IV.K. "All other forms" means all consumer product forms for which no form-specific VOC standard is specified and include, but are not limited to, solids, liquids (including the liquid containing or liquid impregnated portion of the cloth or paper wipes), wicks, powders, and crystals.

IV.L. "Aluminum roof coating" means a coating labeled and formulated exclusively for application to roofs and containing at least 84 grams of elemental aluminum pigment per liter of coating (at least

0.7 pounds per gallon). Pigment content shall be determined in accordance with SCAQMD Method 318-95 "Determination of Weight Percent Elemental Metal in Coatings by X-Ray Diffraction" (July 1996).

- IV.M. "Antimicrobial hand or body cleaner or soap" means a cleaner or soap which is designed to reduce the level of microorganisms on the skin through germicidal activity and includes, but is not limited to, antimicrobial hand or body washes/cleaners, foodhandler hand washes, healthcare personnel hand washes, preoperative skin preparations, and surgical scrubs.
- IV.N. "Antiperspirant" means any product including, but not limited to, aerosols, roll-ons, sticks, pumps, pads, creams, and squeeze-bottles, that is intended by the manufacturer to be used to reduce perspiration in the human axilla by at least 20 percent in at least 50 percent of a target population.
- IV.O. "Anti-static product" means a product that is labeled to eliminate, prevent, or inhibit the accumulation of static electricity.
- IV.P. "Appurtenance" means any accessory to a stationary structure coated at the site of installation, whether installed or detached, including but not limited to: bathroom and kitchen fixtures; cabinets; concrete forms; doors; elevators; fences; hand railings; heating equipment, air conditioning equipment, and other fixed mechanical equipment or stationary tools; lampposts; partitions; pipes and piping systems; rain gutters and downspouts; stairways; fixed ladders; catwalks and fire escapes; and window screens.
- IV.Q. "Architectural coating" means a coating to be applied to stationary structures or their appurtenances at the site of installation, to portable buildings at the site of installation, to pavements, or to curbs. Architectural coating does not include coatings applied in shop applications or to non-stationary structures such as airplanes, ships, boats, railcars, and automobiles, as well as adhesives.
- IV.R. "Aromatic compound" means a carbon containing compound, except compounds exempt from the definition of VOC, that contains one or more benzene or equivalent heterocyclic rings and has an initial boiling point less than or equal to 280 degrees C.
- IV.S. "Artist solvent/thinner" means any liquid product, labeled to meet ASTM D4236 – 94 (March 1, 2005) Standard Practice for Labeling Art Materials for Chronic Health Hazards, and packaged in a container equal to or less than 34 fluid ounces, labeled to reduce the viscosity of, and or remove, art coating compositions or components.
- IV.T. "Astringent/toner" means any product not regulated as a drug by the United States Food and Drug Administration (FDA) which is applied to the skin for the purpose of cleaning or tightening pores including clarifiers and substrate-impregnated products. Astringent/toner does not include medicated astringent/medicated toner; cold cream; lotion; or hand, face, or body cleaner or soap product.
- IV.U. "Automotive hard paste wax" means an automotive wax or polish that is designed to protect and improve the appearance of automotive paint surfaces, is solid at room temperature, and contains zero percent (0%) water by formulation.
- IV.V. "Automotive instant detailer" means a product designed for use in a pump spray that is applied to the painted surface of automobiles and wiped off prior to the product being allowed to dry.
- IV.W. "Automotive rubbing or polishing compound" means a product designed primarily to remove oxidation, old paint, scratches or "swirl marks", and other defects from the painted surfaces of motor vehicles without leaving a protective barrier.

- IV.X. “Automotive wax, polish, sealant, or glaze” means a product designed to seal out moisture, increase gloss, or otherwise enhance a motor vehicle’s painted surfaces.
- IV.Y. “Automotive windshield cleaner” means a product labeled for automotive use only, packaged as an automotive windshield cleaner in the form of a moistened towelette, and designed to be used on automotive windshields, automotive mirrors, and automotive headlights.
- IV.Z. “Automotive windshield washer fluid” means any liquid designed for use in a motor vehicle windshield washer system either as an antifreeze or for the purpose of cleaning, washing, or wetting the windshield. Automotive windshield washer fluid does not include fluids placed by the manufacturer in a new vehicle.
- IV.AA. “Basement specialty coating” means a clear or opaque coating that is labeled and formulated for application to concrete and masonry surfaces to provide a hydrostatic seal for basements and other below-grade surfaces. Basement specialty coatings must be capable of withstanding at least 10 psi of hydrostatic pressure as determined in accordance with ASTM D7088-04 “Standard Practice for Resistance to Hydrostatic Pressure for Coatings Used in Below Grade Applications Applied to Masonry” (2017) and must be resistant to mold and mildew growth and must achieve a microbial growth rating of 8 or more as determined in accordance with ASTM D3273-00 “Standard Test Method for Resistance to Growth of Mold on the Surface of Interior Coatings in an Environmental Chamber” (2016) and ASTM D3274-95 “Standard Test Method for Evaluating Degree of Surface Disfigurement of Paint Films by Microbial (Fungal or Algal) Growth or Soil and Dirt Accumulation” (2017).
- IV.BB. “Bathroom and tile cleaner” means a product designed or labeled to clean tile or surfaces in bathrooms.
- IV.CC. “Bitumens” means black or brown materials including, but not limited to, asphalt, tar, pitch, and asphaltite that are soluble in carbon disulfide, consist mainly of hydrocarbons, and are obtained from natural deposits or as residues from the distillation of crude petroleum or coal.
- IV.DD. “Bituminous roof coating” means a coating which incorporates bitumens that is labeled and formulated exclusively for roofing for the primary purpose of preventing water penetration.
- IV.EE. “Bituminous roof primer” means a primer which incorporates bitumens that is labeled and formulated exclusively for roofing and intended for the purpose of preparing a weathered or aged surface or improving the adhesion of subsequent surfacing components.
- IV.FF. “Bond breaker” means a coating labeled and formulated for application between layers of concrete to prevent a freshly poured top layer of concrete from bonding to the layer over which it is poured.
- IV.GG. “Brake cleaner” means a cleaning product designed to remove oil, grease, brake fluid, brake pad material, or dirt from motor vehicle brake mechanisms.
- IV.HH. “Bug and tar remover” means a product labeled to remove biological-type residues, such as insect carcasses and tree sap, and/or road grime, such as road tar, roadway paint markings, and asphalt, from painted motor vehicle surfaces without causing damage to the finish.
- IV.II. “Calcimine recoaters” means a flat solvent borne coating formulated and recommended specifically for recoating calcimine-painted ceilings and other calcimine-painted substrates.
- IV.JJ. “Carburetor or fuel-injection air intake cleaners” means a product designed or labeled to remove fuel deposits, dirt, or other contaminants from a carburetor, choke, throttle body of a fuel-injection



system, or associated linkages. Carburetor or fuel-injection air intake cleaner does not include products designed or labeled exclusively to be introduced directly into the fuel lines or fuel storage tank prior to introduction into the carburetor or fuel injectors or products designed or labeled exclusively to be introduced during engine operation directly into air vacuum lines by using a pressurized sprayer wand.

IV.KK. "Carpet and upholstery cleaner" means a cleaning product designed for the purpose of eliminating dirt and stains on rugs, carpeting, and the interior of motor vehicles and/or on household furniture or objects upholstered or covered with fabrics such as wool, cotton, nylon or other synthetic fabrics. Carpet and upholstery cleaner includes, but is not limited to, products that make fabric protectant claims. Carpet and upholstery cleaner does not include products designed exclusively for use at industrial facilities engaged in furniture or carpet manufacturing.

IV.LL. "Charcoal lighter material" means any combustible material designed to be applied on, incorporated in, added to, or used with charcoal to enhance ignition. Charcoal lighter material does not include electrical starters and probes, metallic cylinders using paper tinder, natural gas, propane, and fat wood.

IV.MM. "Coating" means a material applied onto or impregnated into a substrate for protective, decorative, or functional purposes. Such materials include, but are not limited to, paints, varnishes, sealers, and stains.

IV.NN. "Colorant" means a concentrated pigment dispersion in water, solvent, and/or binder that is added to an architectural coating after packaging in sale units to produce the desired color. Colorant also means any pigment or coloring material used in a consumer product for an aesthetic effect or to dramatize an ingredient.

IV.OO. "Concrete curing compound" means a coating labeled and formulated for application to freshly poured concrete to retard the evaporation of water or harden or dustproof the surface of freshly poured concrete.

IV.PP. "Concrete/masonry sealer" means a clear or opaque coating that is labeled and formulated primarily for application to concrete and masonry surfaces to prevent penetration of water; provide resistance against abrasion, alkalis, acids, mildew, staining, or ultraviolet light; or harden or dustproof the surface of aged or cured concrete.

IV.QQ. "Concrete surface retarders" means a mixture of retarding ingredients such as extender pigments, primary pigments, resin, and solvent that interact chemically with the cement to prevent hardening on the surface where the retarder is applied, allowing the retarded mix of cement and sand at the surface to be washed away to create an exposed aggregate finish.

IV.RR. "Conjugated oil varnish" means a clear or semi-transparent wood coating, labeled as such, excluding lacquers or shellacs, based on a natural occurring conjugated vegetable oil (Tung oil) and modified with other natural or synthetic resins; a minimum of fifty percent of the resin solids consisting of conjugated oil. Supplied as a single component product, conjugated oil varnishes penetrate and seal the wood. Film formation is due to polymerization of the oil. These varnishes may contain small amounts of pigment to control the final gloss or sheen.

IV.SS. "Construction, panel, and floor covering adhesive" means any non-aerosol, one-component adhesive that is designed or labeled for the installation, remodeling, maintenance, or repair of structural and building components that include, but are not limited to, beams, trusses, studs, paneling (drywall or drywall laminates, fiberglass reinforced plastic (FRP), plywood, particle board, insulation board, pre-decorated hardboard or tileboard, etc.), ceiling and acoustical tile, molding, fixtures, countertops or countertop laminates, cove or wall bases, and flooring or subflooring or floor or wall coverings that include, but are not limited to, wood or simulated wood



covering, carpet, carpet pad or cushion, vinyl-backed carpet, flexible flooring material, nonresilient flooring material, mirror tiles and other types of tiles, and artificial grass.

IV.TT. "Consumer" means any person who purchases or acquires any consumer product for personal, family, household, or institutional use. Consumer does not include persons acquiring a consumer product for resale.

IV.UU. "Consumer product" means a chemically formulated product used by household and institutional consumers including, but not limited to, detergents; cleaning compounds; polishes; floor finishes; cosmetics; personal care products; home, lawn, and garden products; disinfectants; sanitizers; aerosol paints; automotive specialty products; and aerosol adhesives. Consumer product does not include other paint products, furniture coatings, or architectural coatings.

IV.VV. "Contact adhesive" means a non-aerosol adhesive that is designed for application to both surfaces to be bonded together, is allowed to dry before the two surfaces are placed in contact with each other, forms an immediate bond that is impossible, or difficult, to reposition after both adhesive-coated surfaces are placed in contact with each other, and does not need sustained pressure or clamping of surfaces after the adhesive-coated surfaces have been brought together using sufficient momentary pressure to establish full contact between both surfaces. Contact adhesive does not include rubber cements that are primarily intended for use on paper substrates or vulcanizing fluids that are designed and labeled for tire repair only.

IV.WW. "Contact adhesive – general purpose" means any contact adhesive that is not a contact adhesive – special purpose.

IV.XX. "Contact adhesive – special purpose" means a contact adhesive that: is used to bond melamine-covered board, unprimed metal, unsupported vinyl, Teflon, ultra-high molecular weight polyethylene, rubber, high pressure laminate or wood veneer 1/16 inch or less in thickness to any porous or nonporous surface, and is sold in units of product, less packaging, that contain more than eight fluid ounces; or is used in automotive applications that are automotive under-the-hood applications requiring heat, oil or gasoline resistance, or are body-side molding, automotive weatherstrip or decorative trim.

IV.YY. "Conversion varnish" means a clear acid curing coating with an alkyd or other resin blended with amino resins and supplied as a single component or two component product. Conversion varnishes produce a hard, durable, clear finish designed for professional application to wood flooring. This film formation is the result of an acid-catalyzed condensation reaction, affecting transesterification at the reactive ethers of the amino resins.

IV.ZZ. "Crawling bug insecticide" means any insecticide product that is designed for use against ants, cockroaches, or other household crawling arthropods, including, but not limited to, mites, silverfish, or spiders. Crawling bug insecticide does not include products designed to be used exclusively on humans or animals or any house dust mite product.

IV.AAA. "Deodorant" means any product including, but not limited to, aerosol, roll-ons, sticks, pumps, pads, creams, and squeeze-bottles, that indicates or depicts on the container or packaging, or on any sticker or label affixed thereto, that the product can be used on or applied to the human axilla to provide a scent and/or minimize odor. Deodorant includes deodorant body sprays or personal fragrance products (20 percent or less fragrance) that indicate or depict on the container, packaging, or label that it can be used on or applied to the human axilla.

IV.BBB. "Disinfectant" means a product labeled as a disinfectant or a product registered as a disinfectant under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 U.S.C. 136, et seq. (1996)) to destroy or irreversibly inactivate infectious or other undesirable bacteria, pathogenic fungi, or viruses on surfaces or inanimate objects. Disinfectant includes products labeled as both

sanitizer and disinfectant. Disinfectant does not include products labeled solely for use on humans or animals; agricultural use; use in swimming pools, therapeutic tubs, or hot tubs; to be used on heat sensitive critical or semi-critical medical devices or medical equipment surfaces; to be applied to food-contact surfaces and are not required to be rinsed prior to contact with food; products which are pre-moistened wipes or towelettes sold exclusively to medical, convalescent, or veterinary establishments; or products labeled as bathroom and tile cleaners, glass cleaners, general purpose cleaners, toilet/urinal care products, metal polishes, carpet cleaners, or fabric refreshers that may also make disinfecting or anti-microbial claims on the label..

IV.CCC. “Double phase aerosol air freshener” means an aerosol air freshener with the liquid contents in two or more distinct phases that requires the product container be shaken before use to mix the phases, producing an emulsion.

IV.DDD. “Driveway sealer” means a coating labeled and formulated for application to worn asphalt driveway surfaces to fill cracks, seal the surface to provide protection, or restore or preserve the appearance.

IV.EEE. “Dry cleaning fluid” means any non-aqueous liquid product designed and labeled exclusively for use on fabrics which are labeled “for dry clean only” or “S-coded” fabrics. S-coded fabric means an upholstery fabric designed to be cleaned only with water-free spot cleaning products as specified by the Joint Industry Fabric Standards Committee. Dry cleaning fluid does not include spot removers or carpet and upholstery cleaners.

IV.FFF. “Dry fog coating” means a coating labeled and formulated only for spray application such that overspray droplets dry before subsequent contact with incidental surfaces in the vicinity of the surface coating activity.

IV.GGG. “Dusting aid” means a product designed to assist in removing dust and other soils from floors and other surfaces without leaving a wax or silicone based coating. Dusting aid does not include pressurized gas duster.

IV.HHH. “Electrical cleaner” means a product labeled to remove heavy soils such as grease, grime, or oil from electrical equipment, including, but not limited to, electric motors, armatures, relays, electric panels, or generators. Electrical cleaner does not include products labeled to clean the casings or housings of electrical equipment.

IV.III. “Electronic cleaner” means a product labeled for the removal of dirt, moisture, dust, flux or oxides from the internal components of electronic or precision equipment such as circuit boards and the internal components of electronic devices, including but not limited to, radios, compact disc (CD) players, digital video disc (DVD) players, and computers. Electronic cleaner does not include products labeled to clean the casings or housings of electronic equipment or energized electrical cleaners.

IV.JJJ. “Energized electrical cleaner” means a product labeled to clean and/or degrease electrical equipment, where cleaning and/or degreasing is accomplished when electrical current exists or when there is a residual electrical potential from a component, such as a capacitor.

IV.KKK. “Engine degreaser” means a cleaning product designed or labeled to remove grease, grime, oil and other contaminants from the external surfaces of engines and other mechanical parts.

IV.LLL. “Fabric protectant” means a product labeled to be applied to fabric substrates to protect the surface from soiling from dirt or other impurities or to reduce absorption of liquid into the fabric fibers. Fabric protectant does not include waterproofers; products labeled for use solely on leather; pigmented products that are designed to be used primarily for coloring; products used for

construction, reconstruction, modification, structural maintenance or repair of fabric substrates; or products that renew or restore fabric and qualify as either clear coating or vinyl/fabric/leather/polycarbonate coating.

IV.MMM. "Fabric refresher" means a product labeled to neutralize or eliminate odors on nonlaundered fabric including, but not limited to, soft household surfaces, rugs, carpeting, draperies, bedding, automotive interiors, footwear, athletic equipment, clothing and/or on household furniture or objects upholstered or covered with fabrics such as, but not limited to, wool, cotton, or nylon. Fabric refresher does not include products labeled for application to both fabric and human skin.

IV.NNN. "Facial cleaner or soap" means a cleaner or soap designed primarily to clean the face and includes, but is not limited to, facial cleansing creams, semisolids, liquids, lotions, and substrate-impregnated forms. Facial cleaner or soap does not include prescription drug products.

IV.OOO. "Fat wood" means pieces of wood kindling with high naturally-occurring levels of sap or resin which enhance ignition of the kindling but does not include any kindling with substances added to enhance flammability, such as wax-covered or wax-impregnated wood-based products.

IV.PPP. "Faux finishing coating" means a coating labeled and formulated to create artistic effects including, but not limited to, dirt, old age, smoke damage, and simulated marble and wood grain; a metallic, iridescent, or pearlescent appearance that contains at least 48 grams of pearlescent mica pigment or other iridescent pigment per liter of coating as applied (at least 0.4 pounds per gallon); a metallic appearance that contains greater than 48 grams of elemental metallic pigment (determined in accordance with SCAQMD Method 318-95 "Determination of Weight Percent Elemental Metal in Coatings by X-Ray Diffraction" (July 1996)) per liter of coating as applied (0.4 pounds per gallon) and which requires a clear topcoat to prevent the degradation of the finish under normal use conditions; or a clear topcoat to seal and protect a faux finishing coating. These clear topcoats must be sold and used solely as part of a faux finishing coating system.

IV.QQQ. "Fire-resistive coating" means a coating labeled and formulated to protect the structural integrity by increasing the fire endurance of interior or exterior steel and other structural materials and includes sprayed fire resistive materials and intumescent fire resistive coatings that are used to bring structural materials into compliance with federal, state, and local building code requirements. The fire-resistive coating must be tested in accordance with ASTM Designation E 119-08 "Standard Test Methods for Fire Tests of Building Construction and Materials" (2018).

IV.RRR. "Flat coating" means a coating that is not defined under any other definition in this rule and that registers gloss less than 15 on an 85-degree meter or less than five on a 60-degree meter according to ASTM D 523-89 "Standard Test Method for Specular Gloss" (1999).

IV.SSS. "Flea and tick insecticide" means any insecticide product that is designed for use against fleas, ticks, their larvae, or their eggs but does not include products that are designed to be used exclusively on humans or animals and their bedding.

IV.TTT. "Floor coating" means an opaque coating that is labeled and formulated for application to flooring, including, but not limited to, decks, porches, steps, garage floors, and other horizontal surfaces, which may be subjected to foot traffic.

IV.UUU. "Floor polish or wax" means a product designed or labeled to polish, wax, condition, protect, temporarily seal, or otherwise enhance floor surfaces by leaving a protective finish that is designed or labeled to be periodically replenished. Floor polish or wax includes products for resilient flooring materials (e.g., asphalt, cork, linoleum, no-wax, rubber, seamless vinyl, vinyl composite flooring), non-resilient flooring materials (e.g., terrazzo, marble, slate, granite, brick, stone, ceramic tile, concrete), and wood floor wax (i.e., wax-based products for use solely on

wood floors). Floor polish or wax does not include products designed or labeled for unfinished wood floors or coatings subject to architectural coatings regulations.

IV.VVV. "Floor seam sealer" means any product designed and labeled exclusively for bonding, fusing, or sealing (coating) seams between adjoining rolls of installed flexible sheet flooring.

IV.WWW. "Floor wax stripper" means a product designed to remove natural or synthetic floor polishes or waxes through breakdown of the polish or wax polymers or by dissolving or emulsifying the polish or wax. Floor wax stripper does not include aerosol floor wax strippers or products designed to remove floor wax solely through abrasion.

IV.XXX. "Flying bug insecticide" means any insecticide product that is designed for use against flying insects or other flying arthropods, including, but not limited to, flies, mosquitoes, moths, or gnats. Flying bug insecticide does not include products designed to be used exclusively on humans or animals or products designed and labeled to protect fabrics from damage by moths where the label does not also indicate the product is suitable for use against flying insects or other flying arthropods.

IV.YYY. "Footwear or leather care product" means any product designed or labeled to be applied to footwear or to other leather articles/components, to maintain, enhance, clean, protect, or modify the appearance, durability, fit, or flexibility of the footwear or leather article/component. Footwear or leather care product does not include products solely for deodorizing or sealant products with adhesive properties used to create external protective layers greater than 2 millimeters thick.

IV.ZZZ. "Form-release compound" means a coating labeled and formulated for application to a concrete form to prevent the freshly poured concrete from bonding to the form. The form may consist of wood, metal, or some material other than concrete.

IV.AAAA. "Fragrance" means a substance or complex mixture of aroma chemicals, natural essential oils, and other functional components with a combined vapor pressure not in excess of 2 millimeters of Mercury (mm Hg) at 20 degrees C, the sole purpose of which is to impart an odor or scent or to counteract a malodor.

IV.BBBB. "Furniture maintenance product" means a wax, polish, conditioner, or any other product labeled for the purpose of polishing, protecting or enhancing finished wood surfaces, other than floors, and other furniture surfaces including, but not limited to, acrylics, ceramic, plastics, stone surfaces, metal surfaces, and fiberglass. Furniture maintenance product does not include products designed solely for the purpose of cleaning or products designed to leave a permanent finish such as stains, sanding sealers, and lacquers.

IV.CCCC. "Furniture coating" means any paint designed for application to room furnishings including, but not limited to, cabinets (kitchen, bath, and vanity), tables, chairs, beds, and sofas.

IV.DDDD. "Gel" means a colloid in which the disperse phase has combined with the continuous phase to produce a semisolid material, such as jelly.

IV.EEEE. "General purpose adhesive" means any non-aerosol adhesive designed for use on a variety of substrates. General purpose adhesive does not include contact adhesives; construction, panel, and floor covering adhesives; adhesives designed exclusively for application on one specific category of substrates (i.e., substrates that are composed of similar materials, such as different types of metals, paper products, ceramics, plastics, rubbers, or vinyls); or adhesives designed exclusively for use on one specific category of articles (i.e., articles that may be composed of different materials but perform a specific function, such as gaskets, automotive trim, weatherstripping, or carpets).

- IV.FFFF. “General purpose cleaner” means a product labeled to clean a variety of hard surfaces, including, but not limited to, products designed or labeled for general floor cleaning, kitchen, countertop, or sink cleaning, and cleaners designed or labeled to be used on a variety of hard surfaces such as stovetops, cooktops, or microwaves.
- IV.GGGG. “General purpose degreaser” means any product labeled to remove or dissolve grease, grime, oil and other oil-based contaminants from a variety of substrates, including automotive or miscellaneous metallic parts. General purpose degreaser does not include products used exclusively in solvent cleaning tanks or related equipment (e.g., cold cleaners, vapor degreasers, conveyorized degreasers) or products that are exclusively sold directly or through distributors to establishments which manufacture or construct goods or commodities and labeled exclusively for “use in the manufacturing process only.”
- IV.HHHH. “General-use hand or body cleaner or soap” means a cleaner or soap designed to be used routinely on the skin to clean or remove typical or common dirt and soils and includes, but is not limited to, hand or body washes, dual-purpose shampoo-body cleaners, shower or bath gels, and moisturizing cleaners or soaps. General-use hand or body cleaner or soap does not include prescription drug products.
- IV.IIII. “Glass cleaner” means a cleaning product designed primarily for cleaning surfaces made of glass. Glass cleaner does not include products designed solely for the purpose of cleaning optical materials used in eyeglasses, photographic equipment, scientific equipment, and photocopying machines.
- IV.JJJJ. “Graffiti remover” means a product labeled to remove spray paint, ink, marker, crayon, lipstick, nail polish, or shoe polish from a variety of non-cloth or nonfabric substrates and products labeled for dual use as both a paint stripper and graffiti remover.
- IV.KKKK. “Graphic arts coating or sign paint” means a coating labeled and formulated for hand application by artists using brush, airbrush or roller techniques to indoor and outdoor signs (excluding structural components) and murals including letter enamels, poster colors, copy blockers, and bulletin enamels.
- IV.LLLL. “Hair mousse” means a hairstyling foam designed to facilitate styling of a coiffure and provide limited holding power.
- IV.MMMM. “Hair shine” means any product designed for the primary purpose of creating a shine when applied to the hair and includes, but is not limited to, dual-use products designed primarily to impart a sheen to the hair. Hair shine does not include products whose primary purpose is to condition or hold the hair.
- IV.NNNN. “Hair spray” means a consumer product that is applied to styled hair and is designed or labeled to provide sufficient rigidity, to hold, retain, and/or finish (i.e., maintain and/or hold the styled hair for a period of time) the style of the hair for a period of time. Hair spray includes aerosol hair sprays, pump hair sprays, spray waxes; color, glitter, or sparkle hairsprays that make finishing claims; and products that are both a styling and finishing product. Hair spray does not include spray products that are intended to aid in styling but do not provide finishing of a hairstyle.
- IV.OOOO. “Hair styling product” means a consumer product designed or labeled for the application to wet, damp, or dry hair to aid in defining, shaping, lifting, styling, and/or sculpting of the hair. Hair styling product includes, but is not limited, to hair balm, clay, cream, creme, curl straightener, gel, liquid, lotion, paste, pomade, putty, root lifter, serum, spray gel, stick, temporary hair straightener, wax, spray products that aid in styling but do not provide finishing of a hairstyle, and leave-in volumizers, detanglers, and/or conditioners that make styling claims.

- IV.PPPP. “Heavy-duty hand cleaner or soap” means a product designed to clean or remove difficult dirt and soils such as oil, grease, grime, tar, shellac, putty, printer’s ink, paint, graphite, cement, carbon, asphalt, or adhesives from the hand with or without the use of water. Heavy-duty hand cleaner or soap does not include prescription drug products.
- IV.QQQQ. “Herbicide” means a pesticide product designed to kill or retard a plant’s growth, but excludes products that are for agricultural use or restricted materials that require a permit for use and possession.
- IV.RRRR. “High-temperature coating” means a high performance coating labeled and formulated for application to substrates exposed continuously or intermittently to temperatures above 204°C (400°F).
- IV.SSSS. “High volatility organic compound (HVOC)” means any volatile organic compound that exerts a vapor pressure greater than 80 mm Hg when measured at 20 degrees C.
- IV.TTTT. “Household product” means any consumer product that is primarily designed to be used inside or outside of living quarters or residences that are occupied or intended for occupation by individuals, including the immediate surroundings.
- IV.UUUU. “Impacted immersion coating” means a high performance maintenance coating formulated and recommended for application to steel structures subject to immersion in turbulent, debris-laden water.
- IV.VVVV. “Industrial maintenance coating” means a high performance architectural coating, including primers, sealers, undercoaters, intermediate coats, and topcoats, formulated for application to substrates, including floors, and exposed to one or more of the following extreme environmental conditions: immersion in water, wastewater, or chemical solutions (aqueous and non-aqueous solutions), or chronic exposures of interior surfaces to moisture condensation; acute or chronic exposure to corrosive, caustic, or acidic agents, or to chemicals, chemical fumes, or chemical mixtures or solutions; frequent exposure to temperatures above 121°C (250°F); frequent heavy abrasion, including mechanical wear and scrubbing with industrial solvents, cleansers, or scouring agents; or exterior exposure of metal structures and structural components.
- IV.WWWW. “Insecticide” means a pesticide product that is designed for use against insects or other arthropods. Insecticide does not include products that are for agricultural use, for a use which requires a structural pest control license, or restricted materials that require a permit for use and possession.
- IV.XXXX. “Insecticide fogger” means any insecticide product designed to release all or most of its content as a fog or mist into indoor areas during a single application.
- IV.YYYY. “Institutional product” or “industrial and institutional (I&I) product” means a consumer product that is designed for use in the maintenance or operation of an establishment (e.g., government agencies, factories, schools, hospitals, restaurants, hotels, stores) that manufactures, transports, or sells goods or commodities or provides services for profit or is engaged in the nonprofit promotion of a particular public, educational, or charitable cause. Institutional product does not include products that are incorporated into or used exclusively in the manufacture or construction of the goods or commodities at the site of the establishment.
- IV.ZZZZ. “Laundry prewash” means a product that is designed for application to a fabric prior to laundering and that supplements and contributes to the effectiveness of laundry detergents and/or provides specialized performance.



- IV.AAAAA. “Laundry starch/sizing/fabric finish product” means a product that is labeled for application to a fabric, either during or after laundering, to impart and prolong a crisp, fresh look and may also act to help ease ironing of the fabric.
- IV.BBBBB. “Lawn and garden insecticide” means an insecticide product labeled primarily to be used in household lawn and garden areas to protect plants from insects or other arthropods.
- IV.CCCCC. “Liquid” means a substance or mixture of substances which is capable of a visually detectable flow as determined under ASTM D-4359-90(2000)e1 (2012) but does not include powders or other materials that are composed entirely of solid particles.
- IV.DDDDD. “Low-solids coating” means a coating containing 0.12 kilogram or less of solids per liter (1 pound or less of solids per gallon) of coating material as recommended for application by the manufacturer.
- IV.EEEEE. “Lubricant” means a product designed to reduce friction, heat, noise, or wear between moving parts, or to loosen rusted or immovable parts or mechanisms. Lubricant does not include automotive power steering fluids; products for use inside power generating motors, engines, and turbines, and their associated power-transfer gearboxes; two cycle oils or other products designed to be added to fuels; products for use on the human body or animals or products that are exclusively sold directly or through distributors to establishments which manufacture or construct goods or commodities and labeled exclusively for “use in the manufacturing process only.”
- IV.FFFFF. “LVP content” means the total weight, in pounds, of LVP compounds in an ACP product multiplied by 100 and divided by the product's total net weight (in pounds, excluding container and packaging), expressed to the nearest 0.1.
- IV.GGGGG. “LVP-VOC” means a chemical compound or mixture that contains at least one carbon atom and has a vapor pressure less than 0.1 mm Hg at 20 degrees C, as determined by CARB Method 310 (August 1, 2014); is a chemical compound with more than 12 carbon atoms, or a chemical mixture comprised solely of compounds with more than 12 carbon atoms as verified by formulation data, and the vapor pressure and boiling point are unknown; is a chemical compound with a boiling point greater than 216 degrees C, as determined by CARB Method 310 (August 1, 2014); or is the weight percent of a chemical mixture that boils above 216 degrees C, as determined by CARB Method 310 (August 1, 2014). Chemical compound means a molecule of definite chemical formula and isomeric structure. Chemical mixture means a substrate comprised of two or more chemical compounds.
- IV.HHHHH. “Magnesite cement coating” means a coating labeled and formulated for application to magnesite cement decking to protect the magnesite cement substrate from erosion by water.
- IV.IIIII. “Manufacturer,” for consumer product, means any person who imports, manufactures, assembles, produces, packages, repackages, or relabels a consumer product.
- IV.JJJJJ. “Manufacturer’s maximum thinning recommendation” means the maximum recommendation for thinning that is indicated on the label or lid of the coating container.
- IV.KKKKK. “Mastic texture coating” means a coating labeled and formulated to cover holes and minor cracks and to conceal surface irregularities, and is applied in a single coat of at least 10 mils (0.010 inch) dry film thickness.
- IV.LLLLL. “Medicated astringent/medicated toner” means any product regulated as a drug by the FDA which is applied to the skin for the purpose of cleaning or tightening pores and includes, but

is not limited to, clarifiers and substrate-impregnated products. Medicated astringent/medicated toner does not include hand, face, or body cleaner or soap products; cold cream; lotion; antiperspirants; or products that must be purchased with a doctor's prescription.

IV.MMMMM. "Medium density fiberboard (MDF)" means a composite wood product, panel, molding, or other building material composed of cellulosic fibers made by dry forming and pressing of resonated fiber mat.

IV.NNNNN. "Medium volatility organic compound (MVOC)" means any volatile organic compound that exerts a vapor pressure greater than 2 mm Hg and less than or equal to 80 mm Hg when measured at 20 degrees C.

IV.OOOOO. "Metal polish/cleanser" means any product designed primarily to improve the appearance (e.g., remove or reduce stains) of finished metal, metallic, or metallized surfaces by physical or chemical action and includes, but is not limited to, metal polishes used on brass, silver, chrome, copper, stainless steel, and other ornamental metals. Metal polish/cleanser does not include products designed and labeled exclusively for automotive and marine detailing or products designed for use in degreasing tanks.

IV.PPPPP. "Metallic pigmented coating" means a coating that is labeled and formulated to provide a metallic appearance. Metallic pigmented coatings must contain containing at least 48 grams of elemental metallic pigment (excluding zinc) per liter of coating as applied (at least 0.4 pounds per gallon), when tested in accordance with SCAQMD Method 318-95 "Determination of Weight Percent Elemental Metal in Coatings by X-Ray Diffraction" (July 1996). The Metallic pigmented coating category does not include coatings applied to roofs or zinc rich primers.

IV.QQQQQ. "Mist spray adhesive" means any aerosol which is not a special purpose spray adhesive and which delivers a particle or mist spray, resulting in the formation of fine, discrete particles that yield a generally uniform and smooth application of adhesive to the substrate.

IV.RRRRR. "Multi-color coating" means a coating that is packaged in a single container and that is labeled and formulated to exhibits more than one color when applied in a single coat.

IV.SSSSS. "Multi-purpose dry lubricant" means any lubricant which is designed and labeled to provide lubricity by depositing a thin film of graphite, molybdenum disulfide (moly), or polytetrafluoroethylene or closely related fluoropolymer (teflon) on surfaces and is designed for general purpose lubrication or for use in a wide variety of applications.

IV.TTTTT. "Multi-purpose lubricant" means any lubricant designed for general purpose lubrication, or for use in a wide variety of applications.

IV.UUUUU. "Multi-purpose solvent" means any liquid product designed or labeled to be used for dispersing, dissolving, or removing contaminants or other organic materials. Multi-purpose solvent includes products that do not display specific use instructions on the product container or packaging; products that do not specify an end-use function or application on the product container or packaging; solvents used in institutional facilities, except for laboratory reagents used in analytical, educational, research, scientific or other laboratories; paint clean-up products (i.e., liquid product labeled for cleaning oil-based or water-based pain, lacquer, varnish, related coatings); and products labeled to prepare surfaces for painting. Multi-purpose solvent does not include solvents used in cold cleaners, vapor degreasers, conveyorized degreasers or film cleaning machines; solvents labeled exclusively for the clean-up of application equipment used for polyaspartic and polyurea coatings; solvents that are incorporated into, or used exclusively in the manufacture or construction of, the goods or commodities at the site of the establishment; products that are labeled exclusively to clean a specific contaminant, on a single substrate, in



specific situations; or any product making any representation that the product may be used as or is suitable for use as a consumer product which qualifies under another definition.

IV.VVVVV. “Nail polish” means any clear or colored coating designed for application to the fingernails or toenails and including, but not limited to, lacquers, enamels, acrylics, base coats and top coats.

IV.WWWWW. “Nail polish remover” means a product designed to remove nail polish and coatings from fingernails or toenails.

IV.XXXXX. “Non-aerosol product” means any consumer product that is not dispensed by a pressurized spray system.

IV.YYYYY. “Non-carbon containing product” means any compound which does not contain any carbon atoms.

IV.ZZZZZ. “Non-flat coating” means a coating that is not defined under any other definition in this rule and that registers a gloss of 15 or greater on an 85-degree meter and 5 or greater on a 60-degree meter according to ASTM Designation D 523-89 “Standard Test Method for Specular Gloss” (1999).

IV.AAAAA. “Non-flat - high gloss coating” means a non-flat coating that registers a gloss of 70 or greater on a 60-degree meter according to ASTM Designation D 523-89 “Standard Test Method for Specular Gloss” (1999).

IV.BBBBB. “Non-resilient flooring” means flooring of a mineral content which is not flexible and includes terrazzo, marble, slate, granite, brick, stone, ceramic tile, and concrete.

IV.CCCCC. “Non-selective terrestrial herbicide” means a terrestrial herbicide product that is toxic to plants without regard to species.

IV.DDDDD. “Nuclear coating” means a protective coating formulated and recommended to seal porous surfaces such as steel or concrete that otherwise would be subject to intrusion by radioactive materials. These coatings must be resistant to longterm (service life) cumulative radiation exposure according to ASTM Method 4082-02 “Standard Test Method for Effects of Gamma Radiation on Coatings for Use in Light-Water Nuclear Power Plants” (2017), relatively easy to decontaminate, and resistant to various chemicals to which the coatings are likely to be exposed according to ASTM Method D 3912-95 “Standard Test Method for Chemical Resistance of Coatings Used in Light-Water Nuclear Power Plants” (2001).

IV.EEEEE. “Oven or grill cleaner” means a product labeled exclusively to remove baked on greases and/or deposits from food preparation and/or food cooking surfaces. A product that is labeled as an oven or grill cleaner that makes claims that it is suitable for degreasing other hard surfaces is a general purpose degreaser.

IV.FFFFF. “Paint” means any pigmented liquid, liquefiable, or mastic composition designed for application to a substrate in a thin layer which is converted to an opaque solid film after application and is used for protection, decoration, or identification or to serve some functional purpose such as the filling or concealing of surface irregularities or the modification of light and heat radiation characteristics.

IV.GGGGG. “Paint remover or stripper” means any product designed to strip or remove paints or other related coatings, by chemical action, from a substrate without markedly affecting the substrate. Paint remover or stripper does not include paint brush cleaners and hand cleaner products that claim to remove paints and other related coatings from skin.

IV.HHHHHH. “Paint thinner” means any liquid product labeled and used for reducing the viscosity of coating compositions or components. Paint thinner does not include products that are sold in containers with a capacity of five (5) gallons or more and are labeled exclusively for the thinning of industrial maintenance coatings, zinc-rich primers, or high temperature coatings. Paint thinner does not include products labeled and used exclusively as an ingredient in a specific coating or coating brand line, whereby the coating would not be complete or useable without the specific ingredient.

IV.IIIIII. “Particleboard” means a composite wood product panel, molding, or other building material composed of cellulosic material in the form of discrete particles, as distinguished from fibers, flakes, or strands, which are pressed together with resin.

IV.JJJJJJ. “Pearlescent” means exhibiting various colors depending on the angles of illumination and viewing, as observed in mother-of-pearl.

IV.KKKKKK. “Penetrant” means a lubricant designed and labeled primarily to loosen metal parts that have bonded together due to rusting, oxidation, or other causes. Penetrant does not include multi-purpose lubricants that claim to have penetrating qualities but are not labeled primarily to loosen bonded parts.

IV.LLLLLL. “Personal fragrance product” means any product which is applied to the human body or clothing for the primary purpose of adding a scent or masking a malodor, including cologne, perfume, aftershave, and toilet water. Personal fragrance product does not include medicated products designed primarily to alleviate fungal or bacterial growth on feet or other areas of the body; mouthwashes, breath fresheners and deodorizers; lotions, moisturizers, powders, or other skin care products used primarily to alleviate skin conditions such as dryness and irritations; products designed exclusively for use on human genitalia; soaps, shampoos, and products primarily used to clean the human body; and fragrance products designed to be used exclusively on non-human animals.

IV.MMMMMM. “Pesticide” means and includes any substance or mixture of substances labeled, designed, or intended for use in preventing, destroying, repelling or mitigating any pest, or any substance or mixture of substances labeled, designed, or intended for use as a defoliant, desiccant, or plant regulator, provided that the term “pesticide” will not include any substance, mixture of substances, or device which the United States Environmental Protection Agency does not consider to be a pesticide.

IV.NNNNNN. “Plywood” means a panel product consisting of layers of wood veneers or composite core pressed together with resin.

IV.OOOOOO. “Post-consumer coating” means a finished coating that would have been disposed of in a landfill, having completed its usefulness to a consumer, and does not include manufacturing wastes.

IV.PPPPPP. “Pre-treatment wash primer” means a primer that contains a minimum of 0.5 percent acid, by weight, when tested in accordance with ASTM D 1613-06 “Standard Test Method for Acidity in Volatile Solvents and Chemical Intermediates Used in Paint, Varnish, Lacquer and Related Products” (2017), that is labeled and formulated for application directly to bare metal surfaces to provide corrosion resistance and to promote adhesion of subsequent topcoats.

IV.QQQQQQ. “Pressurized gas duster” means a pressurized product labeled to remove dust from a surface solely by means of mass air or gas flow, including surfaces such as photographs, photographic film negatives, computer keyboards, and other types of surfaces that cannot be cleaned with solvents.

IV.RRRRRR. “Primer, sealer, and undercoater” means a coating labeled and formulated to provide a firm bond between the substrate and the subsequent coatings; prevent subsequent coatings from being absorbed by the substrate; prevent harm to subsequent coatings by materials in the substrate; provide a smooth surface for the subsequent application of coatings; provide a clear finish coat to seal the substrate; or block materials from penetrating into or leaching out of a substrate.

IV.SSSSSS. “Product brand name” means the name of the product exactly as it appears on the principal display panel of the product.

IV.TTTTTT. “Product category” means the applicable category which best describes the product as listed in the definitions and Table 1.

IV.UUUUUU. “Product form” means the applicable form that most accurately describes the product’s dispensing form:

A = aerosol product

S = solid

P = pump spray

L = liquid

SS = semi-solid

O = other

IV.VVVVVV. “Product line” means a group of products of identical form and function belonging to the same product category(ies).

IV.WWWWWW. “Propellant” means a liquefied or compressed gas that is used in whole or in part, such as a cosolvent, to expel a liquid or any other material from the same self-pressurized container or from a separate container.

IV.XXXXXX. “Pump spray” means a packaging system in which the product ingredients within the container are not under pressure and in which the product is expelled only while a pumping action is applied to a button, trigger, or other actuator.

IV.YYYYYY. “Reactive penetrating sealer” means a clear or pigmented coating that is labeled and formulated for application to above-grade concrete and masonry substrates to provide protection from water and waterborne contaminants, including but not limited to, alkalis, acids, and salts. Reactive penetrating sealers must penetrate into concrete and masonry substrates and chemically react to form covalent bonds with naturally occurring minerals in the substrate. Reactive penetrating sealers line the pores of concrete and masonry substrates with a hydrophobic coating, but do not form a surface film. Reactive penetrating sealers must improve water repellency at least 80 percent after application on a concrete or masonry substrate, as verified on standardized test specimens in accordance with one or more of ASTM C67-07 “Standard Test Methods for Sampling and Testing Brick and Structural Clay Tile” (2018), ASTM C97-02 “Standard Test Methods for Absorption and Bulk Specific Gravity of Dimension Stone” (2018), or ASTM C140-06 “Standard Test Methods for Sampling and Testing Concrete Masonry Units and Related Units” (2018); must not reduce the water vapor transmission rate by more than 2 percent after application on a concrete or masonry substrate, as verified on standardized test specimens in accordance with ASTM E96/E96M-05 “Standard Test Method for Water Vapor

Transmission of Materials” (2016); and products labeled and formulated for vehicular traffic surface chloride screening applications must meet the performance criteria listed in the National Cooperative Highway Research Report 244 “Concrete Sealers for the Protection of Bridge Structures” (1981).

IV.ZZZZZZ. “Recycled coating” means an architectural coating formulated such that it contains a minimum of 50% by volume post-consumer coating, with a maximum of 50% by volume secondary industrial materials or virgin materials.

IV.AAAAAA. “Residential” means areas where people reside or lodge, including, but not limited to, single and multiple family dwellings, condominiums, mobile homes, apartment complexes, motels, and hotels.

IV.BBBBBBB. “Responsible party” means the company, firm, or establishment which is listed on the product's label. If the label lists two companies, firms, or establishments, the responsible party is the party which the product was “manufactured for” or “distributed by,” as noted on the label.

IV.CCCCCC. “Roll-on product” means any antiperspirant or deodorant that dispenses active ingredients by rolling a wetted ball or wetted cylinder on the affected area.

IV.DDDDDDD. “Roof coating” means a non-bituminous coating labeled and formulated for application to roofs for the primary purpose of preventing water penetration of the substrate by water, reflecting heat and ultraviolet light, or reflecting solar radiation. Metallic pigmented roof coatings, which qualify as metallic pigmented coatings, are considered to be in the metallic pigmented coatings category.

IV.EEEEEEE. “Rubber/vinyl protectant” means any product labeled to protect, preserve or renew vinyl, or rubber on vehicles, tires, luggage, furniture, and/or household products such as vinyl covers, clothing, or accessories. Rubber/vinyl protectant does not include products labeled to clean the wheel rim, such as aluminum or magnesium wheel cleaners; tire cleaners that do not leave an appearance-enhancing or protective substance on the tire; pigmented products designed or labeled to be used primarily for coloring; products used for construction, reconstruction, modification, or structural maintenance or repair of rubber or vinyl substrates; or products, other than those labeled to be used on vehicle tires, qualifying as either clear coating or vinyl/fabric/leather/polycarbonate coating.

IV.FFFFFFF. “Rubbing alcohol” means any product containing isopropyl alcohol (also called isopropanol) or denatured ethanol and labeled for topical use, usually to decrease germs in minor cuts and scrapes, to relieve minor muscle aches, as a rubefacient, and for massage.

IV.GGGGGGG. “Rust preventive coating” means a coating formulated exclusively for nonindustrial use to prevent the corrosion of metal surfaces for direct-to-metal coating or application over rusty, previously coated surfaces. The rust preventative category does not include coatings that are required to be applied as a topcoat over a primer or coatings that are intended for use on wood or any other nonmetallic surface.

IV.HHHHHHH. “Sanitizer” means a product labeled as a sanitizer or a product registered as a sanitizer under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA, 7 U.S.C. 136, et seq.) to reduce, but not necessary eliminate, microorganisms in the air, on surfaces, or on inanimate objects. Products that are labeled both sanitizer and disinfectant are considered disinfectants. Sanitizer does not include products labeled solely for use on humans or animals; products labeled solely for agricultural use; products labeled solely for use in swimming, therapeutic tubs, or hot tubs; products which are labeled to be used on heat sensitive critical or semi-critical medical devices or medical equipment surfaces; products which are pre-moistened wipes or towelettes sold exclusively to medical, convalescent or veterinary establishments; products which

are labeled to be applied to food-contact surfaces and are not required to be rinsed prior to contact with food; or other products (e.g., labeled bathroom and tile cleaners) that may also make sanitizing or anti-microbial claims on the label.

IV.IIIIIII. “Sealant and caulking compound” means any product with adhesive properties that is designed to fill, seal, waterproof, or weatherproof gaps or joints between two surfaces. Sealant and caulking compound does not include roof cements and roof sealants; insulating foams; removable caulking compounds (i.e., provides a three to six month temporary seal); clear/paintable/water resistant caulking compounds; floor seam sealers; products designed exclusively for automotive uses; sealers that are applied as continuous coatings; or units of product, less packaging, which weigh more than one pound and consist of more than 16 fluid ounces.

IV.JJJJJJJ. “Secondary industrial materials” means a finished coating or a finished coating from a manufacturing process that has converted resources into a commodity of real economic value including products or byproducts of the paint manufacturing process that are of known composition and have economic value but can no longer be used for their intended use, but does not include excess virgin resources of the manufacturing process.

IV.KKKKKKK. “Semi-solid” means a product that, at room temperature, will not pour, but will spread or deform easily, including but not limited to gels, pastes, and greases.

IV.LLLLLLL. “Semi-transparent coating” means a coating that contains binders and colored pigments and is formulated to change the color of the surface, but not conceal the grain pattern or texture.

IV.MMMMMMM. “Shaving cream” means an aerosol product which dispenses a foam lather intended to be used with a blade, cartridge razor, or other wet-shaving system in the removal of facial or other bodily hair.

IV.NNNNNNN. “Shaving gel” means an aerosol product which dispenses a post-foaming semisolid designed to be used with a blade, cartridge razor, or other shaving system in the removal of facial or other bodily hair.

IV.OOOOOOO. “Shellac” means a clear or opaque coating formulated solely with the resinous secretions of the lac beetle (*Laccifer lacca*), thinned with alcohol, and formulated to dry by evaporation without a chemical reaction.

IV.PPPPPPP. “Shop application” means application of a coating to a product or a component of a product in or on the premises of a factory or a shop as part of a manufacturing, production, or repairing process.

IV.QQQQQQQ. “Silicone-based multi-purpose lubricant” means any lubricant that is designed and labeled to provide lubricity primarily through the use of silicone compounds including, but not limited to, polydimethylsiloxane and is designed and labeled for general purpose lubrication or for use in a wide variety of applications. Silicone-based multi-purpose lubricant does not include products designed and labeled exclusively to release manufactured products from molds.

IV.RRRRRRR. “Single phase aerosol air freshener” means an aerosol air freshener with the liquid contents in a single homogeneous phase and which does not require that the product container be shaken before use.

IV.SSSSSSS. “Solicit” means to require for use or to specify, by written or oral contract.

IV.TTTTTTTT. “Solid” means a substance or mixture of substances which, either whole or subdivided (such as the particles comprising a powder), is not capable of visually detectable flow as determined under ASTM D-4359-90(2000)e1 (2012).

IV.UUUUUUUU. “Special purpose spray adhesive” means an aerosol adhesive that meets any of the following definitions:

IV.UUUUUUUU.1. Mounting adhesive: designed to permanently mount photographs, artwork, and any other drawn or printed media to a backing (e.g., paper, board, cloth) without causing discoloration to the artwork.

IV.UUUUUUUU.2. Flexible vinyl adhesive: designed to bond flexible vinyl to substrates. Flexible vinyl means a nonrigid polyvinyl chloride plastic with at least five percent, by weight, of plasticizer content. A plasticizer is a material, such as a high boiling point organic solvent, that is incorporated into a plastic to increase its flexibility, workability, or distensibility, and may be determined using ASTM Method E260-91 (2011) or from product formulation data.

IV.UUUUUUUU.3. Polystyrene foam adhesive: designed to bond polystyrene foam to substrates.

IV.UUUUUUUU.4. Automobile headliner adhesive: designed to bond together layers in motor vehicle headliners.

IV.UUUUUUUU.5. Polyolefin adhesive: designed to bond polyolefins to substrates.

IV.UUUUUUUU.6. Laminate repair/edgebanding adhesive: designed for the touch-up or repair (e.g., lifted edges, delaminations) of items laminated with high pressure laminates (i.e., temperatures exceeding 265°F and pressures between 1,000 and 1,400 psi) or for the touch-up, repair, or attachment of edgebanding materials, including but not limited to, other laminates, synthetic marble, veneers, wood molding, and decorative metals.

IV.UUUUUUUU.7. Automotive engine compartment adhesive: designed for use in motor vehicle under-the-hood applications which require oil and plasticizer resistance, as well as high shear strength, at temperatures of 200 - 275°F.

IV.VVVVVVVV. “Specialty primer, sealer, and undercoater” means a coating that is formulated for application to a substrate to block water-soluble stains resulting from: fire damage, smoke damage, or water damage.

IV.WWWWWWWW. “Spot remover” means any product labeled to clean localized areas, or remove localized spots or stains on cloth or fabric such as drapes, carpets, upholstery, and clothing that does not require subsequent laundering to achieve stain removal.

IV.XXXXXXXX. “Spray buff product” means a product designed to restore a worn floor finish in conjunction with a floor buffing machine and special pad.

IV.YYYYYYYY. “Stain” means a semi-transparent or opaque coating labeled and formulated to change the color of a surface but not conceal the grain pattern or texture.

IV.ZZZZZZZZ. “Stone consolidant” means a coating that is labeled and formulated for application to stone substrates to repair historical structures that have been damaged by weathering or other decay mechanisms. Stone consolidants must penetrate into stone substrates to create bonds



between particles and consolidate deteriorated material and be specified and used in accordance with ASTM E2167-01 "Standard Guide for Selection and Use of Stone Consolidants" (2008).

IV.AAAAAAAA. "Swimming pool coating" means a coating labeled and formulated to coat the interior of swimming pools and to resist swimming pool chemicals and includes coatings used for swimming pool repair and maintenance.

IV.BBBBBBBB. "Table B compound" means any carbon-containing compound listed as an exception to the definition of VOC.

IV.CCCCCCCC. "Temporary hair color" means any product that applies color, glitter, or UV-active pigments to hair, wigs, or fur and is removable when washed. Temporary hair color includes hair color mousses and products labeled to add texture or thickness to cover thinning/balding areas.

IV.DDDDDDDD. "Thermoplastic rubber coating and mastic" means a coating or mastic formulated and recommended for application to roofing or other structural surfaces and that incorporates no less than 40 percent by weight of thermoplastic rubbers in the total resin solids and may also contain other ingredients including, but not limited to, fillers, pigments, and modifying resins.

IV.EEEEEEEEE. "Tint base" means an architectural coating to which colorant is added after packaging in sale units to produce a desired color.

IV.FFFFFFFF. "Tire sealant and inflation" means any pressurized product that is designed to temporarily inflate and seal a leaking tire.

IV.GGGGGGGG. "Toilet/urinal care product" means any product designed or labeled to clean and/or to deodorize toilet bowls, toilet tanks, or urinals connected to permanent plumbing in buildings and other structures, portable toilets or urinals placed at temporary or remote locations, and toilet or urinals in vehicles such as buses, recreational motor homes, boats, ships, and aircraft.

IV.HHHHHHHH. "Traffic marking coating" means a coating labeled and formulated for marking and striping streets, highways, or other traffic surfaces including, but not limited to, curbs, berms, driveways, parking lots, sidewalks, and airport runways.

IV.IIIIIIII. "Tub and tile refinish coating" means a clear or opaque coating that is labeled and formulated exclusively for refinishing the surface of a bathtub, shower, sink, or countertop. Tub and tile refinish coatings must have a scratch hardness of 3H or harder and a gouge hardness of 4H or harder, as determined on bonderite 1000 in accordance with ASTM D3363-05 "Standard Test Method for Film Hardness by Pencil Test" (2011); a weight loss of 20 milligrams or less after 1000 cycles, as determined with CD-17 wheels on bonderite 1000 in accordance with ASTM D4060-07 "Standard Test Methods for Abrasion Resistance of Organic Coatings by the Taber Abraser" (2014); withstand 1000 hours or more of exposure with few or no #8 blisters, as determined on unscribed bonderite in accordance with ASTM D4585-99 "Standard Practice for Testing Water Resistance of Coatings Using Controlled Condensation" (2018) and ASTM D714-02e1 "Standard Test Method for Evaluating Degree of Blistering of Paints" (2017); and have an adhesion rating of 4B or better after 24 hours of recovery, as determined on inscribed bonderite in accordance with ASTM D4585-99 "Standard Test Methods for Abrasion Resistance of Coatings Using Controlled Condensation" (2018) and ASTM D3359-02 "Standard Test Methods for Measuring Adhesion by Tape Test" (2017).

IV.JJJJJJJJ. "Type A propellant" means a compressed gas such as CO<sub>2</sub>, N<sub>2</sub>, N<sub>2</sub>O, or compressed air which is used as a propellant and is either incorporated with the product or contained in a separate chamber within the product's packaging.

- IV.KKKKKKKK. “Type B propellant” means any halocarbon which is used as a propellant including chlorofluorocarbons (CFCs), hydrochlorofluorocarbons (HCFCs), and hydrofluorocarbons (HFCs).
- IV.LLLLLLLL. “Type C propellant” means any propellant which is not a Type A or Type B propellant, including propane, isobutane, n-butane, and dimethyl ether (also known as dimethyl oxide).
- IV.MMMMMMMM. “Undercoating” means any aerosol product designed to impart a protective, non-paint layer to the undercarriage, trunk interior, and/or firewall of motor vehicles to prevent the formation of rust or to deaden sound and includes, but is not limited to, rubberized, mastic, or asphaltic products.
- IV.NNNNNNNN. “Usage directions” means the text or graphics on the product label or accompanying literature that describes to the end user how and in what quantity the product is to be used.
- IV.OOOOOOOO. “Veneer” means thin sheets of wood peeled or sliced from logs for use in the manufacture of wood products such as plywood, laminated veneer lumber, or other products.
- IV.PPPPPPPP. “Vinyl/fabric/leather/polycarbonate coating” means a coating designed and labeled exclusively to coat vinyl, fabric, leather, or polycarbonate substrates.
- IV.QQQQQQQQ. “Virgin materials” means materials that contain no post-consumer coatings or secondary industrial coatings.
- IV.RRRRRRRR. “Wasp and hornet insecticide” means any insecticide product that is designed for use against wasps, hornets, yellow jackets or bees by allowing the user to spray from a distance a directed stream or burst at the intended insects or their hiding place.
- IV.SSSSSSSS. “Waterproofer” means a product designed and labeled exclusively to repel water from fabric or leather substrates.
- IV.TTTTTTTT. “Waterproofing membrane” means a clear or opaque coating that is labeled and formulated for application to concrete and masonry surfaces to provide a seamless waterproofing membrane that prevents any penetration of liquid water into the substrate and does not include topcoats in the concrete/masonry sealer category. Waterproofing membranes are intended for below-grade surfaces, between concrete slabs, inside tunnels, inside concrete planters, and under flooring materials. Waterproofing membranes must be applied in a single coat of at least 25 mils (at least 0.025 inch) dry film thickness and meet or exceed the requirements contained in ASTM C836-06 “Standard Specification for High Solids Content, Cold Liquid-Applied Elastomeric Waterproofing Membrane for Use with Separate Wearing Course” (2018).
- IV.UUUUUUUU. “Wax” means a material or synthetic thermoplastic substance generally of high molecular weight hydrocarbons or high molecular weight esters of fatty acids or alcohols, except glycerol and high polymers (plastics) and includes, but is not limited to, substances derived from the secretions of plants and animals such as carnauba wax and beeswax, substances of a mineral origin such as ozocerite and paraffin, and synthetic polymers such as polyethylene.
- IV.VVVVVVVV. “Web spray adhesive” means any aerosol adhesive that is not a mist spray adhesive or special purpose spray adhesive.
- IV.WWWWWWWW. “Wood cleaner” means a product labeled to clean wooden materials and includes, but is not limited to, decking, fences, flooring, logs, cabinetry, and furniture. Wood cleaner does not include products designed and labeled exclusively to preserve or color wood.



IV.XXXXXXXX. “Wood coatings” means coatings labeled and formulated for application to wood substrates only. The wood coatings category includes the following clear and semitransparent coatings: lacquers; varnishes; sanding sealers; penetrating oils; clear stains; wood conditioners used as undercoats; and wood sealers used as topcoats. The wood coatings category includes the following opaque wood coatings: opaque lacquers; opaque sanding sealers; and opaque lacquer undercoats.

IV.YYYYYYYY. “Wood floor wax” means wax-based products for use solely on wood floors.

IV.ZZZZZZZZ. “Wood preservative” means a coating labeled and formulated to protect exposed wood from decay or insect attack that is registered with the U.S. EPA under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. section 136, et. seq. (1996)).

IV.AAAAAAAAA. “Wood substrate” means a substrate made of wood, particleboard, plywood, medium density fiberboard, rattan, wicker, bamboo, or composite products with exposed wood grain. Wood Products do not include items comprised of simulated wood.

IV.BBBBBBBBB. “Zinc-rich primer” means a coating that contains at least 65 percent metallic zinc powder or zinc dust by weight of total solids and is formulated for application to metal substrates to provide a firm bond between the substrate and subsequent applications of coatings.

## **V. STATEMENTS OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE**

### **V.A. Adopted: July 18, 2019**

This Statement of Basis, Specific Statutory Authority, and Purpose complies with the requirements of the Colorado Administrative Procedure Act §24-4-103, the Colorado Air Pollution Prevention and Control Act §§25-7-110 and 25-7-110.5, and the Air Quality Control Commission’s (Commission) Procedural Rules.

#### **Basis**

On May 4, 2016, the U.S. Environmental Protection Agency (EPA) published a final rule that determined that Colorado’s Marginal ozone nonattainment area failed to attain the 2008 8-hour Ozone National Ambient Air Quality Standard (NAAQS). EPA, therefore, reclassified the Denver Metro North Front Range (DMNFR) area to Moderate and required attainment of the NAAQS no later than July 20, 2018.

In 2015, EPA revised the ozone NAAQS from 0.075 parts per million (ppm) to 0.070 ppm. On June 4, 2018, EPA published a final rule that classified the DMNFR as a Marginal ozone nonattainment area for the 2015 8-hour ozone NAAQS, with an attainment date of August 3, 2021.

In a continued effort to reduce ozone precursor emissions and achieve the ozone NAAQS, the Commission adopted a new Regulation Number 21 to establish VOC content limits for consumer products and AIM coatings manufactured and/or sold in Colorado. The Ozone Transport Commission (OTC) model rules, which are the basis for this rule, achieve additional VOC reductions over EPA’s national rules in 40 CFR Part 59, Subparts C and D (1998). Therefore, these standards will reduce VOC emissions from consumer products and AIM coatings and contribute to attaining and maintaining the ozone NAAQS in Colorado.

#### **Specific Statutory Authority**

The Colorado Air Pollution Prevention and Control Act, §§25-7-105(1)(a), 25-7-201 through 25-7-206, 25-7-210, 25-7-301, and 25-7-302, C.R.S., authorize the Commission to promulgate a comprehensive State Implementation Plan (SIP) to assure attainment and maintenance of national ambient air quality standards in conformance with the Federal and Colorado Acts. Sections 105(1)(b) and 109 authorize the

Commission to establish emission control regulations, including pertaining to hydrocarbons. Section 106(1) authorizes the Commission to establish emission control regulations applicable to the entire state or only within specified areas of the state. Section 106(6) authorizes the Commission to require owners or operators of any air pollution source to establish and maintain reports and record, monitor, and sample emissions. Section 109(2) authorizes the Commission to adopt emission control regulations to reduce emissions of various pollutants, including chemical substances.

### **Purpose**

Consumer products include, for example, adhesives, air-fresheners, cleaners, hair products, and insecticides. AIM coatings include, for example, coatings applied to stationary structures, portable buildings, pavements, or curbs.

The Commission adopted VOC standards in the OTC model rules for consumer products and AIM coatings manufactured, distributed, or sold in Colorado. The standards as applied in the DMNFR are included in Colorado's ozone State Implementation Plan (SIP) and in the remainder of the state as state-only requirements. Specifically, the Commission adopted VOC standards in the OTC AIM coatings model rule phase 2 (2014) and VOC standards in the OTC consumer products model rule phase 4 (2013). The Commission adopted definitions, exemptions, labeling, and recordkeeping provisions based on the OTC model rules. The Commission intends that the adopted definitions have the same meanings as in the OTC model rules.

### **Consumer Products**

The Commission adopted VOC standards for consumer products based on the OTC model rule phase 4. However, the OTC has also published consumer products models rules phases 1, 2, 3, and 5. The OTC model rule phase 5 was only published in 2018. The Commission adopted Regulation Number 21 based on the OTC model rule phase 4 due to the current implementation of this phase by some states, notably by Utah, and the potential increase in VOC emission reductions over EPA's national rule.

Some stakeholders raised concerns that the OTC model rule includes provisions to regulate two chemical substances – methylene chloride and perchloroethylene – which are not truly ozone precursors. Those stakeholders pointed out that these substances are defined as “negligibly reactive volatile organic compounds” and were therefore not within the Commission's authority to regulate as part of the ozone SIP. The provisions that regulate these chemicals are considered optional in the OTC Model rules and the Commission decided not to adopt the provisions for methylene chloride and perchloroethylene at this time.

The Commission also adopted an implementation schedule that – based upon comments received by stakeholders – appropriately addresses the time required to either develop a formula that meets requirements without additional labeling, or to update their labeling and manufacture process in order to comply. Given the need for ozone precursor reductions in the 2020 summer ozone season, additional time was not adopted.

### **AIM Coatings**

The Commission adopted VOC standard for AIM coatings based on the OTC model rule phase 2. The OTC has also published an AIM coatings model rule phase 1. As with consumer products, Regulation Number 21 is based on the OTC model rule phase 2 due to the potential increase in VOC emission reductions over EPA's national rule. Further, the OTC model rule phase 2 is based on California's 2006 standards, which are also being implemented by other states.

### **Additional Considerations**

Colorado must continue to reduce ozone concentrations to attain both the 2008 ozone NAAQS and the 2015 ozone NAAQS. The CAA does not expressly address all of the provisions adopted by the Commission. Rather, federal law establishes the 8-hour ozone NAAQS and requires Colorado to develop a SIP adequate to attain the NAAQS. Therefore, the Commission adopted Regulation Number 21 to make progress towards attainment of the 2008 and 2015 8-hour ozone NAAQS. These revisions do not exceed or differ from the federal act due to state flexibility in developing nonattainment area SIPs. In addition, EPA's national rules, promulgated in 1998, do not limit states from developing more stringent levels of control to attain the ozone standard. However, in accordance with C.R.S. § 25-7-110.5(5)(b), the Commission nonetheless determines:

- (I) In 1998, EPA established national standards to reduce VOC emissions from architectural coatings and consumer products. EPA's national rules do not limit states from developing more stringent levels of control to attain the ozone standard. The OTC model rules, which are the basis for the division's proposal, achieve additional VOC reductions over EPA's national rules in 40 CFR Part 59, Subparts C and D.
- (II) The federal rules discussed in (I) are primarily technology-based in that the rules largely prescribe the use of specific VOC contents in order to comply. The federal rules provide flexibility by allowing reformulation to meet the VOC content limits. The federal rules also provide some product and quantity exemptions.
- (III) The CAA establishes the 8-hour ozone NAAQS and requires Colorado to develop SIP revisions that will ensure attainment of the NAAQS. The ozone NAAQS was not determined taking into account concerns unique to Colorado. EPA's 1998 federal consumer products and architectural coatings rules also do not take into account concerns unique to Colorado or limit Colorado from adopting more stringent standards. The OTC model rules, which are the basis for the division's proposal, achieve additional VOC reductions over EPA's national rules.
- (IV) Colorado must attain the 2008 ozone NAAQS as well as the lower 2015 ozone NAAQS. The adopted VOC standards, based on the OTC consumer products model rule phase four and AIM coatings model rule phase two rather than less stringent OTC model rules, may prevent or reduce the need for the regulated community to meet more stringent requirements later.
- (V) Colorado's attainment date under the 2008 ozone NAAQS, as a Moderate ozone nonattainment area, was July 2018, and if reclassified to Serious, Colorado's attainment date will be July 2021. Colorado's attainment date under the 2015 ozone NAAQS is August 2021. There are no timing issues that might justify changing these time frames.
- (VI) The requirements in Regulation Number 21 address VOC emissions from consumer products and AIM coatings in a cost-effective manner, allowing for continued economic growth in Colorado.
- (VII) The requirements in Regulation Number 21 establish reasonable equity for sources of VOC by providing the same categorical standards for the various consumer product and AIM coatings categories.
- (VIII) Because Colorado did not attain the 2008 ozone NAAQS by July 2018, EPA will likely reclassify Colorado as a Serious ozone nonattainment area, which automatically reduces the major source thresholds from 100 tons per year of VOC and NOx to 50 tons per year; thus subjecting more sources to RACT requirements. If Colorado does not attain the 2015 ozone NAAQS by August 2021, EPA will likely reclassify Colorado as a Moderate ozone nonattainment area under the 2015 ozone NAAQS. If EPA does not approve

Colorado's SIP, EPA may promulgate a Federal Implementation Plan for Colorado. These potential outcomes may subject others to increased costs.

- (IX) The requirements in Regulation Number 21 include minimal monitoring, recordkeeping, and procedural requirements that correlate to requirements in the OTC model rules.
- (X) Demonstrated technology is available to comply with the standards in Regulation Number 21. These standards are being implemented in other states and/or ozone nonattainment areas.
- (XI) As set forth in the Economic Impact Analysis, the requirements in Regulation Number 21 contribute to the prevention of ozone in a cost-effective manner.
- (XII) Although alternative rules could also provide reductions in ozone and help to attain the NAAQS, the Commission determined that the division's proposal was reasonable and cost-effective.

As part of adopting Regulation Number 21, the Commission has taken into consideration each of the factors set forth in C.R.S. § 25-7-109(1)(b).

Colorado must continue to reduce ozone concentrations to attain both the 2008 ozone NAAQS and the 2015 ozone NAAQS. However, to the extent that C.R.S. § 25-7-110.8 requirements apply to this rulemaking, and after considering all the information in the record, the Commission hereby makes the determination that:

- (I) These rules are based upon reasonably available, validated, reviewed, and sound scientific methodologies, and the Commission has considered all information submitted by interested parties.
- (II) Evidence in the record supports the finding that the rules shall result in a demonstrable reduction of the ozone precursor VOC.
- (III) Evidence in the record supports the finding that the rules shall bring about reductions in risks to human health and the environment that justify the costs to implement and comply with the rules.
- (IV) The rules are the most cost-effective to achieve the necessary and desired results, provide the regulated community flexibility, and achieve the necessary reduction in air pollution.
- (V) The rule will maximize the air quality benefits of regulation in the most cost-effective manner.



# COLORADO

## Air Quality Control Commission

Department of Public Health & Environment

### NOTICE OF RULEMAKING HEARING

Regarding proposed revisions to:

#### Regulation Number 21

#### **SUBJECT:**

The Air Quality Control Commission will hold a rulemaking hearing to consider a new Regulation Number 21 to limit the volatile organic compound (VOC) content in consumer products and architectural and industrial maintenance (AIM) coatings manufactured or sold in Colorado.

All required documents for this rulemaking can be found on the Commission website at: <https://www.colorado.gov/pacific/cdphe/aqcc>

#### **HEARING SCHEDULE:**

DATE: July 18, 2019  
TIME: 9:00 AM  
PLACE: Colorado Department of Public Health and Environment  
4300 Cherry Creek Drive South, Sabin Conference Room  
Denver, CO 80246

*The hearing may be continued at such places and time as the Commission may announce. Interested parties may contact the Commission Office at 303-692-3476 to confirm meeting location, dates and times.*

#### **PUBLIC COMMENT:**

The Commission encourages all interested persons to provide their views either orally at the hearing or in writing prior to or at the hearing. The Commission encourages that written comments be submitted by **July 2, 2019** so that Commissioners have the opportunity to review the information prior to the hearing.

Electronic submissions should be emailed to: [cdphe.aqcc-comments@state.co.us](mailto:cdphe.aqcc-comments@state.co.us)

Information should include: your name, address, phone number, email address, and the name of the group that you may be representing (if applicable).

Written submissions should be mailed to:

Colorado Air Quality Control Commission  
Colorado Department of Public Health and Environment  
4300 Cherry Creek Drive South, EDO-AQCC-A5  
Denver, Colorado 80246

**Public testimony will be taken on July 18, 2019.**

**PARTY STATUS:**

Any person may obtain party status for the purpose of this hearing by complying with the requirements of the Commission's Procedural Rules. A petition for party status must be filed by electronic mail with the Office of the Air Quality Control Commission no later than close of business on **May 16, 2019**. The petition must: *1) identify the applicant; 2) provide the name, address, telephone and facsimile numbers, and email address of the applicants representative; and 3) briefly summarize what, if any, policy, factual, and legal issues the applicant has with the proposal(s) as of the time of filing the application.* Electronically mailed copies must also be received, by this same date, by the Division staff person and the Assistant Attorneys General representing the Division and the Commission identified below.

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Requests received beyond the stated deadline shall only be considered upon a written motion for good cause shown. The Commission reserves the right to deny party status to anyone that does not comply with the Commission's Procedural Rules.

**ALTERNATE PROPOSAL:**

The submittal of an alternate proposal must be accompanied by an electronic copy of the alternate proposed rule and all other associated documents as required by the Commission's Procedural Rules, and must be filed by electronic mail with the Office of the Commission by **close of business June 11, 2019**. Alternate proposals must also be filed by electronic mail with the Division staff person and with each of the Assistant Attorneys General.

**STATUS CONFERENCE:**

A status conference will be held **May 21, 2019 at 1:00 p.m.**, at the Department of Public Health and Environment, Sabin Conference Room to ascertain and discuss the issues involved, and to ensure that parties are making all necessary efforts to discuss and resolve such issues prior to the submission of prehearing statements. Attendance at this status conference is mandatory for anyone who has requested party status.

### **PREHEARING CONFERENCE/PREHEARING STATEMENTS:**

Attendance at the prehearing conference is mandatory for all parties to this hearing. A prehearing conference will be held **June 18, 2019 at 10:00 a.m.** at the Department of Public Health and Environment, Sabin Conference Room. All parties must submit by electronic mail a prehearing statement to the Commission Office by close of business **June 11, 2019**. In addition, any exhibits to the prehearing statements or alternate proposals must be submitted in a separate electronic transmission to the Commission Office by close of business **June 11, 2019**.

Electronically mailed copies of these documents must be delivered by that date to all persons who have been granted party status and to the Division point of contact and each of the Assistant Attorneys General identified above by close of business **June 11, 2019**. Rebuttals to the prehearing statement, and any exhibits thereto, may be submitted to the Commission Office and all other parties by close of business **June 25, 2019**.

### **EXCEPTIONS TO FILE DOCUMENTS BY ELECTRONIC MAIL:**

The Commission's Procedural Rules provide for an exception to file documents by electronic mail. Any person may petition the Commission to file documents in paper copy format if they are unable for any reason to comply with the requirements of the Commission's Procedural Rules. If granted an exception to electronic filing pursuant to the provisions of Subsection III.1.3. of the Commissions Procedural Rules, the applicant for party status shall file an original and fifteen copies in the Office of the Air Quality Control Commission, Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Denver, Colorado 80246., and shall also deliver copies to each party, the Assistant Attorneys General representing the Commission and Division, and the Division staff person for the proceedings by electronic mail or as otherwise provided by the exception granted under Subsection III.1.3.

### **STATUTORY AUTHORITY FOR THE COMMISSION'S ACTIONS:**

The Colorado Air Pollution Prevention and Control Act, §§25-7-105(1)(a), 25-7-201 through 25-7-206, 25-7-210, 25-7-301, and 25-7-302, C.R.S., authorize the Commission to promulgate a comprehensive State Implementation Plan (SIP) to assure attainment and maintenance of national ambient air quality standards in conformance with the Federal and Colorado Acts. Sections 105(1)(b) and 109 authorize the Commission to establish emission control regulations, including pertaining to hydrocarbons. Section 106(1) authorizes the Commission to establish emission control regulations applicable to the entire state or only within specified areas of the state. Section 106(6) authorizes the Commission to require owners or operators of any air pollution source to establish and maintain reports and record, monitor, and sample emissions. Section 109(2) authorizes the Commission to adopt emission control regulations to reduce emissions of various pollutants, including chemical substances.

The rulemaking hearing will be conducted in accordance with Sections 24-4-103 and 25-7-110, 110.5 and 110.8 C.R.S., as applicable and amended, the Commission's Procedural Rules, and as otherwise stated in this notice. This list of statutory authority is not intended as an exhaustive list of the Commission's statutory authority to act in this matter.

Dated this 18th day of April 2019 at Denver, Colorado

Colorado Air Quality Control Commission

A handwritten signature in purple ink, appearing to read "Trisha Oeth", is written over a horizontal line.

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Trisha Oeth, Administrator



# Notice of Proposed Rulemaking

**Tracking number**

2019-00183

**Department**

2505,1305 - Department of Health Care Policy and Financing

**Agency**

2505 - Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)

**CCR number**

10 CCR 2505-10

**Rule title**

MEDICAL ASSISTANCE - STATEMENTS OF BASIS AND PURPOSE AND RULE HISTORY

**Rulemaking Hearing****Date**

06/14/2019

**Time**

09:00 AM

**Location**

1900 East Pikes Peak Avenue, Colorado Springs, CO 80909

**Subjects and issues involved**

see attached

**Statutory authority**

25.5-1-301 through 25.5-1-303, C.R.S. (2018)

**Contact information****Name**

Chris Sykes

**Title**

Medical Services Board Coordinator

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# COLORADO

Department of Health Care  
Policy & Financing

Medical Services Board

## NOTICE OF PROPOSED RULES

The Medical Services Board of the Colorado Department of Health Care Policy and Financing will hold a public meeting on Friday, June 14, 2019, beginning at 9:00 a.m., at The Coach Home Care and Home Health at 1900 East Pikes Peak Avenue, Colorado Springs, CO 80909. Reasonable accommodations will be provided upon request for persons with disabilities. Please notify the Board Coordinator at 303- 866-4416 or [chris.sykes@state.co.us](mailto:chris.sykes@state.co.us) or the 504/ADA Coordinator [hcpf504ada@state.co.us](mailto:hcpf504ada@state.co.us) at least one week prior to the meeting.

A copy of the full text of these proposed rule changes is available for review from the Medical Services Board Office, 1570 Grant Street, Denver, Colorado 80203, (303) 866-4416, fax (303) 866-4411. Written comments may be submitted to the Medical Services Board Office on or before close of business the Wednesday prior to the meeting. Additionally, the full text of all proposed changes will be available approximately one week prior to the meeting on the Department's website at [www.colorado.gov/hcpf/medical-services-board](http://www.colorado.gov/hcpf/medical-services-board).

This notice is submitted pursuant to § 24-4-103(3)(a) and (11)(a), C.R.S.

### **MSB 19-02-12-A, Revision to the Medical Assistance Eligibility Rules Concerning General Eligibility Requirements and Verification Requirements, Sections 8.100.3.I, 8.100.4.B, and 8.100.5.B**

Medical Assistance. The proposed rule change will amend 10 CCR 2505-10 8.100.I, 8.100.4.B, and 8.100.5.B to incorporate the exceptions for providing a Social Security Number (SSN) when applying for, or receiving Medical Assistance, as detailed in 42 C.F.R. §435.910. In particular, 42 C.F.R. §435.910(h) lists the following exemptions: not eligible to receive an SSN, does not have an SSN and may only be issued an SSN for a valid non-work reason in accordance with 20 C.F.R. 244.104, or refuses to obtain an SSN because of a well-established religious objection.

Currently, 8.100.3.I does not list any of the federally allowable exceptions for providing an SSN, while 8.100.4.B and 8.100.5.B only reference an exception for providing an SSN due to a religious exemption. The SSN exemptions will be listed in 8.100.3.I as part of the Additional General Eligibility Requirements to clearly indicate the rule applies to all applicants and recipients of Medical Assistance. The exceptions to be added to 8.100.3.I will also be referenced in 8.100.4.B and 8.100.5.B, and additional language edits will be made to reinforce that an individual must not be required to submit an SSN if they meet one of the exceptions in federal regulations.

There will be no change to the citizenship and eligible non-citizen eligibility requirements with this rule change. The exceptions for providing an SSN apply to any applicant or recipient of Medical Assistance, regardless of citizenship or immigration status. The current paper and online applications for Medical Assistance already allow an individual to report these exceptions as a reason for why an SSN is not provided on the application. There are no anticipated costs to the Department or any other agency, and no anticipated effect on state revenues. The benefit of the rule is to align policy with federal regulation, as well as potentially eliminate barriers for those that are applying for or receiving Medical Assistance who do not have an SSN and may believe they are not allowed to apply for assistance. Inaction would result in the Department being out of compliance with federal regulation under 42 CFR §435.910.

The authority for this rule is contained in 42 C.F.R. § 435.910(h) (2018); section 25.5-4-204, C.R.S. (2018) and sections 25.5-1-301 through 25.5-1-303, C.R.S. (2018).

**MSB 19-03-01-B, Revision to the Medical Assistance Rule concerning In-Home Support Services, Section 8.552**

Medical Assistance. In-Home Support Services is a service-delivery option for waiver participants. This revision adds mandatory provider training, task definitions for services, and clarification of secondary / contiguous tasks. Amending the rule will improve implementation of In-Home Support Services and provide clarity to participants, agencies, and case managers. Additionally, the task definitions have been added to the rule to streamline definitions between other delivery options including Consumer Directed Attendant Support Services (CDASS) and Long Term Home Health (LTHH).

The authority for this rule is contained in section 25.5-6-1201, C.R.S. (2017) and sections 25.5-1-301 through 25.5-1-303, C.R.S. (2018).

**MSB 18-09-18-A, Revision to the Medical Assistance Long-Term Services and Supports Rule Concerning Consumer Directed Attendant Support Services, Section 8.510**

Medical Assistance. The Department is clarifying roles and responsibilities of case management agencies, clients, authorized representatives and Financial Management Service vendors. The rule change identifies additional services which are currently performed as health maintenance activities in Consumer Directed Attendant Support Services (CDASS). The Department is also identifying services that may be participant directed under the Home and Community Based Supported Living Services (HCBS-SLS) waiver.

The authority for this rule is contained in Section 25.5-6-1101 C.R.S (2018) and 25.5-1-301 through 25.5-1-303, C.R.S. (2018).

**MSB 19-03-29-A, Revision to the Medical Assistance Rule concerning HCBS BI Incorporation by Reference cleanup, Section 8.515.1**

Medical Assistance. This rule corrects the incorporation by reference language at 10 CCR 2505-10, Section 8.515.1, originally adopted by the Medical Services Board (MSB) in rule number MSB 18-08-21-A at the March 8, 2019 MSB meeting, to comply with 24-4-103(12.5), CRS. This rule is a technical update to comply with the incorporation by reference requirements of 24-4-103(12.5) and includes no substantive policy changes.

The authority for this rule is contained in sections 25.5-1-301 through 25.5-1-303, C.R.S. (2018).

## **Permanent Rules Adopted**

### **Department**

Department of Education

### **Agency**

Colorado State Board of Education

### **CCR number**

1 CCR 301-37

### **Rule title**

1 CCR 301-37 RULES FOR THE ADMINISTRATION OF THE EDUCATOR  
LICENSING ACT OF 1991 1 - eff 05/30/2019

### **Effective date**

05/30/2019

## **DEPARTMENT OF EDUCATION**

### **Colorado State Board of Education**

## **COLORADO EDUCATOR LICENSING ACT OF 1991**

### **1 CCR 301-37**

*[Editor's Notes follow the text of the rules at the end of this CCR Document.]*

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#### **1.00 Statement of Basis and Purpose**

The statutory basis for these rules is found in section 22-60.5-101, et seq, C.R.S., the Colorado Educator Licensing Act of 1991, and section 22-2-109(1) State board of education – additional duties. These rules establish the standards and criteria for the issuance of licenses and authorizations to teachers, special services providers, principals and administrators. The Act calls for the State Board of Education to adopt rules for a three-tiered system of licensure for education personnel which includes an initial license for entry-level educators, a professional license for experienced educators, and a voluntary master certificate for outstanding educators.

These rules also provide for the issuance of special authorizations to educators as necessary to meet the needs of Colorado schools and students. Standards and processes for the approval of educator preparation programs through institutions of higher education and at alternative sites are provided. Criteria for the renewal of licenses and authorizations are established, which provide for significant involvement of practicing educators. Standards for endorsement in subject areas or other areas of educational specialization are prescribed.

These rules provide a process for the recognition of educator preparation programs in other states to facilitate the movement of educators among states. As required by the Act, the rules establish the requirements of induction programs provided by local school districts to assist new educators through support, supervision, ongoing professional development and evaluation.

The rules establish the standards and processes by which licenses may be denied, suspended, annulled or revoked for conviction of certain criminal offenses, unethical behavior or professional incompetence. Other miscellaneous provisions are included to meet the requirements of the Act.

#### **2.00 General Licensing Regulations**

The Colorado Department of Education has the sole authority to issue educator licenses and authorizations. Pursuant to sections 22-63-201 and 22-32-126, C.R.S., a Colorado license or authorization is required for employment as a teacher, special services provider, or principal in a Colorado school or school district. All licenses and authorizations must be endorsed to indicate the grade levels/developmental levels and specialization area(s) which are appropriate to the applicant's preparation, training and experience.

##### **2.01 Definitions**

2.01(1) Accepted institution of higher education: An institution of higher education that offers at least the standard bachelor's degree and is recognized by one of the following regional associations: Western Association of Schools and Colleges; Northwest Association of Schools, Colleges and Universities; Higher Education Learning Commission; New England Association of Schools and

Colleges; Southern Association of Colleges and Schools; or Middle States Association of Colleges and Schools.

- 2.01(2) Administrator: Any person who may or may not be licensed, but who administers, directs or supervises an education instructional or education-related program, or a portion thereof, in any school or school district, or nonpublic school in the state and who is not the chief executive officer or an assistant chief executive officer of such school.
- 2.01(3) Alternative teacher contract: A one- or two-year contract, as described in section 22-60.5-207 C.R.S., entered into for an alternative teacher position by a holder of an alternative teacher license pursuant to section 22-60.5-201(1)(a), C.R.S., and a school district, or board of cooperative services, or nonpublic school that provides, or charter school that provides or participates in, a one-year or two-year alternative teacher program.
- 2.01(4) Alternative teacher program: A one- or two-year program of study and training for teacher preparation for a person of demonstrated knowledge and ability who holds an alternative teacher license pursuant to section 22-60.5-201(1)(a), C.R.S., which meets the standards of and has been approved by the Colorado State Board of Education, and that upon completion leads to a recommendation for initial licensure by the designated agency providing the program.
- 2.01(5) Alternative teacher support team: A team established by the designated agency for alternative preparation for each holder of an alternative teacher license employed as an alternative teacher. At a minimum, each alternative teacher support team must be composed of the alternative teacher's mentor teacher and principal, and a representative of an accepted institution of higher education.
- 2.01(6) Approved induction program: A program of continuing professional development for initial license-holders that meets the requirements of the Colorado State Board of Education, and that upon completion leads to a recommendation for a professional license by the school district or districts, charter school, nonpublic school, or the institute providing such induction program.
- 2.01(7) Approved program of preparation: A program of study for the preparation of educators that meets the content requirements of the Colorado State Board of Education and for public and private institutions, is approved by Colorado Commission on Higher Education and that, upon completion, leads to a recommendation for licensure by an accepted institution of higher education.
- 2.01(8) Award recipient: The teacher named the Colorado Teacher of the Year.
- 2.01(9) Board of education: The governing body authorized by law to administer the affairs of any school district in the state except junior and community college districts. "Board of education" also includes a board of cooperative services organized pursuant to section 22-5-101, C.R.S.
- 2.01(9.5) Charter school: A charter school authorized by a school district pursuant to Part 1 of Article 30.5 of Title 22 or a charter school authorized by the state charter school institute pursuant to Part 5 of Article 30.5 of Title 22.
- 2.01(10) Colorado Academic Standards: The state academic standards that identify the knowledge and skills that a student should acquire as the student progresses from preschool through elementary and secondary education, as adopted by the State Board of Education pursuant to section 22-7-1005, C.R.S. The Colorado Academic Standards herein incorporated by reference in these rules were adopted by the State Board of Education and are available at [www.cde.state.co.us](http://www.cde.state.co.us). Later amendments to the Colorado Academic Standards are not incorporated. The Colorado Department of Education maintains a copy of the Standards readily

available for public inspection at 201 East Colfax Avenue, Denver, Colorado, during regular business hours.

- 2.01(11) Colorado Teacher of the Year: The Colorado teacher named Teacher of the Year in the state program administered by the Department and coordinated through the national teacher of the year program.
- 2.01(12) Critical teacher shortage: A grade level or content area in which a local education provider determines there is a severe need and impact on students and in which a local education provider has been unable to place an appropriately licensed teacher in the vacant position(s) despite reasonable attempts to fill the position.
- 2.01(13) Department of Education or Department: The Colorado State Department of Education (CDE) as defined in section 24-1-115, C.R.S.
- 2.01(14) Designated agency: A school district or districts, a board of cooperative services (BOCES), an accepted institution of higher education, a non-profit organization, a charter school, nonpublic school, the institute, or any combination thereof, that is responsible for the organization, management and operation of an approved alternative teacher program.
- 2.01(15) Diversity: The backgrounds of all students and school personnel.
- 2.01(16) Institute: The state charter school institute created pursuant to section 22-30.5-503, C.R.S.
- 2.01(17) Institution of higher education (IHE): An institution of higher education that offers at least the standard bachelor's degree, is recognized by one of the following regional associations: Western Association of Schools and Colleges; Northwest Association of Schools, Colleges and Universities; North Central Association of Colleges and Schools; New England Association of Schools and Colleges; Southern Association of Colleges and Schools; or Middle States Association of Colleges and Schools, and has been authorized by the State Board of Education as a teacher preparation program.
- 2.01(18) Endorsement: The designation on a license or an authorization of grade level(s) or developmental level(s), subject matter or service specialization in accordance with the preparation, training and experience of the holder of such license or authorization. Endorsements typically reflect major areas of specialization.
- 2.01(19) Endorsement/specialty area: The sequence of courses and experiences in the academic or professional area that the education student plans to teach, for the grade level(s) or developmental level(s) at which the student plans to teach, and/or for the services that the student plans to provide. Examples of specialty areas include science (grades 7-12), elementary education (grades K-6), school counselor (ages birth-21), reading specialist (grades K-12) and physical education (grades K-12).
- 2.01(20) Field-based experiences: Experiences conducted at a school site, a school administration center, a school clinic or community agency. These experiences might include classroom observations; tutoring; assisting school principals, administrators, teachers or special services providers; participation in school- and community-wide activities; student teaching or internships.
- 2.01(21) Licensure: The official recognition by a state governmental agency that an individual has met state-mandated minimum requirements and is approved to practice as a duly certified/licensed educator in the state.

- 2.01(22) Local education provider (LEP): A school district, a charter school authorized by a school district pursuant to Part 1 of Article 20.5 of Title 22, C.R.S., a charter school authorized by the State Charter School Institute pursuant to Part 5 of Article 30.5 of Title 22, C.R.S., or a Board of cooperative Services created and operating pursuant to Article 5 of Title 22, C.R.S. that operates a public school.
- 2.01(23) Mentor administrator: Any administrator who is designated by a school district or districts, charter school, nonpublic school, or the institute providing an approved induction program for initial administrator licensees, who has demonstrated outstanding administrative skills and school leadership and who can provide exemplary modeling and counseling to initial administrator license-holders participating in an approved induction program.
- 2.01(24) Mentor principal: Any principal who is designated by a school district or districts, charter school, nonpublic school, or the institute providing an approved induction program for initial principal license-holders, who has demonstrated outstanding principal skills and school leadership and who can provide exemplary modeling and counseling to initial principal license-holders participating in an approved induction program.
- 2.01(25) Mentor special services provider: any special services provider who is designated by a school district or districts, charter school, nonpublic school, or the institute providing an approved induction program for initial special services license-holders, who has demonstrated outstanding special services provider skills and school leadership and who can provide exemplary modeling and counseling to initial special services license-holders participating in an approved induction program.
- 2.01(26) Mentor teacher:
- 2.01(26)(a) A teacher designated by a school district or charter school, or nonpublic school employing an alternative teacher, who has demonstrated outstanding teaching and school leadership and who can provide exemplary modeling and counseling to alternative teachers participating in an alternative teacher program; or
- 2.01(26)(b) Any teacher who is designated by a school district or districts, charter school, nonpublic school, or the institute providing an approved induction program for initial teacher license-holders, who has demonstrated outstanding teaching and school leadership and who can provide exemplary modeling and counseling to initial teacher license-holders participating in an approved induction program.
- 2.01(27) Nonpublic School: Any independent or parochial school that provides a basic academic education. Neither the State Board of Education nor any local school board of education has jurisdiction over the internal affairs of any independent or parochial school in Colorado.
- 2.01 (28) Practicum: An intensive experience in which education students practice and demonstrate professional skills and knowledge. Student teaching and internships are examples of a practicum.
- 2.01(29) Principal: Any person who is employed as the chief executive officer or an assistant chief executive officer of any school in the state and who administers, directs or supervises the education instruction program in such school or nonpublic school.
- 2.01(230) Professional education unit: The college, university, school, department or other administrative body within the institution of higher education that is primarily responsible for the preparation of teachers and other professional education personnel.



- 2.01(31) Qualified, licensed teacher: An individual who holds a valid Colorado teaching license in the grade level and subject endorsement area(s) in which that individual teaches or will teach.
- 2.01(32) Teacher of record: A person licensed pursuant to section 22-60.5-201(1) (a.5).
- 2.01(33) Teacher of the Year sabbatical: a period of paid leave from work for the purposes of carrying out the responsibilities of the being named teacher of the year by the award recipient.
- 2.01(34) School: Any of the public schools of the state.
- 2.01(35) School district: Any school district organized and existing pursuant to law, but does not include junior or community college districts. "School district" includes a board of cooperative services organized pursuant to 22-5-101, C.R.S.
- 2.01(36) Special services provider: Any person other than a teacher, principal or administrator who is employed by any school district, charter school, nonpublic school, or the institute to provide professional services to students in direct support of the education instructional program.
- 2.01(37) State Board of Education: The State Board of Education established by section 1 of Article IX of the Constitution of the State of Colorado.
- 2.01(38) Student teaching: Part of the 800 hours of field experience required in a teacher preparation program, it is an in-depth, direct teaching experience conducted in a school and classroom setting. It is considered a culminating field-based experience for the basic teacher preparation program where candidates practice and demonstrate professional skills and knowledge.
- 2.01(39) Teacher: Any person employed to instruct students in any school or nonpublic schools in the state.

## **2.02 Validity of certificates/license.**

- 2.02(1) Certificates and letters of authorization issued by the Colorado Department of Education prior to July 1, 1994, must remain valid for the period for which they were issued.
- 2.02(2) Endorsements placed on teacher or special services certificates prior to July 1, 1994, which were based upon major areas of specialization or experience and academic credit, may be continued on subsequent teacher or special services license renewals provided all renewal requirements specified in section 7.00 of these rules have been met.
- 2.02(3) Certificates and licenses which have expired are not valid for teaching in the schools of Colorado unless the applicant has a complete and active application on file with the Colorado Department of Education before the expiration date identified on the applicant's current and active educator license.

## **2.03 General Requirements for Colorado Licenses**

- 2.03(1) Degree. Each applicant for a Colorado license must be required to hold the appropriate academic degree for the license and/or endorsement program completed at an accepted institution of higher education.
- 2.03(1)(a) It will be determined that an applicant "holds" or "has been awarded" the bachelor's or higher degree when the registrar of the accepted institution of higher education certifies that the applicant has met all requirements for graduation with the

degree, whether or not the degree has been conferred upon the applicant in formal ceremonies or otherwise conveyed to the individual.

- 2.03(1)(b) The Colorado Department of Education and Colorado accepted institutions of higher education may recognize credits and degrees earned in foreign institutions of higher education if, after appropriate evaluation by an established credentials evaluation service as selected by CDE, there is evidence that such program or degrees are the equivalent of the specific license requirements.
- 2.03(2) Approved program. A Colorado initial license may be issued upon satisfactory completion of a Colorado approved program, an alternative teacher program as prescribed in section 12.00 of these rules or an approved out-of-state program of educator preparation as defined in section 2.03(3)(b) of these rules, and upon demonstration of required competencies as specified.
- 2.03(3) Out-of-state applicants/reciprocity. A Colorado initial license may be issued to an applicant from another state or country whose qualifications meet or exceed the requirements of the Colorado State Board of Education and who has met the following requirements:
- 2.03(3)(a) has completed the appropriate degree, experience and educational level for the license and endorsement(s) requested as specified in these rules;
- 2.03(3)(b) has successfully completed a state-approved program at an accepted institution of higher education in the endorsement area sought or has successfully completed another state-authorized educator preparation program, including an alternative teacher preparation program;
- 2.03(3)(c) holds or is eligible to hold a standard license issued by the state education agency or meets the official requirements of the legally designated licensing agency of the preparing state; and
- 2.03(3)(d) has provided evidence of satisfactory completion of the Colorado State Board of Education-adopted assessments appropriate to the license requested; except that a teacher license applicant need not provide evidence of satisfactory completion of such assessments if the applicant has provided evidence of having completed three or more years of successful, evaluated teaching experience within the previous seven years in another state or country for which the Department has granted reciprocity.
- 2.03(4) The State Board of Education may enter into interstate reciprocal agreements whereby the Department agrees to issue initial licenses to persons licensed in other states and such states agree to issue licenses to Colorado license-holders. Such agreements must not be inconsistent with section 2.03(3) of these rules. Applicants who have completed the requirements of sections 2.03(3)(a)-(c) only may be eligible for an interim authorization as provided in section 4.09 of these rules, unless they also can provide evidence of having completed three or more years of successful, evaluated experience within the previous seven years as a teacher, special services provider, principal or administrator in an established elementary or secondary school in another state or country, in which case they may be eligible for a professional license.
- 2.03(5) Pursuant to section 22-60.5-201(3), C.R.S., the State Board may annually designate teacher shortage areas and modify the requirements in 4.00 and 5.00 of 1 CCR 301-101 for endorsements in such shortage areas for the purpose of issuing initial teacher licenses or interim authorizations as outlined in these rules to applicants.
- 2.03(6) Pursuant to section 22-60.5, 201(3.5), C.R.S. the Department may issue professional teacher licenses to applicants who have earned and present certificates issued by the National Board for Professional Teaching Standards.

## **2.04 Application Procedures**

- 2.04(1) The applicant must submit a completed online application provided by the Colorado Department of Education.
- 2.04(2) The applicant must provide official transcripts in which a bachelor's or higher degree was conferred:
- 2.04(2)(a) Each transcript must be authentic, original or photocopy, bearing the embossed seal of the institution and the signature of the registrar, and include descriptive titles, course numbers, credits and grades for each course listed and degrees earned, if any. For the purpose of these rules, credits must be in semester hours or may be interpreted as meaning the equivalent in quarter, trimester, unit or term credits.
  - 2.04(2)(b) Transcripts from institutions outside the United States must be in English or include an authentic English translation, and have been evaluated by an established credential evaluation service, selected by CDE for course equivalence.
  - 2.04(2)(c) Transcripts must be submitted with the application for a license, become a part of the applicant's record with the Colorado Department of Education and are not returnable.
- 2.04(3) The fee for the evaluation and review of an application is established by the Colorado State Board of Education and shall be nonrefundable.
- 2.04(4) Each applicant for an initial license, who does not hold a valid license or certificate in another state, must be required to submit a statement from the designated recommending official of the accepted institution of higher education or of the approved designated agency of alternative preparation. Such statement must certify that the applicant has completed the approved program in a satisfactory manner and is in good standing. The recommendation must indicate the level and subject or grades of student teaching, and the area of recommended endorsement as defined in 1 CCR 301-101 Rules for the Administration of Educator License Endorsements. An applicant for an initial Colorado license who holds a valid license or certificate in another state and has completed three or more years of successful, evaluated teaching experience within the previous seven years must submit a copy of the valid out of state license or certificate along with the transcripts from any institute of higher education in which a Bachelor's or higher degree was conferred.
- 2.04(5) Prior to submitting to the Department an application for a license, authorization, or endorsement, or the renewal of a license or authorization, the applicant must submit to the Colorado Bureau of Investigation (CBI) a complete set of his or her fingerprints taken by a qualified law enforcement agency, an authorized employee of a school district or Board of Cooperative Services using fingerprinting equipment that meets the Federal Bureau of Investigation image quality standards, or any third party approved by the Colorado Bureau of Investigation (CBI) and any fingerprint processing fee(s). The applicant must indicate to CBI that the fingerprint history is to be forwarded to the Colorado Department of Education. Fingerprint results remain in effect during the life of a credential, unless the credential has expired. Fingerprint results also remain in effect if the applicant previously submitted a complete set of his or her fingerprints to the Colorado Bureau of Investigation in connection with C.R.S. 22-2-119.3 and has continuously resided in Colorado since submitting fingerprints to the CBI. Each applicant must also be required to submit to the Department an oath certifying to prior felony or misdemeanor convictions, but not including any misdemeanor traffic offense or traffic infraction, and such other information necessary to determine the applicant's moral fitness.

## **3.00 Types of Licenses**

### **3.01 Initial Teacher License**

An initial teacher license must be valid for three years from the date of issuance and may be renewed as provided in section 7.01 of these rules.

3.01(1) An initial teacher license may be issued to an applicant who has completed an approved program of preparation at an accepted institution of higher education and who:

3.01(1)(a) holds an earned bachelor's or higher degree from an accepted institution of higher education.

3.01(1)(b) has completed an approved teacher preparation program at an accepted institution of higher education.

3.01(1)(c) has provided an institutional recommendation which:

3.01(1)(c)(i) verifies satisfactory completion of the approved program.

3.01(1)(c)(ii) specifies the grade/developmental level(s), endorsement area(s) or specialization(s) completed by the applicant.

3.01(1)(c)(iii) verifies successful completion of student teaching, internship or practicum, and the grade/developmental level(s) and endorsement/specialization areas of the experience, subject matter to be taught and has the competencies essential for educational service.

3.01(1)(c)(iv) certifies that the applicant has demonstrated thorough knowledge of the subject matter to be taught and has the competencies essential for educational service.

3.01(1)(c)(v) such institutional recommendation must not be required for applicants who completed educator preparation programs as described in section 2.03(3)(c) of these rules.

3.01(1)(d) has submitted the application for a license, including copies of official transcripts, the evaluation fee and other supporting data as required in section 2.04 of these rules.

3.01(1)(e) has demonstrated subject matter knowledge necessary for teaching in the endorsement area:

3.01(1)(e)(i) for elementary education teachers (grades K-6), including special education generalist teachers (ages 5-21), by passage of a Colorado State Board of Education-approved elementary content test.

3.01(1)(e)(ii) for secondary teachers (grades 7-12) and teachers of all K-12 and endorsement areas for ages birth-8 by:

3.01(1)(e)(ii)(A) holding an earned bachelor's or higher degree in the endorsement area; or

3.01(1)(e)(ii)(B) passage of the Colorado State Board of Education-approved assessment of content area knowledge relevant to the area of endorsement; or

3.01(1)(e)(ii)(C) twenty-four semester hours of specific coursework as demonstrated through transcript evaluation in the endorsement area.

3.01(2) An initial teacher license may be issued to an applicant who has completed an approved alternative teacher program and who:

3.01(2)(a) holds an alternative teacher license as prescribed in section 3.12 of these rules.

3.01(2)(b) has completed a State Board of Education-approved one- or two-year alternative teacher program as provided in section 12.00 of these rules.

3.01(2)(c) has submitted an application for an initial license, the evaluation fee and other supporting data as provided in section 2.04 of these rules.

3.01(2)(d) has provided an institutional recommendation from the approved designated agency which:

3.01(2)(d)(i) verifies satisfactory completion of the approved program;

3.01(2)(d)(ii) verifies employment as a teacher of record in the approved endorsement area; and

3.01(2)(d)(iii) certifies that the applicant has demonstrated thorough knowledge of the subject matter to be taught and has demonstrated the competencies essential for educational service.

3.01(2)(e) has demonstrated subject matter knowledge necessary for teaching in the endorsement area:

3.01(2)(e)(i) for elementary education teachers (grades K-6), including special education generalists teachers (ages 5-21), by passage of a Colorado State Board of Education-approved elementary content test.

3.01(2)(e)(ii) for secondary teachers (grades 7-12) and teachers of all K-12 and PreK-12 endorsement areas for ages birth-8 by:

3.01(2)(e)(ii)(A) holding an earned bachelor's or higher degree in the endorsement area; or

3.01(2)(e)(ii)(B) passage of the Colorado State Board of Education-approved assessment of content area knowledge relevant to the person's area of endorsement; or

3.01(2)(e)(ii)(C) twenty-four semester hours of specific coursework as demonstrated through transcript evaluation in the endorsement area.

### **3.02 Initial Special Services License**

An initial special services license must be valid for three years from the date of issuance and may be renewed as provided in section 7.01 of these rules.

3.02(1) An initial special services license may be issued to an applicant who:

3.02(1)(a) holds an earned bachelor's or higher degree from an accepted institution of higher education.

- 3.02(1)(b) has completed an approved special service preparation program at an accepted institution of higher education.
- 3.02(1)(c) has supplied an institutional recommendation, which:
  - 3.02(1)(c)(i) verifies satisfactory completion of the approved program;
  - 3.02(1)(c)(ii) specifies the area(s) of endorsement/specialization completed by the applicant;
  - 3.02(1)(c)(iii) verifies successful completion of an internship or practicum in a school setting or other appropriate setting as defined in section 11.00 of these rules; and
  - 3.02(1)(c)(iv) certifies that the applicant has demonstrated thorough knowledge of the special service area and has the competencies essential for educational service.
- 3.02(1)(d) has submitted an application for a license, including copies of official transcripts, the evaluation fee, and other supporting data as required in section 2.04 of these rules.
- 3.02(1)(e) holds a valid license, certificate or registration in the respective discipline, where applicable, and meets the requirements for an initial or professional special services provider license.

### **3.03 Initial Principal License**

An initial principal license must be valid for three years from the date of issuance and may be renewed as provided in section 7.01 of these rules.

3.03(1) An initial principal license may be issued to an applicant who:

- 3.03(1)(a) holds an earned bachelor's or higher degree from an accepted institution of higher education.
  - 3.03(1)(b) has completed an approved principal preparation program at an accepted institution of higher education or an approved alternative principal program.
  - 3.03(1)(c) provides documented evidence of three or more years of full-time, successful experience as a licensed or certificated professional in a public or nonpublic elementary or secondary school in this state or another state or has three or more years of experience working with students as a professional in a nonpublic school.
  - 3.03(1)(d) has submitted the application for an initial license, including copies of official transcripts, the evaluation fee and other supporting documents as described in section 2.04 of these rules.
  - 3.03(1)(e) has demonstrated professional competencies as evidenced by a passing score on the State Board-adopted assessment for principal quality standards.
- 3.03(2) An initial principal license must be valid in any school district or districts, including BOCES, or nonpublic, or charter school which provide or have been granted a waiver from providing an approved induction program for principals as described in section 9.00 of these rules.
- 3.03(3) An initial principal license must be valid for occasional teaching, which must not constitute more than one-half of a typical teaching assignment.

### **3.04 Initial Administrator License**

An initial administrator license must be valid for three years from the date of issuance and may be renewed as provided in section 7.01 of these rules.

3.04(1) An initial administrator license may be issued to an applicant who:

3.04(1)(a) holds an earned bachelor's or higher degree from an accepted institution of higher education.

3.04(1)(b) has completed an approved graduate program for school administration at an accepted institution of higher education, or evidence of partial completion of an approved administration preparation program in each of two or more accepted institutions of higher education. Among items supplied by the designated institutional recommending official will be the applicant's status in each institution, work completed and work remaining to be completed. Upon a finding of completion of any one program by combining work taken in all, the requested license may be issued, assuming all requirements set forth in these rules have been met.

3.04(1)(c) has submitted the application for an initial license, including copies of official transcripts, the evaluation fee and other supporting documentation as described in section 2.04 of these rules.

3.04(1)(d) has demonstrated professional competencies as evidenced by either a passing score on the State Board-adopted assessment for administrators or evidence of three years of continuous professional administrative experience.

3.04(2) An initial administrator license must be valid in any school district or districts, including BOCES, nonpublic school or charter school, which provide or have been granted a waiver from providing an approved induction program for administrators as described in section 9.00 of these rules.

3.04(3) A holder of an initial administrator license who has completed three or more years of full-time, continuous, successful experience working with students as a licensed professional in a public or nonpublic elementary or secondary school in this state or another state may function as an occasional teacher. For purposes of this section, occasional teaching is defined as no more than one-half of a typical teaching assignment.

### **3.05 Professional Teacher or Special Services License**

A professional teacher or special services license must be valid for a period of five years from the date of issuance except as provided in section 3.08 of these rules and may be renewed as provided in section 7.02 of these rules.

3.05(1) A professional teacher or special services provider license may be issued to an applicant who:

3.05(1)(a) holds a Colorado Initial Teacher or Colorado Initial Special Services License.

3.05(1)(b) has successfully completed an approved teacher or special services provider induction program as prescribed in section 8.00 of these rules and/or has been recommended for the professional teacher or special services license by the district or BOCES providing such induction program except as provided in section 3.05(4) of these rules.

- 3.05(1)(c) has submitted an application for a professional teacher or special services license, including appropriate documentation necessary to determine eligibility for the license and the evaluation fee.
- 3.05(2) An applicant for a professional teacher license need not complete an approved induction program as an initial teacher license-holder if the applicant previously completed an induction program while teaching under an adjunct instructor authorization, an emergency authorization, an interim authorization or a temporary educator eligibility authorization. If the applicant is employed by a school district, charter school, the institute, nonpublic school, or BOCES that has obtained a waiver of the induction program requirement, the applicant must demonstrate completion of any requirements specified in the school district's, charter school's, the institute's, nonpublic school's, or BOCES' plan for support, assistance and training of an initially licensed educator.
- 3.05(3) An applicant for a professional special services license need not complete an approved induction program as an initial special services license-holder if the applicant previously completed an induction program while teaching under an emergency authorization, an interim authorization or a temporary educator eligibility authorization. If the applicant is employed by a school district, charter school, the institute, nonpublic school, or BOCES that has obtained a waiver of the induction program requirement, the applicant must demonstrate completion of any requirements specified in the school district's, charter school's, the institute's, nonpublic school's, or BOCES plan for support, assistance and training of an initially licensed educator.
- 3.05(4) A professional license may be issued to an out-of-state applicant who holds a license from another state for which standards of issuance are comparable to Colorado's licensing requirements and has three or more years of successful, evaluated teaching experience within the previous seven years as a teacher or special services provider in an established elementary or secondary school and provides documentation of such employment.

### **3.06 Professional Principal License**

A professional principal license must be valid for a period of five years from the date of issuance except as provided in section 3.10 of these rules and may be renewed as provided in section 7.02 of these rules.

3.06(1) A professional principal license may be issued to an applicant who:

3.06(1)(a) holds:

3.06(1)(a)(i) an earned master's degree from an accepted institution of higher education and has successfully completed an approved principal preparation program at an accepted institution of higher education; or

3.06(1)(a)(ii) an initial principal license.

3.06(1)(b) has successfully completed an approved principal induction program as described in section 9.00 of these rules.

3.06(1)(c) has been recommended for a professional license by the school district or districts, including BOCES, nonpublic school, charter school, or the institute which provide such induction program except that the applicant need not complete an approved induction program as an initial principal licensee if the applicant previously completed an induction program while employed under an emergency authorization or a principal authorization or if the school district, BOCES, nonpublic school, charter school, or the institute in which the applicant is employed has obtained waiver of the induction program requirement pursuant to section 22-60.5-114(2), C.R.S. The induction requirement for licensure purposes may also be waived:



- 3.06(1)(c)(i) if an out-of-state applicant holds a principal license from another state for which standards of issuance are comparable to Colorado's licensing requirements and has completed three or more years of full-time, continuous, successful, evaluated experience as a principal in an established elementary or secondary school and provides documentation of such employment, that applicant will be exempted from Colorado's induction program requirement for licensure and issued a professional license; or
  - 3.06(1)(c)(ii) if the applicant, while employed under a principal authorization, successfully completes an induction program and completes the individualized alternative principal program; or
  - 3.06(1)(c)(iii) if the applicant is employed by a school district, charter school, nonpublic school, BOCES, or the institute that has obtained a waiver of the induction program requirement, that applicant must demonstrate completion of any requirements specified in the school district's charter school's, nonpublic school's, BOCES', or the institute's plan for support, assistance and training of an initial principal license-holder.
- 3.06(1)(d) has submitted an application for a professional license, including appropriate documentation necessary to determine eligibility for the license and the evaluation fee.
- 3.06(2) In accordance with sections 4.03 and 4.17 of these rules, an individual may also apply for a professional principal license if the applicant completes an induction program and meets the requirements for an initial principal license while employed under an emergency or principal authorization.
- 3.06(3) A professional principal license must be valid for occasional teaching, which must not constitute more than one-half of a typical teaching assignment. A principal who has previously held a professional teacher license may be reissued that license upon application.

### **3.07 Professional Administrator License**

A professional administrator license must be valid for a period of five years from the date of issuance except as provided in section 3.11 of these rules and may be renewed as provided in section 7.02 of these rules.

3.07(1) A professional administrator license may be issued to an applicant who:

- 3.07(1)(a) holds:
  - 3.07(1)(a)(i) an earned master's degree from an accepted institution of higher education and has completed an approved administrator program at an accepted institution of higher education; and
  - 3.07(1)(a)(ii) a valid initial administrator license; and
    - 3.07(1)(a)(ii)(A) completes an approved administrator induction program; and
    - 3.07(1)(a)(ii)(B) has been recommended for professional licensure by the school district, charter school, the institute, nonpublic school, or BOCES that provided such induction program.

3.07(2) Notwithstanding the provisions of section 3.07(1), the Department may issue a professional administrator license if a person is employed under an emergency authorization or a temporary

educator eligibility authorization, meets the requirements for an initial administrator license, and successfully completes an approved administrator induction program.

3.07(3) Notwithstanding the provisions of section 3.07(1), the Department may issue a professional administrator license to any applicant from another state if the applicant holds a license or certificate from that state that is comparable to a Colorado administrator license, where the standards of such license or certificate meet or exceed the Colorado standards for a professional administrator license, and the applicant has had at least three years of demonstrated continuous, successful, evaluated experience as an administrator in an established elementary or secondary school.

3.07(4) A holder of professional administrator licenses who has completed three or more years of full-time, continuous, successful, evaluated experience working with students as a licensed or certificated professional in a public or nonpublic elementary or secondary school in this state or another state may function as an occasional teacher. For purposes of this section, occasional teaching is defined as no more than one-half of a typical teaching assignment.

### **3.08 Master Certificate -Teacher**

A master certificate must be valid for the period of time for which the applicant's professional teacher license is valid and is renewable as provided in section 7.02(6) of these rules. Issuance of a master certificate must extend the validity of the professional teacher license to seven years.

3.08(1) A master certificate may be issued to an applicant who:

3.08(1)(a) holds a valid Colorado Professional Teacher License.

3.08(1)(b) has been involved in ongoing professional development and training.

3.08(1)(c) has demonstrated outstanding achievements in and contributions to education.

3.08(1)(d) has displayed excellence and depth in all of the content and performance standards required for the professional license.

3.08(1)(e) has demonstrated advanced teaching competencies or expertise through:

3.08(1)(e)(i) the attainment of National Board for Professional Teaching Standards certification; or

3.08(1)(e)(ii) the development of a master certification portfolio of demonstrated excellence. Such portfolio must:

3.08(1)(e)(ii)(A) include evidence of advanced competencies in teaching as defined as planning, instruction, diagnosis, assessment, leadership and professionalism in accordance with State Board of Education standards in section 5.00 of these rules and demonstrated excellence beyond the professional level; and

3.08(1)(e)(ii)(B) include evidence of contributions to the education community through service such as a mentor, teacher of teachers, writer, researcher or member of a state-wide or national board or commission.

3.08(1)(e)(ii)(C) be evaluated by the Colorado Department of Education for demonstrated excellence.

### **3.09 Master Certificate - Special Services**

A master certificate must be valid for the period of time for which the applicant's special services license is valid and renewable as provided in section 7.02 of these rules. Issuance of a master certificate must extend the validity of the special services license to seven years.

3.09(1) A master certificate may be issued to an applicant who:

3.09(1)(a) holds a valid Colorado Special Services License and is employed in a school in the area of specialization.

3.09(1)(b) has been involved in ongoing professional development and training.

3.09(1)(c) has demonstrated advanced competencies or expertise as identified by the educator evaluation system employed in the district.

3.09(1)(d) has been recognized for outstanding achievements in the field of specialization.

3.09(1)(e) meets the following requirements for the area(s) of specialization:

3.09(1)(e)(i) School Audiologist:

3.09(1)(e)(i)(A) holds national certification in audiology;

3.09(1)(e)(i)(B) has completed at least five years of full-time, continuous, successful, evaluated experience as a school audiologist;

3.09(1)(e)(i)(C) has completed graduate-level university training in school audiology and related areas;

3.09(1)(e)(i)(D) has been involved in at least four of the following areas: local, state or national professional organizations; mentoring or supervision of peers; publication; professional presentations; funded grants; professional leadership; community activities and organizations; and

3.09(1)(e)(i)(E) has been granted an exemplary performance evaluation by a team of peers.

3.09(1)(e)(ii) School Counselor:

3.09(1)(e)(ii)(A) has held a Colorado Professional Special Services License in school counseling for a minimum of five years;

3.09(1)(e)(ii)(B) has demonstrated professional growth through continuing education, professional leadership experiences and exceptional program development;

3.09(1)(e)(ii)(C) has demonstrated commitment to the school counseling profession through professional organization involvement, supervision and training of other school counselors, publication of professional materials and presentations at professional conferences; and

3.09(1)(e)(ii)(D) has demonstrated active community involvement, development of effective parent partnership programs and promotion of cooperation with other professional educators.

3.09(1)(e)(iii) School Occupational Therapist:

3.09(1)(e)(iii)(A) holds a master's degree in occupational therapy from an accepted institution of higher education;

3.09(1)(e)(iii)(B) holds an active occupational therapy license from the Colorado Department of Regulatory Agencies;

3.09(1)(e)(iii)(C) has demonstrated outstanding contribution or accomplishments to the profession through at least three of the following: achieved certification or accreditation in an area of specialization of occupational therapy; supervised and mentored occupational therapy students; completed graduate-level professional coursework; completed research and/or publication in the area of school occupational therapy; made presentations at professional meetings; wrote grants; held or holds office in national, state, or local professional organizations or boards;

3.09(1)(e)(iii)(D) has received recognition for outstanding achievements in occupational therapy; and

3.09(1)(e)(iii)(E) is involved in community programs.

3.09(1)(e)(iv) School Orientation and Mobility Specialist:

3.09(1)(e)(iv)(A) has demonstrated outstanding professional activities in at least three of the following areas: authored professional publications; juried articles, newsletters or books; made presentations at professional meetings or conferences; mentored other professionals and supervised student practicum experiences; taught at the university or school district in service levels; served as a model for demonstrations; provided active community leadership by promoting disability education and participation; or wrote grant proposals which were funded; and

3.09(1)(e)(iv)(B) has received recognition for demonstrated leadership in the field.

3.09(1)(e)(v) School Physical Therapist:

3.09(1)(e)(v)(A) holds a master's degree in physical therapy;

3.09(1)(e)(v)(B) holds an active professional physical therapy license from the Colorado Department of Regulatory Agencies;

3.09(1)(e)(v)(C) has demonstrated outstanding contributions or accomplishments to the profession through at least three of the following: achieved certification or accreditation in an area of specialization of physical therapy; supervised and mentored physical therapy students; completed graduate-level professional coursework; completed research and/or publication in the area of school physical therapy; presented at professional meetings; wrote grants; held or holds office in national, state or local professional organizations or boards;

3.09(1)(e)(v)(D) has received recognition for outstanding achievements in physical therapy; and

3.09 (1)(e)(v)(E) has been involved in community programs.

3.09(1)(e)(vi) School Nurse:

3.09(1)(e)(vi)(A) has completed additional preparation in the following areas: advanced practice in nursing; specialties in school health-related fields; additional certification in nursing administration, vocational education or other certifications applicable to school nursing;

3.09(1)(e)(vi)(B) has demonstrated professional leadership experiences and exceptional program development;

3.09(1)(e)(vi)(C) has mentored school nurses and supervised practicum students;

3.09(1)(e)(vi)(D) has had active participation in school nurse professional organizations; and

3.09(1)(e)(vi)(E) has participated in teaching, research and/or publishing to further the specialty of school nursing.

3.09(1)(e)(vii) School Psychologist:

3.09(1)(e)(vii)(A) has demonstrated commitment to the profession of school psychology through active involvement and leadership in local, state or national school psychology organizations;

3.09(1)(e)(vii)(B) has mentored school psychologists with an initial license and supervised school psychology interns;

3.09(1)(e)(vii)(C) has contributed to school and district program development;

3.09(1)(e)(vii)(D) has produced professional publications and presentations; and

3.09(1)(e)(vii)(E) has received recognition by peers for outstanding performance.

3.09(1)(e)(viii) School Social Worker:

3.09(1)(e)(viii)(A) has demonstrated leadership in state school social work organizations;

3.09(1)(e)(viii)(B) has actively participated in leadership roles in national social work organizations and other community and human service organizations;

3.09(1)(e)(viii)(C) holds advanced credentials in the field (e.g., doctorate in social work, school social work specialist credential, diplomate in clinical social work, etc.);

3.09(1)(e)(viii)(D) has demonstrated outstanding skill in service to schools and children, such as the creation of innovative and successful programs

and services to meet the needs of students and mentoring and supervising school social workers and other school professionals; and

3.09(1)(e)(viii)(E) has received recognition by peers for outstanding performance.

3.09(1)(e)(ix) Speech/Language Pathologist:

3.09(1)(e)(ix)(A) has demonstrated professional growth through professional leadership experiences and exceptional program development;

3.09(1)(e)(ix)(B) has demonstrated commitment through involvement in local, state and national professional organizations;

3.09(1)(e)(ix)(C) has accepted additional responsibilities at the school, district, state and national levels;

3.09(1)(e)(ix)(D) has published appropriate materials at the district, state or national levels;

3.09(1)(e)(ix)(E) has presented original research and materials at professional conferences;

3.09(1)(e)(ix)(F) has supervised practicum and internship students; and

3.09(1)(e)(ix)(G) has mentored and supervised other speech/language pathologists.

### **3.10 Master Certificate - Principal**

A master certificate must be valid for the period of time for which the applicant's professional principal license is valid and is renewable as provided in section 7.02 of these rules. Issuance of a master certificate must extend the validity of the professional principal license to seven years.

3.10(1) A master certificate may be issued to an applicant who:

3.10(1)(a) holds a valid professional principal license.

3.10(1)(b) has displayed excellence and depth in all of the content and performance standards required for the professional principal license.

3.10(1)(c) has demonstrated excellence on all performance standards and displays depth in all content knowledge; has modeled sustained commitment to improved student performance, to ongoing systemic renewal and to strengthening the profession; and has demonstrated superior performance through accomplishments having significant impact on the school's educational community.

3.10(1)(c)(i) The master principal must possess knowledge in the following areas:

3.10(1)(c)(i)(A) systemic renewal strategies;

3.10(1)(c)(i)(B) multiple models for school and district management;

3.10(1)(c)(i)(C) dynamic political and policy movements in the state;

- 3.10(1)(c)(i)(D) promising practices in the professional development of educational leaders;
- 3.10(1)(c)(i)(E) leading research and writing on instructional strategies, student learning, assessment methodology and supervisory techniques; and
- 3.10(1)(c)(i)(F) how to capitalize on opportunities presented by diverse stakeholders.
- 3.10(1)(c)(ii) The master principal must demonstrate the ability to:
  - 3.10(1)(c)(ii)(A) create a community of learners who focus on student performance;
  - 3.10(1)(c)(ii)(B) translate vision into program excellence;
  - 3.10(1)(c)(ii)(C) provide value-added leadership to create an organization that has purpose, direction and energy;
  - 3.10(1)(c)(ii)(D) implement programs in schools that result in sustained improvement in student performance;
  - 3.10(1)(c)(ii)(E) integrate multiple instructional models to meet diverse learning needs of both students and adults to enhance student performance;
  - 3.10(1)(c)(ii)(F) imagine alternatives based on knowledge of best practices and create those alternatives as a model for others;
  - 3.10(1)(c)(ii)(G) engage a diverse school community in sustained efforts for school improvement;
  - 3.10(1)(c)(ii)(H) influence and provide a model for the larger system (for example: the district, BOCES or the state); and
  - 3.10(1)(c)(ii)(I) contribute to the development of the profession through mentoring, teaching, writing and other modalities.
- 3.10(1)(d) has demonstrated evidence of positive impacts on student performance at the building level.
- 3.10(1)(e) has contributed to the education community through service as a mentor, teacher, writer, researcher or other service-oriented activity.

### **3.11 Master Certificate - Administrator**

A master certificate must be valid for the period of time for which time the applicant's professional administrator license is valid and is renewable as provided in section 7.02 of these rules. Issuance of a master certificate must extend the validity of the professional administrator license to seven years.

3.11(1) A master certificate may be issued to an applicant who:

- 3.11(1)(a) holds a valid professional administrator license.
- 3.11(1)(b) has displayed excellence and depth in all of the content and performance standards required for the professional license.

- 3.11(1)(c) has demonstrated excellence on all performance standards and displays depth in all content knowledge; has modeled sustained commitment to improved student performance, to ongoing systemic renewal, and to strengthening of profession; and has demonstrated superior performance through accomplishments having significant impact on an educational community.
- 3.11(1)(c)(i) The master administrator must possess knowledge in the following areas:
  - 3.11(1)(c)(i)(A) systemic renewal strategies;
  - 3.11(1)(c)(i)(B) multiple models for school and district management;
  - 3.11(1)(c)(i)(C) dynamic political and policy movements in the state;
  - 3.11(1)(c)(i)(D) promising practices in the professional development of educational leaders;
  - 3.11(1)(c)(i)(E) leading research and writing on instructional strategies, student learning, assessment methodology and supervisory techniques; and
  - 3.11(1)(c)(i)(F) how to capitalize on opportunities presented by diverse stakeholders.
- 3.11(1)(c)(ii) The master administrator must demonstrate the ability to:
  - 3.11(1)(c)(ii)(A) initiate and sustain significant change in the district directed toward predetermined goals, themes and needs;
  - 3.11(1)(c)(ii)(B) create a community of learners who focus on student performance;
  - 3.11(1)(c)(ii)(C) translate vision into program excellence;
  - 3.11(1)(c)(ii)(D) provide value added leadership to create an organization that has shared purpose, direction and energy;
  - 3.11(1)(c)(ii)(E) provide incentives, direction and motivation for development of programs that enhance student performance;
  - 3.11(1)(c)(ii)(F) imagine alternatives based on knowledge of best practices and create those alternatives as a model for others;
  - 3.11(1)(c)(ii)(G) engage a diverse community in sustained efforts for school improvement in the entire district;
  - 3.11(1)(c)(ii)(H) influence and provide a model for the larger system (i.e., the state or the nation.); and
  - 3.11(1)(c)(ii)(I) contribute to the development of the profession through mentoring, teaching, writing and other modalities.
- 3.11(1)(d) has demonstrated evidence of positive impacts on student performance throughout the district.



- 3.11(1)(e) has contributed to the education community through service as a mentor, teacher, writer, researcher or other service-oriented activity.

### **3.12 Alternative Teacher License**

An alternative teacher license must be valid for either a one-, two- or three-year period, as outlined below. An alternative teacher license must authorize the holder to be employed only as an alternatively licensed teacher while participating in an approved alternative teacher preparation program, pursuant to the terms of an alternative teacher contract.

3.12(1) An alternative teacher license may be issued to an applicant who:

- 3.12(1)(a) holds a bachelor's degree from an accepted institution of higher education.
- 3.12(1)(b) has met the requirements for application as provided in sections 2.04(1), (2), (3) and (5) of these rules.
- 3.12(1)(c) has demonstrated subject matter knowledge in the endorsement area:
- 3.12(1)(c)(i) for elementary education teachers (grades K-6), including special education generalist teachers (ages 5-21), by passage of a Colorado State Board of Education-approved elementary education content test.
- 3.12(1)(c)(ii) for secondary teachers (grades 7-12) and teachers of all K-12 and endorsements for ages birth-8 by:
- 3.12(1)(c)(ii)(A) holding an earned bachelor's or higher degree in the content area; or
- 3.12(1)(c)(ii)(B) twenty-four semester hours of specific coursework as demonstrated through transcript evaluation in the endorsement area; or
- 3.12(1)(c)(ii)(C) passage of a Colorado State Board of Education-approved assessment of content area knowledge relevant to the person's area of endorsement.

3.12(2) An alternative teacher license must be valid from the date of issuance.

- 3.12(2)(a) The alternative teacher in a one-year alternative teacher preparation program is expected to complete the program in one year. The alternative teacher license for a one-year program is valid for one year from date of issuance. The program may be extended for only one year based on documentation of unforeseen circumstances that are reviewed for approval by the Department.
- 3.12(2)(b) The alternative teacher in a two-year alternative teacher preparation program is expected to complete the program in two years. The alternative teacher license for a two-year program is valid for two years from date of issuance.
- 3.12(2)(c) A person may be employed as an alternative teacher for a total of three years for the purpose of receiving a special education generalist endorsement.

3.12(3) An alternative teacher license must be valid in any school district, BOCES, nonpublic school, or charter school.

### **3.13 Teacher of Record License and Program**

**3.13(1) Teacher of Record License.** A teacher of record license is valid for two years after the date of issuance and may be renewed once, only if the holder did not complete a bachelor's degree due to unforeseen circumstances or hardship.

- 3.13(1)(a) A teacher of record license may be issued to an applicant who:
  - 3.13(1)(a)(i) Is enrolled in an accepted institution of higher education and has no more than 36 credit hours remaining for completion of a bachelor's degree, but has not yet completed teaching field work requirements,
  - 3.13(1)(a)(ii) Is enrolled in a Grow Your Own Educator Program pursuant to section 22-60.5-208.5, or in a one- or two-year Teacher of Record Program pursuant to section 22-60.6-208.7; and
  - 3.13(1)(a)(iii) Is or will be employed by a local education provider, as defined in section 22-60.5-208.7 (1), C.R.S., in a position for which no other qualified licensed teacher has applied, and for which the local education provider has determined that there is a critical teacher shortage.
- 3.13(1)(b) The standards and competencies for the employment of a teacher of record in a school district or public school are those set forth in section 5.0 of these rules.
- 3.13(1)(c) A teacher of record license may not be issued with an endorsement in Special Education.

**3.13(2) Teacher of Record Program.** A local education provider is authorized to implement a one- or two-year teacher of record program and may only employ a teacher of record if the local education provider has determined that there is a critical teacher shortage and if no other qualified, licensed applicants applied for a posted vacant position.

- 3.13(2)(a) A student employed in a teacher of record program established pursuant to this section shall hold a Teacher of Record license issued pursuant to section 22-60.5-201 (1) (a.5) C.R.S. and section 3.13 of these rules.
- 3.13(2)(b) To assist the teacher of record in meeting the performance-based teacher licensure standards adopted by the State Board of Education pursuant to section 22-2-109 (3) and section 5.0 of 1 CCR 301-37, the Teacher of Record Program must include, at a minimum:
  - 3.13(2)(b)(i) Course requirements and provided supports:
    - 3.13(2)(b)(i)(1) The courses and number of credit hours that a student must complete before and while the student is a teacher of record with the LEP,
    - 3.13(2)(b)(i)(2) Including the time and support (i.e. financial resources, class coverage) the LEP will provide for the teacher of record to complete the course work; and
    - 3.13(2)(b)(i)(3) Identification of IHE supports, including a description of how supports will be delivered: mentoring, professional development, evaluation, and LEP identified supports
  - 3.13(2)(b)(ii) Student requirements:

3.13(2)(b)(ii)(1) A requirement that the LEP include the teacher of record in professional development, teacher mentorship, the LEP's induction program, and other supports provided by the LEP while the teacher of record completes the program.

3.13(2)(c) A local education provider must include the teacher of record in the local education provider's induction program and other supports provided by the local education provider. If the teacher of record successfully completes an induction program, the teacher of record may apply completion of the induction program toward meeting the requirements for a professional teacher license.

3.13(2)(d) A local education provider shall treat a teacher of record as a first-year teacher for purposes of compensation and placement on a teacher salary schedule.

3.13(2)(e) In addition to the requirement that the student qualify for the Teacher of Record license, the Teacher of Record Program must be approved by the department through an application process, which will include, at a minimum:

3.13(2)(e)(i) A demonstration of need;

3.13(2)(e)(ii) Proposed program details as outlined in section 3.13(2) of these rules;

3.13(2)(e)(iii) Candidate details; and

3.13(2)(e)(iv) Partner assurances

#### **4.00 Types of Authorizations**

The Department of Education is authorized to issue the following authorizations to persons meeting the qualifications prescribed below:

##### **4.01 Adjunct Instructor Authorization (Grades K-12)**

An adjunct instructor is a specialist or expert in a content area not available through regular or alternative teacher preparation in an endorsable content area, and who is without formal educator training. The purpose of adjunct instruction is to provide students with highly specialized academic enrichment outside of and in support of required content areas.

4.01(1) An adjunct instructor authorization may be issued for three years and may be renewed upon application for succeeding three-year periods when requested by a school district and with documented evidence of continuing need and when:

4.01(1)(a) an applicant possesses outstanding talent and demonstrates specific abilities and knowledge in a particular area of specialization that is not already an approved endorsement area, as specified in section 8.00 of these rules. An adjunct instructor may be hired to enrich, augment or enhance the instructional program for students in a school or school district.

4.01(1)(b) a school district board of education or BOCES requests the applicant's services and provides documented evidence of the applicant's outstanding talent, specific abilities and particular knowledge for the assignment.

4.01(1)(c) the applicant's services are required, based upon district-provided evidence of a documented student need.

4.01(1)(d) the applicant has been employed for at least five years in the area of specialization or holds an earned bachelor's or higher degree in the area of specialization.

#### **4.02 Special Services Intern Authorization (Birth-21)**

A special services intern works under the supervision of a Colorado licensed professional special services provider from the same discipline.

4.02(1) The special services intern authorization may be issued for one academic year and may not be renewed.

4.02(1)(a) The special services intern authorization may only be renewed for one academic year if the special services intern is employed by a school district or BOCES and the intern has not completed the approved program of preparation for a special services provider due to unforeseen circumstances or hardship.

4.02(2) The applicant must hold a bachelor's or higher degree from an accepted institution of higher education and must be enrolled in an approved program for special services provider preparation, which requires an internship, offered by an accepted institution of higher education.

4.02(3) For the period of time while the holder serves as an intern, the applicant may receive pay from the school district.

#### **4.03 Emergency Authorization (Grades K-12, Ages Birth-21)**

The applicant for an emergency authorization has not yet met the requirements for a Colorado initial teacher, principal, administrator or special services license or a school speech/language pathology assistant authorization, but provides evidence of enrollment in a program that will meet the requirements for that license or authorization.

4.03(1) The emergency authorization may be issued for one year. If in the judgment of the Colorado State Board of Education there is adequate and appropriate documented evidence of continuing school district hardship, the Board may renew and issue the emergency authorization upon application for one additional year, when:

4.03(1)(a) a Colorado school district requests the emergency authorization in order to employ a non-licensed teacher, principal, administrator or special services provider.

4.03(1)(b) the school district provides documented evidence of a demonstrated need for specific and essential educational services for students which can be provided by the applicant and which would otherwise be unavailable, due to a shortage of licensed educators with appropriate endorsements.

4.03(1)(c) in the judgment of the Colorado State Board of Education,

4.03(1)(c)(i) the employment of the non-licensed applicant is essential to the preservation of the district's instructional program, and

4.03(1)(c)(ii) the State Board of Education determines that the establishment of an alternative teacher preparation program by the local board of education is not a practicable solution for resolution of the demonstrated shortage.

4.03(2) The employing school district may provide an induction program for an individual on an emergency authorization, as specified in sections 8.00 and 9.00 of these rules.

4.03(2)(a) If an induction program is completed while holding such an authorization, it may be applied toward meeting the requirements for a Colorado professional educator license.

4.03(2)(b) If an induction program is completed satisfactorily and the requirements for a Colorado initial license have been completed by the applicant while holding an emergency authorization, the applicant may apply for and be issued a professional license.

#### **4.04 Career and Technical Education Authorization (Grades 7-12)**

The secondary career and technical education authorization may be issued as follows:

4.04(1) An initial career and technical education authorization may be issued for three years by the Colorado Department of Education and may not be renewed. The applicant must meet the minimum qualifications that the State Board for Community Colleges and Occupational Education adopts pursuant to section 23-60-304(3)(a), C.R.S.

4.04(2) A professional career and technical education authorization may be issued for five years to an applicant who holds an initial career and technical education authorization and who meets the necessary requirements for holding a professional-level CTE authorization.

4.04(3) A professional career and technical education authorization may be issued for five years and may be renewed for succeeding five-year periods. The applicant must meet the minimum qualifications or renewal requirements that the State Board for Community Colleges and Occupational Education adopts pursuant to section 23-60-304(3)(a), C.R.S.

4.04(4) Postsecondary career and technical education credentials are issued by the Colorado Community College System and are governed by the rules for the Administration of the Colorado Vocational Act, 8 CCR 1504-2.

#### **4.05 Substitute Authorization (Grades K-12)**

A substitute authorization may be issued to an applicant to serve as a substitute educator for employment in any Colorado school district (one-year substitutes may serve only in the approved district or BOCES).

4.05(1) A substitute authorization will be valid for a period of one, three or five years, when the applicant has met the requirements listed below. It may be renewed indefinitely upon application.

4.05(1)(a) A five-year substitute authorization may be issued to an applicant who:

4.05(1)(a)(i) holds a valid Colorado teacher license or a valid educator license from another state; or

4.05(1)(a)(ii) who has previously held a valid Colorado teacher certificate or license.

4.05(1)(b) A three-year substitute authorization may be issued to an applicant who holds an earned bachelor's or higher degree from an accepted institution of higher education.

4.05(1)(c) A one-year substitute authorization may be issued to an applicant who:

4.05(1)(c)(i) holds a high school diploma or its equivalent, as verified by the employing school district; and

4.05(1)(c)(ii) who provides evidence of successful experience working with children or youth, as verified by the employing school district.

**4.06-4.08 Reserved**

**4.09 Interim Authorization (Grades K-12 / Ages Birth-21)**

An interim authorization may be issued to an out-of-state applicant who has not completely fulfilled Colorado educator licensure requirements.

4.09(1) An interim authorization may be issued for one year and may be renewed upon application for one additional year.

4.09(2) The applicant must:

4.09(2)(a) be certified or licensed – or eligible for certification or licensure – as a teacher, principal or administrator in another state.

4.09(2)(b) have not successfully passed the Colorado State Board of Education–approved assessment(s) required for obtaining a Colorado initial license but otherwise meet the requirements for a Colorado initial license.

4.09(3) The employing school district may provide an induction program for holders of interim authorizations. Induction programs completed while holding interim authorizations may apply toward fulfilling the requirements of a Colorado professional license.

**4.10 Military Spouse Interim Authorization (Grades K-12 / Ages Birth-21)**

A military spouse interim authorization may be issued to a military spouse who has not completely fulfilled Colorado educator licensure requirements.

4.10(1) A military spouse interim authorization is valid for one year and may be renewed upon application for one additional year.

4.10(2) Applicants must:

4.10(2)(a) be the spouse of an active duty member of the armed forces of the United States who has been transferred or is scheduled to be transferred to Colorado, is domiciled in Colorado or has moved to Colorado on a permanent change-of-station basis.

4.10(2)(b) be certified or licensed – or eligible for certification or licensure – as a teacher, special services provider, principal or administrator in another state.

4.10(2)(c) have not successfully passed the Colorado State Board of Education–approved assessment(s) required for obtaining a Colorado initial license, but otherwise meet the requirements for a Colorado initial license.

4.10(3) The employing school district may provide an induction program for holders of military spouse interim authorizations. Induction programs completed while holding such authorizations may apply toward fulfilling the requirements of a Colorado professional educator license.

**4.11 School Speech-Language Pathology Assistant Authorization (Ages Birth–21).**

A school speech-language pathology assistant (SLPA) serves as a member of an educational team and is authorized to perform tasks prescribed, directed and supervised by a certified school speech-language pathologist (SLP) in implementing services for children/students with speech, language, cognitive, voice and augmentative/alternative communication disorders and hearing impairments.

4.11(1) An SLPA authorization is valid for five years. The Department may renew the authorization for succeeding five-year periods upon application and presentation of documented evidence of completion of content-related renewal requirements which include 50 contact hours of continuing education.

4.11(2) An SLPA applicant must:

4.11(2)(a) hold a bachelor's degree in speech communication, speech-language pathology or communication disorders-speech sciences, or a bachelor's degree in any other field with 24 semester hours in speech language hearing sciences from an accepted institution of higher education, as determined by an official transcript review by the Department.

4.11(2)(b) have successfully completed a school speech-language pathology assistant program or the equivalent that meets or exceeds recommended guidelines established by a national association of speech-language-hearing professionals.

4.11(2)(c) have successfully completed a minimum 100 clock-hour school-based practicum under the supervision of an ASHA-certified and CDE-licensed school speech-language pathologist, in accordance with the requirements of section 4.11(6) below.

4.11(2)(d) have demonstrated knowledge and skills in the competencies specified in sections 4.11(3) and 4.11(4) below.

4.11(3) The SLPA is knowledgeable about communication processes and basic human communication, and is able to articulate:

4.11(3)(a) the anatomical/physiological, psychological, developmental, linguistic and cultural bases of communication processes.

4.11(3)(b) communication disorders including articulation, fluency, voice and resonance, receptive and expressive language, and language-based learning disabilities.

4.11(3)(c) hearing disorders and their impact on speech and language.

4.11(3)(d) cognitive and social aspects of communication disorders.

4.11(3)(e) communication modalities including oral, written, manual, augmentative and alternative communication techniques and assistive technologies.

4.11(3)(f) normal development of reading and writing in the context of the general education curriculum.

4.11(3)(g) characteristics of exceptional students including categorical disabilities, learning differences and developmental deficits.

4.11(4) The SLPA is knowledgeable about service delivery and is able to:

4.11(4)(a) use appropriate verbal and written language in interactions with children/students, teachers and related professionals.

- 4.11(4)(b) follow oral and written directions, including those in intervention plans, and:
  - 4.11(4)(b)(i) assist in the selection, preparation and presentation of instructional and other related materials;
  - 4.11(4)(b)(ii) maintain accurate and concise documentation in a timely manner;
  - 4.11(4)(b)(iii) implement documented intervention plans developed by the supervising speech-language pathologist;
  - 4.11(4)(b)(iv) assist with clerical duties assigned by the supervising speech-language pathologist including, but not limited to, scheduling, safety/maintenance of supplies and equipment, and record keeping;
  - 4.11(4)(b)(v) collect data for quality improvement including child/student performance data in classrooms or individual therapy settings; and
  - 4.11(4)(b)(vi) record children's/students' status with regard to established objectives as stated in the intervention plans, and report information to the supervising speech-language pathologist.
- 4.11(4)(c) use constructive feedback from the supervising speech-language pathologist to adapt or modify interaction and/or intervention with children/students.
- 4.11(4)(d) provide consistent, discriminating and meaningful feedback and reinforcement to the children/students.
- 4.11(4)(e) implement designated intervention goals/objectives in specified sequence.
- 4.11(5) The SLPA is knowledgeable about screening and assessment, but may not perform standardized or non-standardized diagnostic tests, including, but not limited to, feeding evaluations, or interpret test results or counsel parents; and is able to:
  - 4.11(5)(a) assist the speech-language pathologist with speech-language and hearing screenings or assessments, without interpretation, and report results directly to the supervising speech-language pathologist.
  - 4.11(5)(b) assist with informal documentation as directed by the speech-language pathologist.
  - 4.11(5)(c) provide directly to the supervising speech-language pathologist descriptive behavioral observations that contribute to screening/assessment results.
  - 4.11(5)(d) support the speech-language pathologist in research projects, in service training and public relations programs, including child find activities.
- 4.11(6) The SLPA is knowledgeable about ethical practice and maintaining appropriate relationships with children/students, families, teachers and related service professionals, and is able to:
  - 4.11(6)(a) demonstrate respect for and maintain the confidentiality of information pertaining to students and their families.
  - 4.11(6)(b) behave in accordance with educational facility guidelines.
  - 4.11(6)(c) articulate an awareness of student needs and respect for cultural values.



- 4.11(6)(d) direct student, family and educational professionals to the supervising speech-language pathologist for information regarding testing, intervention and referral.
- 4.11(6)(e) request assistance from the supervising speech-language pathologist, as needed.
- 4.11(6)(f) manage time effectively and productively.
- 4.11(6)(g) recognize personal professional limitations and perform within boundaries of training and job responsibilities.

#### **4.12 Exchange Educator Interim Authorization (Grades K-12 / Ages Birth-21)**

An exchange educator interim authorization may be issued to a participant in a district-recognized educator exchange program who has not completely fulfilled Colorado educator licensure requirements.

4.12(1) An exchange educator interim authorization is valid for one year and may be renewed upon application for one additional year.

4.12(2) Applicants must:

- 4.12(2)(a) be a participant in a district-recognized educator exchange program.
- 4.12(2)(b) be certified or licensed – or eligible for certification or licensure – as a teacher, special services provider, principal or administrator in another country.

#### **4.13 Temporary Educator Eligibility Authorization (Grades K-12 / Ages Birth-21)**

The applicant for a temporary educator eligibility (TEE) authorization has not yet met the requirements for a Colorado initial teacher license as a special education teacher or for a special services license or an administrator license with a director of special education endorsement, but provides evidence of continuing enrollment in a program that will meet the requirements for that license.

4.13(1) A TEE authorization is valid for one year. Renewal is contingent upon the applicant maintaining continuous progress toward completion of the approved preparation program. When this requirement is met, a TEE authorization may be renewed twice upon application for a total of three years.

4.13(2) A TEE authorization may be issued to an applicant when:

- 4.13(2)(a) a Colorado school district requests the TEE authorization in order to employ as a teacher or administrator an applicant who does not yet meet licensing requirements but who meets the eligibility requirements specified below.
  - 4.13(2)(b) the school district provides documented evidence of a demonstrated need for specific and essential educational services that can be provided by the applicant but that would be otherwise unavailable to students due to a shortage of licensed educators with appropriate endorsement(s).
- 4.13(3) A special services provider who has met the minimum degree requirement necessary to practice in the chosen profession but who has not completed a national content exam or school practicum may qualify for a TEE authorization under the supervision of a Colorado professionally licensed person in the same discipline.

4.13(4) The applicant for a TEE must:

4.13(4)(a) hold a bachelor's degree.

4.13(4)(b) be entered into an approved special services preparation program offered by an accepted institution of higher education; or

4.13(4)(c) be entered into an approved special education teacher or director preparation program offered by an accepted institution of higher education. A teacher must participate in an approved alternative program under which the teacher:

4.13(4)(b)(i) receives high-quality professional development that is sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction;

4.13(4)(b)(ii) participates in a program of intensive supervision that consists of structured guidance and regular ongoing support for teachers or a teacher mentoring program; and

4.13(4)(b)(iii) demonstrates satisfactory progress toward full licensure.

4.13(5) The employing school district may provide an induction program for an individual on a TEE authorization as specified in sections 8.00 and 9.00 of these rules.

4.13(5)(a) If an induction program is completed while holding such an authorization, it may be applied toward meeting the requirements for a Colorado professional educator license.

4.13(5)(b) If an induction program is completed satisfactorily and the requirements for a Colorado initial license are being completed by the applicant while holding a TEE authorization, the applicant may apply for and be issued a professional license.

#### **4.14 Educational Interpreter Authorization (Ages Birth-21)**

The educational interpreter authorization allows a school district to employ a person to provide teaching and interpreting services for students who are deaf or hard of hearing.

4.14(1) An educational interpreter authorization is valid for five years and may be renewed for succeeding five-year periods upon application and submittal of documented evidence of completion of six semester hours of professional development or its equivalent of 60 contact/clock-hours in educational interpreter content.

4.14(2) The applicant must provide documented evidence of:

4.14(2)(a) an associate's or higher degree in educational interpreting or a related field.

4.14(2)(b) a passing score on the Educational Interpreter Performance Assessment (EIPA) written test.

4.14(2)(c) successful performance on one or more of the following professional skill assessments:

- 4.14(2)(c)(i) for sign language interpreters, a score of 3.5 or higher on the EIPA or current certification with the Registry of Interpreters for the Deaf (RID);
- 4.14(2)(c)(ii) for cued speech transliterators, a score of 4.0 or higher on the EIPA for Cued Speech (EIPA-CS), Cued Language Transliterators National Certification Examination (CLTNCE) or other Board approved exam, or other Board approved exam; and/or
- 4.14(2)(c)(iii) for oral interpreters, a current Oral Transliteration Certificate (OTC) from RID.
- 4.14(2)(d) demonstrating the following competencies:
  - 4.14(2)(d)(i) effectively analyze communication for the speaker's style, affect, register and overall prosodic and coherence markers;
  - 4.14(2)(d)(ii) effectively manage the interpreting process in order to produce a linguistically appropriate representation of classroom communication, as based on student ability and the individualized education plan (IEP) goals;
  - 4.14(2)(d)(iii) manage the process for effectively switching from one speaker and mode to another;
  - 4.14(2)(d)(iv) utilize attending and interrupting techniques effectively, based on culturally appropriate methods and classroom protocol; and
  - 4.14(2)(d)(v) effectively apply knowledge of:
    - 4.14(2)(d)(v)(A) cognitive processes associated with consecutive and simultaneous interpreting, and the implication of each for interpreting classroom discourse;
    - 4.14(2)(d)(v)(B) the differences between classroom discourse and conversational discourse, and the implication of those differences in the interpreting process;
    - 4.14(2)(d)(v)(C) communication processes with inclusive students who are deaf or hard-of-hearing as related, but not limited to, issues of taking turns, avoiding overlap of speaking/signing processes, challenges associated with the use of multimedia and uncaptioned materials; and
    - 4.14(2)(d)(v)(D) classroom subject matter concepts and associated vocabulary and terminology.
- 4.14(3) The educational interpreter is knowledgeable about the educational process with inclusive students who are deaf or hard-of-hearing and is able to:
  - 4.14(3)(a) identify and communicate information about current concepts, practices, issues and trends relevant to interpreting in a public school setting.
  - 4.14(3)(b) demonstrate awareness of current publications, resources, legislation and educational materials related to interpreting in K-12 settings.
- 4.14(4) The educational interpreter is knowledgeable about audition and is able to:

- 4.14(4)(a) demonstrate basic knowledge of degrees of hearing loss and the varying effects on language and speech development, and the implication of those effects on the interpreting process.
  - 4.14(4)(b) demonstrate basic knowledge of personal and classroom amplification systems, their benefits and limitations, and the impact of such systems on the interpreting process.
  - 4.14(4)(c) demonstrate the ability to conduct basic trouble-shooting for hearing aids, cochlear implants and FM systems.
- 4.14(5) The educational interpreter is knowledgeable about the roles of the educational team members and is able to:
- 4.14(5)(a) communicate specific professional roles, functions and formal and informal relationships related to various responsibilities such as, but not limited to, interpreting, tutoring, aiding and consulting.
  - 4.14(5)(b) articulate and demonstrate techniques for collaborative problem-solving and decision-making among professionals working with students who are deaf or hard-of-hearing.
  - 4.14(5)(c) demonstrate respect for differences in students and families.
  - 4.14(5)(d) provide input to IEP development and assist in implementing IEP strategies, as related to educational interpreting.
  - 4.14(5)(e) identify and gain access to resources relevant to sign language communication, interpreting and deafness-related topics.
- 4.14(6) The educational interpreter is knowledgeable about curriculum, teaching and tutoring methods and is able to:
- 4.14(6)(a) demonstrate and apply knowledge of instructional strategies/techniques relevant to the tutoring of elementary and secondary students in general education courses.
  - 4.14(6)(b) articulate and demonstrate ways to collaborate with teachers regarding individualized modifications to and/or adaptation of materials, the curriculum and the learning environment to address the language and auditory competencies of students who are deaf or hard-of-hearing.
- 4.14(7) The educational interpreter is knowledgeable about child development and is able to:
- 4.14(7)(a) articulate the psychological, sociological and physiological development of students with normal hearing and students with a hearing loss as related to interpreting and tutoring.
  - 4.14(7)(b) discuss the potential impact of hearing loss on processing, motor, visual language and cognitive development, as related to interpreting and tutoring.
  - 4.14(7)(c) as part of the educational team, discuss common medical conditions and medications which may impact performance in the classroom when related to interpreting and tutoring.
  - 4.14(7)(d) effectively communicate about spoken language and sign language development and of the implications for the interpreting process.

- 4.14(7)(e) articulate the relationships between language, cognition, literacy and academic content areas and the implications for the interpreting process.
- 4.14(7)(f) monitor personal sign language use with regard to flexibility and adaptability to match the student's mode of communication, as designated on the IEP.
- 4.14(8) The educational interpreter is knowledgeable about meeting the social and emotional needs of students who are deaf or hard-of-hearing and is able to:
  - 4.14(8)(a) demonstrate techniques that educators might use in creating a positive and effective learning environment, conducive to the encouragement of achievement.
  - 4.14(8)(b) demonstrate the fostering of independence in students who utilize an interpreter.
  - 4.14(8)(c) acquire and use available resources relevant to the experience, self-awareness and identity of students who are deaf or hard-of-hearing.

#### **4.15 Junior Reserve Officer Training Corps (JROTC) Instructor Authorization (Grades 9-12)**

A JROTC instructor authorization may be issued to allow a person to instruct a JROTC unit hosted by a school district.

- 4.15(1) The JROTC Instructor Authorization is valid for five years and may be renewed upon application and submittal of documented evidence of service-specific JROTC recertification, successful completion of a service-specific JROTC recertification course or other requirements as may be stipulated by the applicable branch of military service.
- 4.15(2) Applicants must provide documented evidence of JROTC certification based upon successful acquisition of service-specific JROTC program director certification or completion of specific-service JROTC preparation program requirements including, but not limited to, completion of a service-specific JROTC certification training program.

#### **4.16 Adult Basic Education Authorization**

An adult basic education authorization allows a person to work as an adult basic education instructor in an adult education program operated by the school districts before, during or after regular school hours.

- 4.16(1) An adult basic education authorization must be valid for five years from the date of issuance and may be renewed for successive five-year periods upon application and receipt of documented evidence that the authorization-holder has completed additional adult basic education training or practice.
- 4.16(2) This authorization may be issued to an applicant who has an associate's or higher degree and who provides documented evidence of adult basic education instruction training and experience, based upon successful completion of adult basic education authorization requirements.

#### **4.17 Principal Authorization (Grades K-12)**

A principal authorization may be issued to a person who does not hold or may not qualify for an initial principal license but who holds an earned bachelor's or higher degree from an accepted institution of higher education and who is participating in an individual, district-based, charter-based, or nonprofit-based alternative principal program that has been approved by the Department of Education. A school district, charter school, or nonpublic school may employ a person who holds a principal authorization to perform the duties of a principal, assistant principal or like duties in a school only when the person who holds the authorization is under the supervision of a Colorado professional principal license-holder.

- 4.17(1) A principal authorization must be valid for three years and may not be renewed.
- 4.17(2) To receive a principal authorization, an applicant in collaboration with a school district, charter school, nonpublic school or the institute must submit to the Department of Education documentation that includes:
- 4.17(2)(a) the coursework, practicum and other educational requirements identified by the school district, charter school, nonpublic school or the institute that will comprise the individualized alternative principal program and that will be completed while the candidate is employed under the principal authorization. The district, charter school, or institute may work with an approved governmental, nonprofit or for-profit entity in designing and implementing the individualized alternative principal program.
  - 4.17(2)(b) a letter from the collaborating school district, charter school, nonpublic school or institute stating the school district's or charter school's intention to employ the applicant as a principal, an assistant principal or in a principal-like position (such as dean of students) upon issuance of the principal authorization.
- 4.17(3) At a minimum, an individualized alternative principal program must ensure that:
- 4.17(3)(a) the candidate will attain the information, experience, training and skills comparable to the information, experience, training and skills possessed by a person who qualifies for an initial principal license as provided in section 22-60.5-301(1)(a) C.R.S..
  - 4.17(3)(b) upon completion, the candidate will be able to provide documented evidence of having met or surpassed the principal quality standards cited in section 6.00 of these rules.
  - 4.17(3)(c) the candidate will receive coaching and mentoring from one or more licensed principals and administrators, as well as continuing performance-based assessment of the candidate's skills development.
    - 4.17(3)(c)(i) except that, if the person participates in a nonpublic school's individualized alternative principal program approved by the State Board of Education, the person must receive coaching and mentoring from one or more principals and administrators who have three or more years of experience in a nonpublic school.
  - 4.17(3)(d) the candidate demonstrates professional competencies using quality standard measures in subject matter areas as specified by rule of the State Board pursuant to section 22-60.5-303, C.R.S.
- 4.17(4) If the State Board determines that the individualized alternative principal program meets the requirements specified in section 4.17(3), the State Board must approve the individualized alternative principal program, and the Department of Education must issue the principal authorization to the applicant.
- 4.17(5) Upon successful completion of an alternative principal preparation program, if the principal authorization-holder has three or more years of licensed experience in a school, that person may apply for a Colorado initial principal license.
- 4.17(6) Upon successful completion of an alternative principal preparation program, if the candidate has also successfully completed an induction program while under a principal authorization, the candidate may apply for a professional principal license.

#### 4.18 Native American Language & Culture Instructor Authorization (Grades K-12)

A Native American language and culture instructor authorization may be issued to a person to provide instruction in the Native American language and culture for which the person has demonstrated expertise.

4.18(1) The Native American language and culture instructor authorization must be valid for five years and may be renewed for succeeding five-year periods, upon application and at the request of the school district and with documented evidence of continuing need, to an applicant who:

4.18(1)(a) qualifies for an adjunct instructor authorization as specified in section 4.01 of these rules; or

4.18(1)(b) has demonstrated expertise in a Native American language of a federally recognized tribe by:

4.18(1)(b)(i) providing evidence of demonstrated expertise in a Native American language of a federally recognized tribe as verified by the employing school district;

4.18(1)(b)(ii) identifying a partnering, licensed teacher as verified by the employing school district;

4.18(1)(b)(iii) meeting the following objective standards as verified by the employing school district:

4.18(1)(b)(iii)(A) is able to listen, speak, read and write the Native American language identified at a proficient level for the purposes of interpersonal, interpretive and presentational communication;

4.18(1)(b)(iii)(B) is knowledgeable about the language and related culture, can describe their interrelationships and is able to articulate to students, other educators and interested stakeholders:

4.18(1)(b)(iii)(B)(I) perspectives related to historic and contemporary ideas, attitudes and values of the members of Native American society, their history and the language(s) they speak;

4.18(1)(b)(iii)(B)(II) the practices within a society that are based on historical, geographical and sociological influences representative of the culture of the Native American language being taught;

4.18(1)(b)(iii)(B)(III) the contributions and achievements of the culture to the fields of literature, the arts, science, mathematics, business, technology and other related and appropriate areas;

4.18(1)(b)(iii)(B)(IV) the geographic, economic, social and political features of traditional and contemporary cultures associated with the Native American language being taught; and,

4.18(1)(b)(iii)(C) is able to create a learning environment that accepts, encourages and promotes the culture and language that Native American language speakers bring into the classroom.

- 4.18(2) A holder of a Native American language and culture instruction authorization is prohibited from teaching any subject other than the Native American language for which he or she has demonstrated expertise.

## **5.00 Teacher and Special Services Provider Licensure Standards (Teacher Quality Standards)**

In addition to a demonstrated understanding of the Colorado Academic Standards, the Colorado Reading To Ensure Academic Development Act (Colorado READ Act), the adherence to strict data privacy and security practices, and the understanding of professional practices to address multiple pathways for students to be postsecondary and workforce ready as outlined in sections 22-2-106, 22-2-136, 22-7-1003(15) and 22-32-109, C.R.S., the following must serve as standards for authorization of program content for educator preparation programs and licensing of all teacher education candidates in Colorado.

- 5.01 Quality Standard I: Teachers demonstrate mastery of and pedagogical expertise in the content they teach. The elementary teacher is an expert in literacy and mathematics and is knowledgeable in all other content that he or she teaches (e.g., science, social studies, the arts, physical education or world languages). The secondary teacher has knowledge of literacy and mathematics and is an expert in the content area(s) in which the teacher is endorsed.
- 5.01(1) ELEMENT A: Teachers provide instruction that is aligned with the Colorado Academic Standards and their district's organized plan of instruction.
- 5.01(2) ELEMENT B: Teachers develop and implement lessons that connect to a variety of content areas/disciplines and emphasize literacy and mathematics.
- 5.01(3) ELEMENT C: Teachers demonstrate knowledge of the content, central concepts, inquiry, appropriate evidence-based instructional practices and specialized characteristics of the disciplines being taught.
- 5.02 Quality Standard II: Teachers establish a safe, inclusive and respectful learning environment for a diverse population of students.
- 5.02(1) ELEMENT A: Teachers foster a predictable learning environment characterized by acceptable student behavior and efficient use of time in which each student has a positive, nurturing relationship with caring adults and peers.
- 5.02(2) ELEMENT B: Teachers demonstrate an awareness of, a commitment to, and a respect for multiple aspects of diversity, while working toward common goals as a community of learners.
- 5.02(3) ELEMENT C: Teachers engage students as individuals, including those with diverse needs and interests, across a range of ability levels by adapting their teaching for the benefit of all students.
- 5.02(4) ELEMENT D: Teachers work collaboratively with the families and/or significant adults for the benefit of students.
- 5.03 Quality Standard III: Teachers plan and deliver effective instruction and create an environment that facilitates learning for their students.
- 5.03(1) ELEMENT A: Teachers demonstrate knowledge about the ways in which learning takes place, including the levels of intellectual, physical, social, and emotional development of their students.



- 5.03(2) ELEMENT B: Teachers use formal and informal methods to assess student learning, provide feedback, and use results to inform planning and instruction.
- 5.03(3) ELEMENT C: Teachers integrate and utilize appropriate, available technology to engage students in authentic learning experiences.
- 5.03(4) ELEMENT D: Teachers establish and communicate high expectations and use processes to support the development of critical-thinking and problem-solving skills.
- 5.03(5) ELEMENT E: Teachers provide students with opportunities to work in teams and develop leadership.
- 5.03(6) ELEMENT F: Teachers model and promote effective communication.
- 75.04 Quality Standard IV: Teachers demonstrate professionalism through ethical conduct, reflection, and leadership.
  - 5.04(1) ELEMENT A: Teachers demonstrate high standards for professional conduct.
  - 5.04(2) ELEMENT B: Teachers link professional growth to their professional goals.
  - 5.04(3) ELEMENT C: Teachers are able to respond to a complex, dynamic environment.
  - 5.04(4) ELEMENT D: Teachers demonstrate leadership in their school, the community, and the teaching profession.

### **Special Services Provider Standards**

The following must serve as standards for authorization of program content for educator preparation programs and licensing of all special services provider candidates in Colorado. Colorado has identified nine categories of special services providers (referred to as other licensed personnel in law and state board rules). Section 11.0 of these rules further outlines the quality standards and elements applicable to all special services provider groups, including:

- School Audiologists
  - School Occupational Therapists
  - School Physical Therapists
  - School Counselor
  - School Nurse
  - School Orientation and Mobility Specialist
  - School Psychologist
  - School Social Worker
  - School Speech-Language Pathologist
- 5.06 Quality Standard I: Special services providers demonstrate mastery of and expertise in the domain for which they are responsible.
  - 5.06(1) ELEMENT A: Special services providers provide services aligned with state and federal laws, local policies and procedures, Colorado Academic Standards, their district's organized plans of instruction and the individual needs of their students.
  - 5.06(2) ELEMENT B: Special services providers demonstrate knowledge of effective services that reduce barriers to and support learning.

- 5.06(3) ELEMENT C: Special services providers demonstrate knowledge of their professions and integrate evidence-based practices and research findings into their services.
- 5.07 Quality Standard II: Special services providers support or establish safe, inclusive, and respectful learning environments for a diverse population of students.
  - 5.07(1) ELEMENT A: Special services providers foster a safe and accessible learning environment characterized by acceptable student behavior and efficient use of time in which each student has a positive, nurturing relationship with caring adults and peers.
  - 5.07(2) ELEMENT B: Special services providers understand and respond to diversity within the home, school, and community.
  - 5.07(3) ELEMENT C: Special services providers engage students as individuals with diverse needs and interests, across a range of ability levels by adapting services for the benefit of students.
  - 5.07(4) ELEMENT D: Special services providers work collaboratively with the families and/or significant adults for the benefit of students.
- 5.08 Quality Standard III: Special services providers plan and deliver effective services in an environment that facilitates learning for their students.
  - 5.08(1) ELEMENT A: Special services providers apply knowledge of the ways in which learning takes place, including the appropriate levels of intellectual, physical, social, and emotional development of their students.
  - 5.08(2) ELEMENT B: Special services providers utilize formal and informal assessments to inform planning and service delivery.
  - 5.08(3) ELEMENT C: Special services providers integrate and utilize appropriate available technology to engage students in authentic learning experiences.
  - 5.08(4) ELEMENT D: Special services providers establish and communicate high expectations and use strategies to support the development of critical-thinking, problem-solving skills, and self-advocacy.
  - 5.08(5) ELEMENT E: Special services providers develop and implement services related to student needs, learning, and progress towards goals.
  - 5.08(6) ELEMENT F: Special services providers model and promote effective communication.
- 5.09 Quality Standard IV: Special services providers demonstrate professionalism through ethical conduct, reflection, and leadership.
  - 5.09(1) ELEMENT A: Special services providers demonstrate high standards for ethical and professional conduct.
  - 5.09(2) ELEMENT B: Special services providers link professional growth to their professional goals.
  - 5.09(3) ELEMENT C: Special services providers respond to a complex, dynamic environment.
  - 5.9(4) ELEMENT D: Special services providers demonstrate leadership and advocacy in the school, the community, and their profession.

## **English Language Learner Educator and Special Services Provider Standards**

In order to ensure that all Colorado educators are well equipped and able to teach Colorado's diverse student population, all educator pre-service programs including Colorado Institutes of Higher Education Educator Preparation entities and Colorado Alternative Educator Preparation entities must ensure the following standards are fully taught, addressed and practiced in their programs. The following standards equate to approximately 6 semester hours or the equivalent of 90 clock-hours.

Note: The following standards are to supplement, not supplant, the Culturally and Linguistically Diverse (CLD) Endorsement. These standards can and should be aligned to the CLD endorsement standards as noted in 1 CCR 301-101 if the educator preparation entity is seeking to graduate students with dual endorsements in a content area and in CLD.

### **5.12 Quality Standard I: Educators are knowledgeable about CLD populations**

5.12(1) ELEMENT A: Educators are knowledgeable in, understand, and able to apply the major theories, concepts and research related to culture, diversity and equity in order to support academic access and opportunity for CLD student populations.

5.12(2) ELEMENT B: Educators are knowledgeable in, understand, and able to use progress monitoring in conjunction with formative and summative assessments to support student learning.

### **5.13 Quality Standard II: Educators should be knowledgeable in first and second language acquisition.**

5.13(1) ELEMENT A: Educators are able to understand and implement strategies and select materials to aid in English language and content learning.

5.13(2) ELEMENT B: Educators are knowledgeable of, understand, and able to apply the major theories, concepts and research related to culture, diversity and equity in order to support academic access and opportunity for CLD student populations.

### **5.14 Quality Standard III: Educators should understand literacy development for CLD students.**

5.14(1) ELEMENT A: Educators are knowledgeable in, understand, and able to apply the major theories, concepts and research related to literacy development for CLD students

5.14(2) ELEMENT B: Educators understand and implement strategies and select materials to aid in English language and content learning.

### **5.15 Quality Standard IV: Educators are knowledgeable in the teaching strategies, including methods, materials, and assessment for CLD students.**

5.15(1) ELEMENT A: Educators are knowledgeable in, understand and able to use the major theories, concepts and research related to language acquisition and language development for CLD students.

5.15(2) ELEMENT B: Educators are knowledgeable in, understand, and able to use progress monitoring in conjunction with formative and summative assessments to support student learning.

## **6.00 Principal Licensure Standards (Principal Quality Standards)**

A principal must demonstrate an understanding of the Colorado Academic Standards, the Colorado Reading To Ensure Academic Development Act (Colorado READ Act), the adherence to strict data

privacy and security practices, and the understanding of professional practices to address multiple pathways for students to be postsecondary and workforce ready as outlined in sections 22-2-106, 22-2-136, 22-7-1003(15) and 22-32-109, C.R.S. Additionally, the following standards must guide the development of the content of principal preparation programs offered by accepted institutions of higher education and as a standard for the ongoing professional development of these educators.

**6.01 Quality Standard I: Principals demonstrate organizational leadership by strategically developing a vision and mission, leading change, enhancing the capacity of personnel, distributing resources, and aligning systems of communication for continuous school improvement.**

6.01(1) ELEMENT A: Principals collaboratively develop the vision, mission, and strategic plan, based on a cycle of continuous improvement of student outcomes, and facilitate their integration into the school community.

6.01(2) ELEMENT B: Principals collaborate with staff and stakeholders to implement strategies for change to improve student outcomes.

6.01(3) ELEMENT C: Principals establish and effectively manage systems that ensure high-quality staff.

6.01(4) ELEMENT D: Principals establish systems and partnerships for managing all available school resources to facilitate improved student outcomes.

6.01(5) ELEMENT E: Principals facilitate the design and use of a variety of communication strategies with all stakeholders.

**6.02 Quality Standard II: Principals demonstrate inclusive leadership practices that foster a positive school culture and promote safety and equity for all students, staff, and community.**

6.02(1) ELEMENT A: Principals create a professional school environment and foster relationships that promote staff and student success and well-being.

6.02(2) ELEMENT B: Principals ensure that the school provides an orderly and supportive environment that fosters a sense of safety and well-being.

6.02(3) ELEMENT C: Principals commit to an inclusive and positive school environment that meets the needs of all students and promotes the preparation of students to live productively and contribute to the diverse cultural contexts of a global society.

6.02(4) ELEMENT D: Principals create and utilize systems to share leadership and support collaborative efforts throughout the school.

6.02(5) ELEMENT E: Principals design and/or utilize structures and processes which result in family and community engagement and support.

**6.03 Quality Standard III: Principals demonstrate instructional leadership by: aligning curriculum, instruction and assessment; supporting professional learning; conducting observations; providing actionable feedback; and holding staff accountable for student outcomes.**

6.03(1) **ELEMENT A:**-Principals establish, align, and ensure implementation of a district/BOCES plan of instruction, instructional practice, assessments, and use of student data that result in academic growth and achievement for all students.

6.03(2) ELEMENT B: Principals foster a collaborative culture of job-embedded professional learning.

6.03(3) ELEMENT C: Principals demonstrate knowledge of effective instructional practice and provide feedback to promote continuous improvement of teaching and learning.

6.03(4) ELEMENT D: Principals hold all staff accountable for setting and achieving measureable student outcomes.

**6.04 Quality Standard IV: Principals demonstrate professionalism through ethical conduct, reflection, and external leadership.**

6.04(1) ELEMENT A: Principals demonstrate high standards for professional conduct.

6.04(2) ELEMENT B: Principals link professional growth to their professional goals.

6.04(3) ELEMENT C: Principals build and sustain productive partnerships with key community stakeholders, including public and private sectors, to promote school improvement, student learning, and student well-being.

**6.08 English Language Learner Principal Standards**

In order to ensure that all Colorado school-based leaders are well equipped and able to support Colorado educators in teaching the state's diverse student population, all principal pre-service programs including Colorado Institutes of Higher Education Principal Preparation entities and Colorado Alternative Principal entities must ensure the standards outlined in sections 5.12 - 5.15 of these rules are fully taught, addressed, and practiced in their programs.

**6.09 Administrator Licensure Standards**

An administrator applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education, must have completed an approved administrator program and must have demonstrated the competencies specified below:

6.09(1) In addition to knowledge of and the ability to demonstrate the requirements in sections 6.01 - 6.7 (Principal Quality Standards) of these rules, the following Administrator rules describe competencies over and above the building leadership level found in 6.01-6.07 to lead at the district level.

6.09(1)(a) Administrators demonstrate organizational leadership, including responsibility for:

6.09(1)(a)(i) district/program vision, mission, and strategic plan;

6.09(1)(a)(ii) continual and sustainable district/program improvement;

6.09(1)(a)(iii) recruitment, development, supervision, evaluation, and retention of high-quality personnel;

6.09(1)(a)(iv) district and community partnerships;

6.09(1)(a)(v) communication with internal and external stakeholders;

6.09(1)(a)(vi) fiscal and resource management, as well as resource-development strategies;

- 6.09(1)(a)(vii) compliance with policies, laws, rules, and regulations;
- 6.09(1)(b) Administrators demonstrate inclusive leadership practices and systems that include responsibility for:
  - 6.09(1)(b)(i) aligned systems of curriculum, instruction, and assessment
  - 6.09(1)(b)(ii) professional learning for all staff that supports student learning
  - 6.09(1)(b)(iii) student outcomes for growth, achievement, engagement, and post-secondary and workforce readiness
  - 6.09(1)(b)(iv) continuous improvement accountability systems (goal setting, data-informed decisions, multi-tiered systems of support, and research-based practices)
- 6.09(1)(c) Administrators demonstrate professionalism that includes responsibility for:
  - 6.09(1)(c)(i) ethical behavior and professional norms
  - 6.09(1)(c)(ii) professional learning, continuous growth, and ongoing reflection
  - 6.09(1)(c)(iii) conflict resolution, problem solving, and decision making
  - 6.09(1)(c)(iv) board-administrator relationships
  - 6.09(1)(c)(v) partnerships with internal stakeholders and external organizations
  - 6.09(1)(c)(vi) democratic and civic participation, and advocacy

## **6.10 English Language Learner Administrator Standards**

In order to ensure that all Colorado school-based leaders are well equipped and able to support Colorado educators in teaching the state's diverse student population, all administrator pre-service programs including Colorado Institutes of Higher Education Administrator Preparation entities must ensure the standards outlined in Sections, 5.12 - 5.15 of these rules are fully taught, addressed, and practiced in their programs.

### **6.11 Standards for Professional Competencies for an Initial Administrator License with a Director of Special Education Endorsement**

The following standards must be addressed by a director of special education initial preparation program offered by accepted institutions of higher education and as standards for the ongoing professional development of these educators. The specific performance indicators for each of these standards must be described in "Performance Indicators for Professional Competency Standards" issued by the Colorado Department of Education.

- 6.12 Quality Standard I – Foundations for Leadership: The director of special education must have a solid foundation for leadership by (a) demonstrating a comprehensive knowledge of special education organization, programs, laws and best practices, and by (b) setting high standards and a positive direction for special education consistent with the values, mission and vision of the state and administrative unit.
- 6.13 Quality Standard II – Special Education and School Systems: The director of special education must demonstrate knowledge of organizational culture, apply a systems approach to the

development of special education programs and processes and facilitate effective system change.

- 6.14 Quality Standard III – Law and Policy: The director of special education must be knowledgeable about and able to apply relevant federal and state statutes, regulations, case law and policies that impact all children, including those with disabilities.
- 6.15 Quality Standard IV – Instructional Leadership: The director of special education must be able to integrate general education and special education, including curriculum, instructional strategies, assessments and individualized instruction in support of academic achievement for all children, including those with disabilities.
- 6.16 Quality Standard V – Program Planning and Organization: The director of special education must be able to evaluate the efficacy and efficiency of special education programs, facilities, services and monitoring systems and able to use the evaluation data to improve the programs and services for all children, including those with disabilities.
- 6.17 Quality Standard VI – Human Resource Functions: The director of special education must have the knowledge and ability to recruit, retain and evaluate qualified personnel in order to effectively implement programs and services for all children, including those with disabilities.
- 6.18 Quality Standard VII – Parent, Family and Community Engagement: The director of special education must be knowledgeable about and able to facilitate partnerships and engage parents, families and communities in the implementation of special education programs and delivery of special education services.
- 6.19 Quality Standard VIII – Budget and Resources: The director of special education must be knowledgeable about and able to demonstrate school district budgeting and resource allocation, including those related to special education.

**6.20 Standards for Professional Competencies for an Initial Administrator License with a Director of Gifted Education Endorsement.**

- 6.21 The applicant for an administrator license with an endorsement as a director of gifted education must:
  - 6.21(1) hold a master's or higher degree in gifted education, or demonstrate knowledge and application of standards for the specialist, from an accepted institution of higher education.
  - 6.21(2) have a minimum of two years' full-time experience working with students with exceptional academic and talent aptitude.
  - 6.21(3) have completed an approved program for the preparation of directors of gifted education which includes a supervised field-based experience.
  - 6.21(4) meet the professional competencies outlined below:

The following standards must be addressed by the director of gifted education initial preparation program offered by accepted institutions of higher education and as standards for the ongoing professional development of these educators. The director of gifted education must demonstrate the performance indicators specific to gifted education and the "Performance Indicators for Professional Competency Standards" issued by the Colorado Department of Education.

- 6.22 Quality Standard I - Foundations for Leadership: The director of gifted education demonstrates knowledge about professional leadership and the responsibilities of ethical leadership, and provides support for educators, students, family, and community members to effectively address outcomes for gifted learners. The director is able to demonstrate comprehensive knowledge of gifted education organization, programs, laws and best practices and the ability to set high standards and a positive direction for gifted education consistent with values, mission and vision of the state and administrative unit. The director of gifted education is able to:
- 6.22(1) ELEMENT A: demonstrate methods to develop vision, mission, goals and design for gifted education programs.
  - 6.22(2) ELEMENT B: demonstrate the ability to bring together stakeholders to implement general program and gifted-student goals and best practices in gifted education.
  - 6.22(3) ELEMENT C: implement collaborative decision-making strategies, as appropriate.
  - 6.22(4) ELEMENT D: apply knowledge of models and practices in change theory for improvement efforts.
  - 6.22(5) ELEMENT E: demonstrate ability to define, advocate and make changes with regard to issues in gifted education.
- 6.23 Quality Standard II - Gifted Education and School Systems: The director of gifted education must demonstrate knowledge of organizational culture, apply a systems approach to the development of gifted education programs and implement processes in order to facilitate effective system change. The director of gifted education is able to:
- 6.23(1) ELEMENT A: demonstrate understanding of how systems within a district or administrative unit influence gifted-student instruction and performance.
  - 6.23(2) ELEMENT B: demonstrate knowledge and provide evidence of fostering a school and community culture that supports gifted-student programming within and outside the school setting.
  - 6.23(3) ELEMENT C: apply a systems approach for developing gifted programs to enhance integrated support and service to gifted students and their families.
- 6.24 Quality Standard III - Law and Policy: The director of gifted education must have comprehensive knowledge and the ability to apply state and federal laws, regulations, case law and policies that impact all children, including those with exceptional academic and talent aptitude. The director of gifted education is able to:
- 6.24(1) ELEMENT A: demonstrate proficiency in gifted education policy, regulations, case law and federal programs supporting key instructional needs of gifted students.
  - 6.24(2) ELEMENT B: identify needs and recommend and promote new guidelines or regulations through the district or state system of policy development.
  - 6.24(3) ELEMENT C: clarify law and regulations for all stakeholders.
  - 6.24(4) ELEMENT D: ensure implementation of privacy laws and district policy regarding confidentiality of advanced learning plans, student records and data.
  - 6.24(5) ELEMENT E: develop, revise and/or make recommendations to amend school board or administrative unit policy to match reformed laws and regulations.



- 6.25 Quality Standard IV - Instructional Leadership: The director of gifted education must be able to blend the resources of general and gifted education for the positive benefit of gifted students. The director must be knowledgeable about best practices for gifted learners including specialized curriculum, effective instructional strategies, assessments, social-emotional/affective support and individualized instruction that most effectively address outcomes for individual gifted students. The director of gifted education is able to:
- 6.25(1) ELEMENT A: demonstrate knowledge of and support for current required identification methods and procedures.
  - 6.25(2) ELEMENT B: interpret and share data to increase the identification of under-identified, underserved populations and align professional development initiatives to need.
  - 6.25(3) ELEMENT C: understand models of differentiation, acceleration and research-based instructional practices that support rigor, challenge, depth and complexity in instruction and assessment for gifted students.
  - 6.25(4) ELEMENT D: provide evidence of methods to establish high expectations for all gifted students and families, including underserved populations and twice-exceptional learners.
  - 6.25(5) ELEMENT E: monitor standards-based advanced learning plans (ALPs) in order to ensure alignment of programming options to gifted student needs.
  - 6.25(6) ELEMENT F: demonstrate knowledge of the importance and ways of blending affective and instructional needs of gifted students within a school system.
  - 6.25(7) ELEMENT G: support and defend gifted education initiatives within the general education setting in order to extend and individualize learning opportunities for exceptional learners.
- 6.26 Quality Standard V - Program Planning and Organization: The director of gifted education is able to evaluate the efficacy and efficiency of gifted education programing, delivery settings, services and monitoring systems and use evaluation data to improve the programs and services for all children, including those with exceptional academic and talent aptitude. The director of gifted education is able to:
- 6.26(1) ELEMENT A: design and implement needs-assessments and use data to inform restructuring or adjustments to gifted programs.
  - 6.26(2) ELEMENT B: develop and implement action plans for gifted education based upon student outcomes, challenges, root causes, improvement strategies and benchmarks.
  - 6.26(3) ELEMENT C: demonstrate knowledge of effective, research-based gifted education models and practices that have positive impacts on gifted students.
  - 6.26(4) ELEMENT D: support and/or build gifted programs that effectively embed district and alternative pathways to college and career outcomes.
- 6.27 Quality Standard VI - Human resource functions: The director of gifted education must have the knowledge and ability to recruit, retain, supervise and evaluate qualified personnel in order to effectively implement programs and services for all children, including those with exceptional academic and talent aptitude. The director of gifted education is able to:
- 6.27(1) ELEMENT A: demonstrate understanding of educator effectiveness standards to observe, reflect upon and evaluate teachers of gifted students.

- 6.27(2) ELEMENT B: design ongoing professional development that increases the capacity of educators to understand and address the learning and affective needs of gifted students.
- 6.27(3) ELEMENT C: promote an understanding and sensitivity toward culture, ethnicity and diversity of language within staff and student body.
- 6.27(4) ELEMENT D: demonstrate understanding of skills and knowledge necessary for educators to provide for specific needs of gifted and talented students through alignment of programming options and expectations to address individual gifts and talents.
- 6.28 Quality Standard VII - Parent, Family and Community Partnership: The director of gifted education is knowledgeable about effective communication, decision-making, problem-solving and conflict-resolution strategies. The director must have the knowledge and ability to facilitate partnerships and engage parents, families, educators, administrators, students and communities in the implementation of gifted education programs and the delivery of gifted education programming services. The director of gifted education is able to:
  - 6.28(1) ELEMENT A: promote understanding, resolve conflicts and build consensus for improving gifted programs and services for gifted students.
  - 6.28(2) ELEMENT B: develop the infrastructure to include parent, family and community in gifted education program elements.
  - 6.28(3) ELEMENT C: apply methods and systems to maximize parent and family involvement in advanced learning plans and gifted school/district engagement.
  - 6.28(4) ELEMENT D: implement family partnership practices that support gifted student achievement and school involvement.
  - 6.28(5) ELEMENT D: cooperatively develop and share a vision for the district or administrative unit that supports and promotes gifted education.
- 6.29 Quality Standard VIII - Budget and Resources: The director of gifted education must be knowledgeable about and able to budget and allocate resources related to gifted education. The director of gifted education is able to:
  - 6.29(1) ELEMENT A: develop and manage a gifted education budget including the facilitation of stakeholders in a collaborative budget development process.
  - 6.29(2) ELEMENT B: leverage resources for gifted education within school systems.
  - 6.29(3) ELEMENT C: provide evidence of district budgeting procedures that address state requirements.
  - 6.29(4) ELEMENT D: conduct research and needs assessments in order to accurately identify specific budget needs and promote initiatives for gifted education funding through grants and other funding opportunities.

## **7.00 Renewal of Colorado Licenses**

The following must serve as standards for the renewal of initial and professional licenses and master certificates and endorsements thereon.

### **7.01 Initial Licenses**

An initial teacher, special services provider, principal or administrator license and endorsements may be renewed once for a period of three years for applicants who have not completed the requirements for a professional license as specified in sections 3.05 through 3.07 of these rules. The State Board of Education may renew the license-holder's initial license for one or more additional three-year periods if the holder is unable to complete an approved induction program for reasons other than incompetence. A renewal request must include an application for renewal, payment of the required fee, and a statement concerning the circumstances related to the applicant's inability to complete the induction program.

## **7.02 Professional Licenses**

A professional teacher, special services provider, principal or administrator license and endorsements may be renewed for a period of five years upon submission of an application for renewal, the required fee and completion of professional development activities that meet the requirements of section 7.02(2) of these rules. To be eligible to renew a professional license, the holder must complete such activities within the period of time for which the professional license is valid. An applicant for renewal must meet the following requirements:

7.02(1) Professional development activities: An educator requesting license renewal must complete professional development activities equivalent to six semester hours or 90 clock/contact hours. Applicants must submit a signed affidavit attesting to the completion of applicable professional development. Such activities must be related to increasing the license-holder's competence in his or her existing or potential endorsement area or to increasing the licensee's skills and competence in delivery of instruction in his or her existing or potential endorsement area, in the teaching of literacy, or in cultural and linguistic education, and may be selected from one or more of the following:

7.02(1)(a) In-service education: A Colorado school district or BOCES are approved entities for in-service education programs. One semester hour of credit may be granted for every 15 clock-hours of participation.

7.02(1)(b) College or university credit: College or university credit may be earned from accepted institutions of higher education or accepted community, technical or junior colleges. Courses must be directly related to the standards for professional development as provided in section 7.02 of these rules. Copies of official transcripts may be submitted in addition to the signed affidavit form as evidence of completion of college credit. Though submittal of official transcripts is not required, the Department may audit to verify college or university credit.

7.02(1)(c) Educational travel: Educational travel must be directly applicable to the endorsement area of the license-holder as documented by the license-holder and accompanied by supervisor verification. One semester hour of credit may be granted for every 15 clock-hours of involvement. Travel time to and from the intended destination must not be included in the clock-hours accumulated.

7.02(1)(d) Involvement in school and/or district performance : One semester hour of credit may be granted for every 15 clock-hours of participation. When verified by the license-holder's supervisor, activities may include, but are not limited to:

7.02(1)(d)(i) membership on school site or district accountability or improvement committee(s);

7.02(1)(d)(ii) curriculum, standards or assessment development or implementation in the license-holder's endorsement content area;

7.02(1)(d)(iii) the implementation of standards;

- 7.02(1)(d)(iv) the development or implementation of a literacy or numeracy improvement program(s); and
- 7.02(1)(d)(v) professional development in the area of culturally and linguistically diverse education.
- 7.02(1)(e) Internships: Advanced field experiences offered as part of graduate study or other professional training designed to acquire knowledge or enhance the skills of the educator may qualify as an internship. The internship must be directly related to the standards for professional development as provided in section 7.02 of these rules. One semester hour of credit may be accepted for every 15 clock-hours of participation. Official transcripts or supervisor verification must be submitted in addition to the renewal summary form as evidence of completion.
- 7.02(1)(f) Ongoing professional development and training experiences must occur within the license-holder's present or future endorsement content area(s) or in the areas of literacy or numeracy and may include, but are not limited to: attendance or presentation at professional conferences; service on statewide or national educational task forces or boards; professional research and publication; supervision of student teachers or interns; mentorships; and the pursuit of national educator certification.
- 7.02(2) Activities completed for license renewal must be directly related to one or more of the following standards:
  - 7.02(2)(a) knowledge of subject matter content and learning, including knowledge and application of the Colorado Academic Standards, post-secondary workforce readiness, career counseling, multi-tiered systems of support and other appropriate student-based supports.
  - 7.02(2)(b) effective use of assessments in planning for instructional delivery and in individualizing student instruction.
  - 7.02(2)(c) effective teaching of the democratic ideal.
  - 7.02(2)(d) recognition, appreciation and support for ethnic, cultural, gender, economic and human diversity, including disabilities, to provide fair and equitable treatment and consideration for all.
  - 7.02(2)(e) effective communication with students, colleagues, parents and the community.
  - 7.02(2)(f) effective modeling of appropriate behaviors to ensure quality learning experiences for students and for colleagues.
  - 7.02(2)(g) effective leadership to ensure a school community that is committed to and focused on learning.
  - 7.02(2)(h) consistently ethical behavior and creation of an environment that encourages and develops responsibility, ethics and citizenship in self and others.
  - 7.02(2)(i) achievement as a continuous learner who encourages and supports personal and professional development of self and others.
  - 7.02(2)(j) effective organization and management of human and financial resources to create a safe and effective working and learning environment.

- 7.02(2)(k) awareness of warning signs of dangerous behavior in youth and situations that present a threat to the health and safety of students, and knowledge of the community resources available to enhance the health and safety of students and the school community.
- 7.02(2)(l) awareness, understanding and instructional strategies related to Culturally and Linguistically Diverse and English Language Learner students.
- 7.02(3) Professional development activities completed by an applicant for license renewal must apply equally to renewal of any professional educator license or endorsement held by the applicant.
- 7.02(4) Upon completion of the professional development activities and within the six months prior to the expiration of the license(s) to be renewed, the applicant must submit:
  - 7.02(4)(a) an application for license renewal including a signed affidavit in which the license-holder affirms under oath that:
    - 7.02(4)(a)(i) the license-holder satisfactorily completed the ongoing professional development activities specified in the affidavit;
    - 7.02(4)(a)(ii) the activities were completed within the term of the professional license; and
    - 7.02(4)(a)(iii) to the best of the license-holder's knowledge, the activities comply with the requirements of section 7.02 and section 22-60.5-110, C.R.S.
  - 7.02(4)(b) a statement of how the activities selected aided the educator in meeting the standards for professional educators.
  - 7.02(4)(c) the required evaluation fee.
  - 7.02(4)(d) the oath required in section 2.04(5) of these rules.
  - 7.02(4)(e) a complete set of license-holder's fingerprints taken by a qualified law enforcement agency, an authorized employee of a school district or Board of Cooperative Services using fingerprinting equipment that meets the Federal Bureau of Investigation image quality standards, or any third party approved by the Colorado Bureau of Investigation, unless the applicant previously submitted a complete and approved set of fingerprints to the Colorado Bureau of Investigation and satisfactory record of this submission is on file with Colorado Department of Education.
- 7.02(5) The Department will evaluate the application and supporting evidence and renew the license, request additional information or explanation, or recommend denial of the license renewal if the requirements of section 7.02 (4) of these rules are not met.
- 7.02(6) Master certificates. Educators who hold master certificates in conjunction with professional licenses may renew the master certification by providing evidence that the ongoing professional development, leadership and demonstration of advanced competencies and expertise have continued during the validity period of the master certificate. Master certificates and the accompanying professional licenses may be renewed for a period of seven years.
  - 7.02(6)(a) Professional development activities for the renewal of master certificates may include but need not be limited to: involvement in school reform efforts; service on state-wide boards or commissions; supervision of advanced-level practicum or internship

students; advanced study appropriate to standards 5.00 or 6.00 of these rules; and original research and/or publication.

7.02(6)(b) Master certificate-holders are highly encouraged to serve as mentors, as members of state-wide boards or commissions, as preparers of educators and as advanced practicum supervisors since such service encourages in-depth knowledge and abilities in the standards prescribed in sections 5.00 and 6.00 of these rules.

7.02(7) Effective beginning in the 2018-2019 school year and every year thereafter, educators endorsed in elementary, math, science, social studies, or English, and seeking a renewal of their professional license, must complete or demonstrate completion of professional development activities equivalent to 45 clock/contact hours or three semester hours in Culturally and Linguistically Diverse (CLD) Education that meets or exceeds the standards set forth in section 7.02 within a full five year renewal period. This requirement must only be completed once during the term of the educator's license. Professional development activities completed to satisfy this requirement may also be counted toward the requirements in section 7.02(1). Professional development activities completed to satisfy the requirements of this paragraph must meet the standards specified in sections 5.12-5.15 of these rules.

7.02(7)(a) Educators may demonstrate knowledge of the standards outlined in section 5.12-5.15 of these rules in one or in a combination of the following ways:

7.02(7)(a)(i) through a collection of professional development, in-service credit, college/university credit and/or work experience that meet the standards as outlined;

7.02(7)(a)(ii) completion of any CDE approved English Language Learner pathway, which may include district, college or university, BOCES, or nonprofit programs;

7.02(7)(a)(ii)(A) agencies wishing to become an approved pathway can submit an application for approval of an English Language Learner pathway through the Colorado Department of Education's Educator Talent Unit beginning Spring 2018 and ongoing every year thereafter.

7.02(7)(a)(ii)(B) approved pathways will be reviewed every three years to ensure consistency and alignment to the standards as noted.

7.02(7)(a)(iii) completion of a Culturally and Linguistically Diverse (CLD) or related endorsement (such as English as a Second Language) in or out of Colorado; and/or

7.02(7)(a)(iv) completion of a Colorado Department of Education facilitated English Language Learner professional development pathway.

7.02(7)(b) A district superintendent may annually request a waiver on behalf of their educators from the English learner professional development requirements for their educators endorsed in elementary, math, science, social studies, or English if the district has had an average of 2% or fewer identified English learners in the three years immediately preceding such request, as identified in the annual CDE Student October Pupil Enrollment data collection.

7.02(7)(c) The principal of a charter school authorized by the institute may annually request a waiver on behalf of educators from the English learner professional development requirements for educators in their charter school authorized by the institute endorsed in elementary, math, science, social studies, or English if the charter school has had an

average of 2% or fewer identified English learners in the three years immediately preceding such request as identified in the annual CDE Student October Pupil Enrollment collection.

- 7.02(7)(d) Upon submission of an application for renewal, educators will also submit the superintendent's notice or institute's notice of request for waiver. The Department will evaluate the waiver request based on the average of the last three years of the English learner population in the district.

### **7.03 Appeals Process**

An applicant whose application for renewal of any license has been rejected by the Department of Education may submit an appeal to the State Board of Education. If the State Board of Education finds that the applicant has met the criteria for license renewal, the renewal of the license must be approved.

### **7.04 Reinstatement of Expired Licenses or Certificates**

An applicant whose previous professional license or certificate was not renewed may reinstate his or her professional license or certificate by:

7.04(1) completing and submitting a renewal application including:

- 7.04(1)(a) evidence to satisfy the deficiencies that resulted in prior nonrenewal, including, but not limited to, evidence of completion of professional development requirements as provided in section 7.02 of these rules, as appropriate. An educator seeking reinstatement must have completed professional development activities totaling either six semester hours or 90 clock-hours within the five-year period preceding the application for reinstatement.

- 7.04(1)(b) the renewal fee set by the State Board of Education.

- 7.04(1)(c) in the event that a license or certificate is expired by one year or more, new fingerprints to the Colorado Bureau of Investigations (CBI) and the results must be transferred to the Colorado Department of Education.

### **8.00 Approved Induction Programs for Teachers, Special Services Providers, and holders of authorizations.**

Initial licenses are valid only in school districts, nonpublic schools, BOCES, or charter schools that provide approved induction programs unless the Board has waived the induction program requirement as provided in section 15.00 of these rules. Colorado school districts, consortia of districts, BOCES, nonpublic schools, charter schools, the institute, or other educational entities that employ licensed educators may develop induction programs for initial teachers, special services providers, principals, administrators, and holders of authorizations. Such programs must meet the criteria of these rules and be approved by the Department. Initial and continuing approval of such programs may be granted by the Department.

### **8.01 Criteria for Approval and Review of Induction Programs**

The following must serve as criteria for the approval of induction programs. The Department must provide technical assistance in the development of induction programs and must disseminate information concerning successful programs.

8.01(1) Effective induction programs must include opportunities for teachers which:

- 8.01(1)(a) enhance educator performance according to the quality standards prescribed in section 5.00 of these rules by providing, through mentors and other professionals:
  - 8.01(1)(a)(i) demonstrations of high quality instructional practices;
  - 8.01(1)(a)(ii) improvement of educational experiences for all students; and
  - 8.01(1)(a)(iii) ways to adapt curriculum and instruction to accommodate populations of diverse students.
- 8.01(1)(b) encourage professionalism and educator development according to quality standards by:
  - 8.01(1)(b)(i) building a foundation for the continued study of teaching;
  - 8.01(1)(b)(ii) encouraging collaborative relationships among administrators and teachers and partnerships between districts and universities;
  - 8.01(1)(b)(iii) providing an orientation for new teachers to the culture of the school system, the district, the community and the teaching profession;
  - 8.01(1)(b)(iv) providing a thorough orientation to the district educator effectiveness evaluation model; and
  - 8.01(1)(b)(v) providing opportunities for professional growth and ongoing professional development and training, including ethics, for both new teachers and mentors.
- 8.01(2) Effective induction programs must include district programs that will:
  - 8.01(2)(a) formalize the profiles of a successful educator at various career stages.
  - 8.01(2)(b) provide training of site administrators in the Colorado Academic Standards and in the Teacher, Special Services Provider, and Principal Quality Standards and the educator induction process;
  - 8.01(2)(c) establish standards for the selection, training, and release of mentors who work with new teachers and special services providers;
  - 8.01(2)(d) establish an assessment model to review, evaluate and guide the induction program;
  - 8.01(2)(e) establish a process for the selection and training of mentors and for the matching of mentors with inductees;
  - 8.01(2)(f) establish the primary role of the mentor as teacher, coach, advocate, support, guide and nurturer of new teachers; and
  - 8.01(2)(g) state whether mentors will be included in the evaluation of inductees. If mentors are to be involved in such evaluations, policies must state the specific roles and responsibilities of the mentor in evaluations.
- 8.01(3) Effective induction programs must include professional support for inductees that includes:
  - 8.01(3)(a) information relating to the Colorado Academic Standards and Teacher Special Services Provider I and/or Principal Quality Standards.



- 8.01(3)(b) detailed information regarding the educator effectiveness evaluation model.
- 8.01(3)(c) information related to school and district policies and procedures.
- 8.01(3)(d) local district goals and local content standards.
- 8.01(3)(e) educator roles and responsibilities (including moral and ethical conduct).
- 8.01(3)(f) information about the school community.
- 8.01(3)(g) substantive feedback to the inductee about performance.
- 8.01(3)(h) provisions for the extension of the induction program if deemed necessary by the district.

8.01(4) Effective induction programs should consider the following recommendations for implementation:

- 8.01(4)(a) plans and policies which may encourage collaborative efforts between higher education institutions, charter schools, the institute, and school districts in induction programs; provide release time for both mentors and inductees; and provide some form of compensation for mentors.
- 8.01(4)(b) commitments to
  - 8.01(4)(b)(i) place new educators in settings where they are likely to succeed;
  - 8.01(4)(b)(ii) provide inductees with supervisors and mentors skilled in helping new employees;
  - 8.01(4)(b)(iii) provide sufficient planning time for inductees; and
  - 8.01(4)(b)(iv) clarify expectations for inductees and mentors.
- 8.01(4)(c) Guidelines for selecting mentors may include:
  - 8.01(4)(c)(i) the mentor agrees to serve as a mentor;
  - 8.01(4)(c)(ii) the mentor is an experienced professional who consistently models the quality standards as reflected in section 5.00 of these rules with demonstrated excellence in practice as measured by the district educator effectiveness system;
  - 8.01(4)(c)(iii) the mentor works well with adults and is sensitive to the viewpoints of others; and
  - 8.01(4)(c)(iv) the mentor is an active and open learner and competent in interpersonal and public relations skills.
- 8.01(4)(d) Guidelines for the assignment of mentors may include:
  - 8.01(4)(d)(i) that the mentor has demonstrated effectiveness of academic achievement for students;
  - 8.01(4)(d)(ii) that the mentor be closely matched to the inductee in terms of assignment;

8.01(4)(d)(iii) that the mentor be located, when possible, in close proximity to the inductee; and

8.01(4)(d)(iv) that the mentor and the inductee styles are not in conflict.

8.01(5) Effective induction programs may be based upon the following best practices by:

8.01(5)(a) promoting purposeful learning by inductees rather than learning through trial and error.

8.01(5)(b) encouraging the retention of capable, talented professionals.

8.01(5)(c) strengthening teacher leadership and enhancing the working conditions and job satisfaction of professionals to increase student learning.

8.01(5)(d) ensuring mentors are carefully selected and given release time to mentor their new educator and are provided with strong professional development and support for their mentoring activities.

8.01(5)(e) ensuring that mentors model professionalism and ethics, high academic standards and high quality teaching.

8.01(5)(f) providing a safe, risk-taking environment and a collegial atmosphere for teaching and learning.

8.01(5)(g) promoting systemic change and continuous improvement.

## **8.02 Program Evaluation**

Each induction program must conduct a self-evaluation every five years. The evaluation information must be submitted to the Department of Education for use in recommending renewal of the induction program. The Department may conduct visits to induction sites and survey participants regarding the effectiveness of the program.

## **9.00 Induction Programs for Principals and Administrators.**

Initial Licenses are valid only in school districts, nonpublic schools, BOCES, or charter schools which provide approved induction programs, unless the Board has waived the induction program requirements as provided in section 15.00 of these rules.

9.00(1) Purposes: Induction programs for principals and/or administrators must be designed to meet four purposes: orientation, socialization and transition, technical skill development and continuous formative assessment.

9.00(2) Mentors: Induction programs must provide for the assignment of mentors to all initial license-holders. Mentors may be selected from a variety of sources including school district personnel or personnel from other districts.

9.00(2)(a) Selection: Mentors must have experience as a school principal or district administrator, as appropriate, and should be regarded as effective by their peers:

9.00(2)(a)(i) mentors should be selected to match the experience of the inductee; and

9.00(2)(a)(ii) mentors must have demonstrated:

- 9.00(2)(a)(ii)(A) commitment to the standards for principals or administrators, as appropriate;
- 9.00(2)(a)(ii)(B) well-developed interpersonal skills including the ability to listen and question effectively, explore multiple solutions to problems, and the ability to empathize with others;
- 9.00(2)(a)(ii)(C) effective oral and written communication skills; and
- 9.00(2)(a)(ii)(D) an awareness of the political, social and practical realities of the context of the inductee.
- 9.00(2)(b) Training: Induction programs must include a staff development program for mentors which includes, but is not limited to, orientation to mentoring; development of the knowledge and skills contained in the standards for principals or administrators, as appropriate; cognitive coaching; and writing professional growth and improvement plans.
- 9.00(2)(c) Professional development plans: At the inception of the induction period, the mentor and inductee must jointly develop a professional growth plan in consultation with the inductee's supervisor. The plan is to be based on the inductee's pre-service portfolio, the assessments required for the Initial License, the Standards for Principals or Administrators, and other applicable data. Each inductee must maintain a portfolio of induction activities. The professional development plan may be modified and adjusted based on ongoing feedback from the mentor and supervisor and the inductee's personal analysis and reflection.
- 9.00(2)(d) Professional evaluation: Induction programs must include summative performance evaluations of inductees. The induction program must specify the role of the mentor in evaluation: conduct of the evaluation, providing input to the evaluation or no involvement. The evaluations must be designed to document growth and performance in relation to the inductee's assignment.
- 9.00(2)(e) Length of induction programs: The induction program must define a process for determining when an inductee has successfully completed the program. In no case must an induction program exceed three years.
- 9.00(2)(f) Recommendation: The district, districts, charter school, nonpublic schools, or institute, or BOCES delivering the induction program must recommend an inductee for a Professional License based on performance evaluations and ongoing evaluation of the candidate's capability for meeting the Standards for Principals or Administrators.. Criteria for recommendation must include, but are not limited to, mentor and supervisor recommendation, summative evaluations and growth documented by formative evaluations.
- 9.00(2)(g) Program evaluation: Each induction program must conduct a self-evaluation every five years. The Department may conduct visits to induction sites and survey participants regarding the effectiveness of the program.

## **10.00 Denial, Suspension, Revocation or Annulment of Licenses and School District Reporting Requirements**

This section establishes a procedure for processing adverse information which may result in charges by the State Board of Education for the denial, suspension, revocation, or annulment of licenses, including lifetime certificates, endorsements and authorizations, and to establish standards against which said adverse information may be judged. These rules also provide due process protections for license-holders

and applicants and specify requirements for school district reports concerning employee misconduct to the Department. For the purpose of this section, "license" means any license, certificate, authorization, or endorsement issued by the Department on or after July 1, 1994, pursuant to section 22-60.5-101, C.R.S., and any certificate, letter of authorization or endorsement issued by the Department on or before June 30, 1994, pursuant to section 22-60-101, C.R.S.

10.00(1) A license may be denied, annulled, suspended, or revoked by the Colorado State Board of Education in accordance with the State Administrative Procedures Act, sections 24-4-101 through 107, C.R.S., in the following circumstances:

10.00(1)(a) If the applicant obtained or attempts to obtain the license through misrepresentation or fraud or through misleading information or an untruthful statement submitted or offered with the intent to misrepresent or mislead or to conceal the truth.

10.00(1)(b) If the Department mistakenly issued the license and it is subsequently determined that the holder is not entitled to the license due to a failure to meet educational or non-educational requirements in effect when the license was issued.

10.00(1)(c) When the applicant or holder is or has ever been determined to be mentally incompetent by a court of competent jurisdiction and a court has entered, pursuant to part 3 or part 4 of Article 14 of Title 15 of the Colorado Revised Statutes or section 27-65-109(4) or 27-65-127, C.R.S., an order specifically finding that the mental incompetency is of such a degree that the applicant or holder is incapable of continuing to perform his or her job, the license of a person who has been determined to be mentally incompetent and for whom such an order has been entered must be revoked or suspended by operation of law without a hearing, notwithstanding the provisions of section 22-60.5-108, C.R.S.

10.00(1)(d) When the applicant or holder is or has ever been convicted of, pleads or has ever pled nolo contendere to, or receives or has ever received a deferred sentence for a violation of any one of the following offenses:

10.00(1)(d)(i) contributing to the delinquency of a minor, as described in section 18-6-701, C.R.S.;

10.00(1)(d)(ii) a misdemeanor, the underlying factual basis of which has been found by the court on the record to involve domestic violence, as defined in section 18-6-800.3 (1) C.R.S., and the conviction is a second or subsequent conviction for the same offense;

10.00(1)(d)(iii) misdemeanor sexual assault, as described in section 18-3-402 C.R.S.;

10.00(1)(d)(iv) misdemeanor unlawful sexual conduct as described in section 18-3-404, C.R.S.;

10.00(1)(d)(v) misdemeanor sexual assault on a client by a psychotherapist, as described in section 18-3-405.5 C.R.S.;

10.00(1)(d)(vi) misdemeanor child abuse, as described in section 18-6-401, C.R.S.;

10.00(1)(d)(vii) a crime under the laws of the United States, another state, a municipality of this state or another state, or any territory subject to the jurisdiction of the United States, the elements of which are substantially similar to one of the offenses described in this paragraph (d); or

- 10.00(1)(d)(viii) a misdemeanor committed under the laws of the United States, another state, a municipality of another state or any territory subject to the jurisdiction of the United States, the elements of which are substantially similar to sexual exploitation of children as described in section 18-6-403(3)(b.5), C.R.S.
- 10.00(1)(e) When the applicant or holder is or has ever been found guilty of, or pleads or has ever pled guilty or nolo contendere to, a misdemeanor violation of any law of this state or another state, any municipality of this state or another state, or the United States or any territory subject to the jurisdiction of the United States involving the illegal sale of controlled substances, as defined in section 18-18-102(5), C.R.S.
- 10.00(1)(f) When the applicant or holder is or has ever been found guilty of a felony, other than a felony described in section 10.00(2) of these rules, or upon the court's acceptance of a guilty plea or a plea of nolo contendere to a felony, other than a felony described in section 10.00(2) of these rules, in this state or under the laws of any other state, the United States, or any territory subject to the jurisdiction of the United States, of a crime which, if committed within this state, would be a felony, other than a felony described in section 10.00(2) of these rules, when the commission of said felony, in the judgment of the State Board of Education, renders the applicant or holder unfit to perform the services authorized by his or her license.
- 10.00(1)(g) When the applicant or holder has ever received a disposition or an adjudication for an offense involving what would constitute a physical assault, a battery or a drug-related offense if committed by an adult and the offense was committed within the ten years preceding the date of the applicant or holder's application for a license.
- 10.00(1)(h) When the applicant or holder forfeits or has ever forfeited any bail, bond or other security deposited to secure the appearance by the applicant or holder who is charged with having committed a felony or misdemeanor, pays or has ever paid a fine, enters or has ever entered a plea of nolo contendere, or receives or has ever received a deferred or suspended sentence imposed by the court for any offense described in sections 10.00(2)(a), (b), or (d) of these rules.
- 10.00(1)(i) Notwithstanding any provision of section 10.00(2) of these rules to the contrary, a license may be denied, suspended or revoked when the State Board of Education determines an applicant or holder who held a license prior to June 6, 1991, has ever been convicted of an offense described in sections 10.00(2)(a)-(c) of these rules, unless the applicant or holder was previously afforded the rights set forth in section 22-60.5-108, C.R.S., with respect to the offense and the applicant or holder received or retained his or her license as a result.
- 10.00(1)(j) A license may be suspended when the holder, without good cause, resigns or abandons his or her contracted position with a school district without giving written notice to the employing local board of education of his or her intent to terminate his or her employment contract for the succeeding academic year at least 30 days prior to the commencement of the succeeding academic year or the commencement of services under his or her employment contract, or without giving written notice to the employing local board of education of his or her intent to terminate his or her employment contract for the current academic year at least 30 days prior to the date he or she intends to stop performing the services required by the employment contract.
- 10.00(1)(k) A license may be denied, annulled, suspended or revoked when the State Board of Education finds and determines that the applicant or holder is or has ever been professionally incompetent as described in section 10.01 of these rules.

- 10.00(1)(l) A license may be denied, annulled, suspended or revoked when the State Board of Education finds and determines that the applicant or holder is or has ever been guilty of unethical behavior as described in section 10.02 of these rules.
- 10.00(1)(m) A license may be suspended or revoked for a period not less than 90 days when the State Board of Education finds and determines that the license-holder knowingly and intentionally failed to protect student data pursuant to section 22-1-123, C.R.S.
- 10.00(2) A license must be denied, annulled, suspended or revoked by the Colorado State Board of Education in accordance with the State Administrative Procedures Act, sections 24-4-101 through 107, C.R.S., in the following circumstances:
- 10.00(2)(a) A license must be denied, suspended or revoked when the applicant or holder is or has ever been convicted by a jury verdict or by entry of a verdict or acceptance of a guilty plea or a plea of nolo contendere by a court of:
- 10.00(2)(a)(i) felony child abuse, as specified in section 18-6-401, C.R.S.;
- 10.00(2)(a)(ii) a crime of violence, as defined in section 18-1.3-406, C.R.S.;
- 10.00(2)(a)(iii) a felony offense involving unlawful sexual behavior, as defined in section 16-22-102(9), C.R.S.;
- 10.00(2)(a)(iv) a felony, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in section 18-6-800.3, C.R.S.;
- 10.00(2)(a)(iv)(A) This ground for mandatory denial, suspension or revocation of a license must only apply for a period of five years following the date the offense was committed, provided the applicant or holder has successfully completed any domestic violence treatment required by the court; or
- 10.00(2)(a)(v) a felony offense in another state, the United States, or territory subject to the jurisdiction of the United States, the elements of which are substantially similar to the elements of one of the offenses described in this paragraph (a).
- 10.00(2)(b) A license must be denied, suspended or revoked when the applicant or holder is or has ever been convicted by a jury verdict or by entry of a verdict or acceptance of a guilty plea or a plea of nolo contendere by a court of indecent exposure, as described in section 18-7-302 C.R.S., or of a crime under the laws of another state, a municipality of this or another state, the United States, or a territory subject to the jurisdiction of the United States, the elements of which are substantially similar to the offense of indecent exposure described in this paragraph (b).
- 10.00(2)(c) A license must be denied, suspended or revoked when the applicant or holder receives or has ever received a disposition or an adjudication for an offense that would constitute felony unlawful sexual behavior, as defined in section 16-22-102(9), C.R.S., if committed by an adult.
- 10.00(2)(d) A license must be denied, suspended or revoked if the applicant or holder is or has ever been convicted by a jury verdict or by entry of a verdict or acceptance of a guilty plea or a plea of nolo contendere by a court of a felony drug offense described in part 4 of Article 18 of Title 18, C.R.S., committed on or after August 25, 207.

10.00(2)(d)(i) This requirement for denial, suspension or revocation of a license must only apply for a period of five years following the date the offense was committed.

10.00(2)(e) A license must be denied, suspended or revoked when the applicant or holder fails to submit his or her fingerprints taken by a qualified law enforcement agency, an authorized employee of a school district or Board of Cooperative Services using fingerprinting equipment that meets the Federal Bureau of Investigation image quality standards, or any third party approved by the Colorado Bureau of Investigation to the Department within thirty days after receipt of the Department's written request for fingerprints, which fingerprint submission the Department required upon finding probable cause to believe that the applicant or holder had been convicted of a felony or misdemeanor, other than a misdemeanor traffic offense or traffic infraction, subsequent to his or her licensure.

10.00(3) The State Board of Education may take immediate action to deny, annul or suspend a license without a hearing, notwithstanding the provisions of section 22-60.5-108, C.R.S., upon receipt of a certified copy of the judgment of conviction, a deferred sentence or the acceptance of a guilty plea or a plea of nolo contendere for any violation of sections 10.00(1)(c), (1)(d) or (1)(e) of these rules or upon receipt of a certified copy of the judgment of conviction or the acceptance of a guilty plea or a plea of nolo contendere for any violation of sections 10.00(2)(a)-(d) of these rules. The State Board of Education may revoke a suspended license based on a violation of sections 10.00(1)(c), (1)(d) or (1)(e) of these rules and must revoke a suspended license based on a violation of sections 10.00(2)(a)-(d) of these rules without a hearing and without any further action after the exhaustion of all appeals, if any, or after the time for seeking an appeal has elapsed and upon the entry of a final judgment. A certified copy of the judgment of a court of competent jurisdiction of a conviction, a deferred sentence, or the acceptance of a guilty plea or a plea of nolo contendere must be conclusive evidence of such conviction or plea for the purposes of sections 10.00(1)(c), (1)(d) and (1)(e) of these rules. A certified copy of the judgment of a court of competent jurisdiction of a conviction or the acceptance of a guilty plea or a plea of nolo contendere must be conclusive evidence of such conviction or plea for the purposes of sections 10.00(2)(a)-(d) of these rules.

10.00(4) In cases where the State Board of Education deems summary suspension is appropriate, pursuant to section 24-4-104(4), C.R.S., proceedings for suspension or revocation may be instituted upon the board's own motion without a proceeding pursuant to these regulations. The holder must be entitled to a post-deprivation hearing consistent with section 24-4-105, C.R.S. At such hearing, the burden of proof must rest with the holder.

### **10.01 Standards of Professional Incompetence**

For a license-holder or applicant to be found incompetent, it must be demonstrated that he or she is unable to engage in professional assignments related to his or her license or endorsement area because of a failure to carry out the teaching, special services, principal or administrative functions as described in sections 5.00 or 6.00 of these rules. To warrant denial, annulment, suspension or revocation of the license, violations must be found to be substantial or continued.

### **10.02 Standards of Unethical Behavior**

The following must serve as standards against which charges of unethical behavior will be judged. To warrant denial, annulment, suspension or revocation of the license, violations must be found to be substantial or continued. It must be considered unethical behavior for a license-holder or applicant to:

10.02(1) fail or to have ever failed to make reasonable effort to protect the student from conditions harmful to health and safety.

- 10.02(2) provide or to have ever provided professional services in a discriminatory manner regarding age, gender, gender identity, sexual orientation, national origin, race, ethnicity, color, creed, religion, language, disability, socio-economic status or status with regard to marriage.
- 10.02(3) fail or to have ever failed to keep in confidence information obtained in the course of professional services unless disclosure serves to protect the child, other children or school personnel, or is required by law.
- 10.02(4) direct or to have ever directed a person to carry out professional responsibilities knowing that such person is not qualified for the responsibility given, except for assignments of short duration in emergency situations.
- 10.02(5) deliberately distort or suppress or to have ever deliberately distorted or suppressed curricular materials or educational information in order to promote the personal view, interest or goal of the license-holder or applicant.
- 10.02(6) falsify or misrepresent or to have ever falsified or misrepresented records or facts relating to the license-holder or applicant's qualifications, another educator's qualifications or a student's records.
- 10.02(7) make or to have ever made false or malicious statements about students or school personnel.
- 10.02(8) solicit, accept or agree to accept or to have ever solicited, accepted or agreed to accept anything of substantial value from any person when the license-holder or applicant knows, or a reasonable person could construe, that the conferment of the thing of value is for the purpose of influencing the license-holder or the applicant's professional judgment or performance of professional duties.
- 10.02(9) fail or to have ever failed to conduct financial transactions relating to the school program in a manner consistent with applicable law, rule or regulation.
- 10.02(10) engage or to have ever engaged in immoral conduct that affects the health, safety or welfare of children, conduct that offends the morals of the community or conduct that sets an inappropriate example for children or youth whose ideals the educator is expected to foster and elevate.
- 10.02(11) engage or to have ever engaged in unlawful distribution or sale of dangerous or unauthorized prescription drugs or other dangerous nonprescription substances, alcohol or tobacco.

### **10.03 Filing of Adverse Information Regarding an Educator License**

- 10.03(1) Filing of external complaints:
  - 10.03(1)(a) A complaint regarding an educator is a formal statement filed by an aggrieved party or a party in interest against an individual who holds or has applied for a Colorado educator license of an alleged violation of conditions that, if found to be substantial or continued, and if found to be true, becomes grounds for denying, annulling, revoking or suspending the license. The Department of Education must supply necessary complaint forms and information for the filing of adverse information to any aggrieved person or party in interest.
  - 10.03(1)(b) A written complaint must be delivered personally, sent by mail or sent in a secured electronic environment to the Department by the complainant. The written



complaint, regardless of delivery method, must be signed and sworn to by the complainant. Such complaint must set forth facts alleging the actions serving as the basis of the complaint to be substantial or continued specifying the statutory and regulatory violations.

**10.03(2) Filing of notification by public district/school:**

10.03(2)(a) The local board of education, charter school, BOCES or its designee must notify the Department pursuant to the requirements of section 2260.5-R-10.05.

**10.03(3) Conducting investigations and pursuing formal action by the State Board of Education:**

10.03(3)(a) The Department conducts background investigations upon receipt of any adverse information. The purpose of this inquiry is to determine if there is probable cause to seek annulment, revocation, or suspension of the license or denial of the application. If the Department determines probable cause exists, the Department may ask the State Board of Education to direct the initiation of formal proceedings against the license-holder pursuant to section 22-60.5-108, C.R.S., or to deny the application pursuant to section 24-4-104(8), C.R.S.

10.03(3)(b) Except in cases of summary suspension, the Department must provide the license-holder or applicant notice of the allegations against him or her and an opportunity to respond prior to asking the State Board of Education to deny an application or initiate formal proceedings. The Department must provide such opportunity by sending a formal written letter of inquiry by first-class mail to the applicant or license holder, explaining the allegations against him or her and requesting a response within twenty (20) days. The Department must include a notification of such person's right to return a response within 20 days. If the Department knows that the person is an employee of a Colorado charter school, BOCES, or school district, the Department must notify the charter school, BOCES, or school district of the inquiry.

10.03(3)(c) After the expiration of the 20 day period allowed for a response or upon receipt of the response, whichever is sooner, the Department will review the allegations and response and determine whether to pursue the charges for denial, revocation or annulment of the license. In any case where, based on the response of the license-holder or applicant to the letter of inquiry, the Department determines probable cause does not exist, the Department must withdraw or dismiss the complaint and notify the person complained against and the school district, charter school, or BOCES of the Department's action. Any handling of the complaint must be consistent with the laws on confidentiality unless contrary to statute.

10.03(3)(d) The Department is authorized to grant extensions to any of the processing deadline dates in sections 10.03(3) and (4) of these rules, based upon sufficient cause shown.

10.03(3)(e) The Department will present its findings and recommendations to the State Board of Education for action:

10.03(3)(e)(i) if revocation or annulment is recommended and accepted by the State Board of Education, the Board must take action to have the hearing conducted in accordance with section 24-4-105, C.R.S.; and

10.03(3)(e)(ii) if denial is recommended and accepted by the State Board of Education, the Department must notify by first-class mail the applicant of the denial and the

applicant's right to request a hearing conducted in accordance with section 24-4-105, C.R.S.

10.03(3)(f) The Department must notify by first-class mail the person charged of the decision of the State Board of Education to conduct a hearing. If the Department knows that the person charged is a current employee of a Colorado charter school, BOCES, or school district, the Department must notify such school, BOCES or school district of the decision of the State Board.

10.03(3)(g) If the State Board of Education decides to refer the matter for a formal hearing, or if the applicant timely requests a formal hearing concerning the Board's denial of his or her application, the hearing and subsequent proceedings must be conducted by an administrative law judge appointed by the Colorado Division of Administrative Hearings in accordance with section 24-4-105(3), C.R.S. If the State Board of Education decides not to refer the matter for a formal hearing, the Department must dismiss the complaint and notify the person complained against and the complainant of the Department's action. Any handling of the complaint must be consistent with the laws on confidentiality unless contrary to statute.

10.03(3)(h) Pursuant to section 24-4-105(14), C.R.S., the decision of the administrative law judge must include a statement of findings and conclusions and the appropriate order, sanction, relief or denial thereof. The decision of the administrative law judge must result in revocation of the license or, in the case of an application, denial of the license if the charge is sustained.

#### **10.04 Application for License Following Suspension, Revocation, Annulment or Denial**

10.04(1) The holder of a license that has been suspended or revoked may submit an application for a new license, the renewal of the expired license or the reinstatement of the license to the Department for review by the State Board of Education. Said application will include justification for issuance, renewal, or reinstatement, with evidence as to rehabilitation appropriate to the basis for the prior suspension, revocation, annulment, or denial. The application must demonstrate the current fitness of the applicant to resume educational duties, in compliance with all laws and rules currently in effect. In all cases involving the application for a new license, the renewal of the expired license or reinstatement of the suspended or revoked license, the burden of proof rests with the applicant.

10.04(1)(a) The reinstated license will bear the same expiration date as had been originally issued.

10.04(1)(b) In the event the original license expired during the period of suspension or revocation, the applicant will be required to meet all requirements for the renewal of the license.

10.04(2) The party whose license has been denied or annulled by the State Board of Education may apply for a license to the Department for review by the State Board. Said application will include justification for issuance, with appropriate supporting documentation as to the current fitness of the applicant to resume educational duties, and be in compliance with all laws and rules currently in effect. In all cases involving the application for a license, the burden of proof must rest with the applicant.

#### **10.05 Mandatory Reporting of Misconduct**

10.05(1) If an employee of a school district is dismissed or resigns as a result of an allegation of unlawful behavior involving a child, including unlawful sexual behavior, which is supported by a preponderance of the evidence, the board of education of the school district must notify the

Department of Education within 10 business days after the dismissal or resignation, and provide any information requested by the Department concerning the circumstances of the dismissal or resignation.

10.05(2) The local board of education, charter school, BOCES or designee must immediately notify the Department when any dismissal action or acceptance of resignation concerning an employee is based upon a violation resulting in a conviction, guilty plea, plea of nolo contendere, or deferred sentence as set forth in sections 10.00(1)(d)-(g) and 10.00(2)(a)-(c) of these rules. The local board, charter school, BOCES, or designee must provide any information requested by the Department concerning the circumstances of the employee's dismissal or resignation.

10.05(3) The local board of education, charter school, BOCES or its designee must notify the Department when the county department of social services or local law enforcement agency reasonably believes that an incident of abuse or neglect has occurred and an employee of the district, charter school or BOCES is the suspected perpetrator and was acting in his or her official capacity as an employee. The local board, charter school, BOCES or its designee must provide any information requested by the Department concerning the employee's alleged abuse or neglect.

10.05(4) The local board of education, charter school, BOCES or its designees must notify the Department when the local board, charter school or BOCES reasonably believes that one of its employees is guilty of unethical behavior or professional incompetence as set forth in sections 10.01 and 10.02 of these rules. The local board, charter school, BOCES or its designee must provide any information requested by the Department concerning the employee's behavior or competence.

10.05(5) The local board of education, charter school, BOCES or its designee must notify the Department when the local board, charter school or BOCES learns from a source other than the Department that a current or past employee of the district, charter school or BOCES has been convicted of, has pled nolo contendere to, or has received a deferred sentence or deferred prosecution for a felony or a misdemeanor crime involving unlawful sexual behavior or unlawful behavior involving children.

## **11.00 Standards for the Approval of Educator Preparation Programs**

The Colorado State Board of Education will submit its recommendation to the Colorado Commission on Higher Education (CCHE), with regard to a teacher education program, based on whether or not it approves of the content of the program.

### **11.01 Design of the Professional Education Programs**

The Educator Talent Division promotes high-quality programs that are based on State Board of Education-approved standards and sections 5.00 through 6.00-of these rules and 4.00 through 7.00 of 1 CCR 301-101. The programs are coherent and consistent with the Colorado Department of Education and the educator preparation institution's mission and are continuously evaluated for authorization and reauthorization.

### **11.02 The CDE Educator Talent Division, Office of Educator Preparation and Licensing Support Office**

The Colorado Department of Education Educator Talent Division will evaluate all new and renewing teacher preparation programs for consistency with State Board of Education-approved teacher preparation content standards, including the assessment of the content of those programs, based on section 22-2-109, C.R.S., and provide recommendations to the state board as to whether the board should recommend to CCHE approval or disapproval of such programs. Such authorizations will occur no more than once every five years.

The purpose of these authorizations is to assure the public that educators who complete the educator preparation programs in the state of Colorado are prepared to educate public education students according to the Colorado Revised Statutes and the rules set forth by the Colorado State Board of Education. To accomplish this, all educator preparation programs must prepare candidates to meet or exceed the standards for licensure that are specified in section 5.00 of these rules.

## **12.00 Alternative Teacher Preparation Programs: One-year and Two-year Programs**

The following must serve as standards for the initial and continuing approval of alternative teacher preparation programs. Colorado school district(s), BOCES, accepted institution(s) of higher education, a non-profit agency, nonpublic school, charter school, the institute, or any combination thereof, may apply to the Colorado State Board of Education for approval of an alternative teacher preparation program pursuant to section 22-60.5-205, C.R.S.

12.00(1) An alternative teacher preparation program must:

12.00(1)(a) be a one-year or two-year teacher preparation program of study and training for persons of demonstrated knowledge and ability who hold an alternative teacher license, as issued pursuant to section 3.12 of these rules; as follows:

12.00(1)(a)(i) a one-year program is designed to be completed in one year. The program may be extended for one year based on documentation of unforeseen circumstances as demonstrated by the applicant and the designated agency that are reviewed for approval by the Department;

12.00(1)(a)(ii) a two-year program is designed to be completed in two years; and

12.00(1)(a)(iii) an alternative teacher preparation program for the purpose of receiving a special education generalist or core endorsement may be designed to be completed in a maximum of three years during which time the candidate must be teacher of record for a minimum of one year.

12.00(1)(b) be the responsibility of a designated agency, whose duties must include the organization, management, and operation of the program as follows:

12.00(1)(b)(i) a designated agency may be either a Colorado school district, a BOCES, an accepted institution of higher education a non-profit organization, a nonpublic school, a charter school, or the institute, or any combination thereof; and

12.00(1)(b)(ii) the designated agency must establish an advisory council, regionally represented if appropriate to the program, which must include, at a minimum, representatives from participating school districts, charter schools, nonpublic schools, the institute, or BOCES; at least one qualified mentor teacher; and a representative from any accepted institution of higher education cooperating with the designated agency, if applicable.

12.00(1)(c) require alternative teachers to be employed by or have a clinical agreement in place with a Colorado school district, a licensed nonpublic child care facility, other preschool facility, charter school, the institute, nonpublic school, or BOCES to teach, receive training and be supervised by a qualified mentor teacher and an appropriate support team as follows:

12.00(1)(c)(i) alternative teachers must demonstrate competency in their subject area endorsement and/or assignment pursuant to section 3.00 of these rules including:

- 12.00(1)(c)(i)(A) if the alternative teacher is asked to teach in any content area(s) outside of his/her assessed content area, the school or school district is required to keep on file documented evidence that the alternatively licensed teacher has completed 24 semester hours of applicable coursework in the additional content area(s) or the equivalent, thereof, or has passed the related state-approved content area exam(s);
- 12.00(1)(c)(ii) training of alternative teachers must include 225 clock-hours of planned instruction, and activities must include, but not be limited to, teacher preparation courses that meet the teacher quality standards or special services provider quality standards and training in dropout prevention. Additionally:
  - 12.00(1)(c)(ii)(A) the 225-clock-hours must, at a minimum, include professional development that addresses the content as outlined in section 5.00 of these rules;
  - 12.00(1)(c)(ii)(B) the hours of required instruction and activities may be modified by the alternative teacher's support team, but only after a documented and performance-based evaluation of the candidate's proficiency determines that one or more of the program's requirements has already been met by the alternative teacher's proven knowledge or past experience; and
  - 12.00(1)(c)(ii)(C) evaluations of alternative teachers must be conducted and documented in accordance with section 22-9-106, C.R.S.
- 12.00(2) Proposal applications submitted by designated agencies for the approval of alternative teacher preparation programs must include, but not be limited to:
  - 12.00(2)(a) evidence of the establishment of an alternative teacher preparation program advisory council by the designated agency.
  - 12.00(2)(b) a listing of the duties of the advisory council which must include, but not be limited to, providing the designated agency with information regarding the organization, and management and operation of the approved alternative teacher program.
  - 12.00(2)(c) criteria for the selection of mentor teachers which must include, but not be limited to, evidence and/or confirmation of exemplary teaching and school leadership; the ability to model and counsel the alternative teacher; relevant coursework; and a valid license and endorsement, in the alternatively-licensed teacher's content area if available.
    - 12.00(2)(c)(i) If a mentor teacher is not available, the designated agency may submit a plan for mentor support that provides that same level of mentorship to the alternative teacher. Mentor teachers may evaluate alternative teachers, if trained in accordance with 22-9-106(4), C.R.S., except that mentor teachers are not required to hold an administrative license.
  - 12.00(2)(d) an articulated, mandatory, and intensive supervision training program for mentors that provides direction with regard to structured guidance, the provision of regular ongoing support to new teachers and teacher performance evaluation.
  - 12.00(2)(e) duties of the mentor teacher including, but not be limited to, serving as a member of the support team; providing ongoing counseling and supervision of the alternative teacher; and having the primary responsibility for representing the support team in the

process of evaluating with regard to and making recommendations for the licensing of the alternative teacher.

- 12.00(2)(f) a checklist of the duties of the mentor teacher and the time required of that teacher to mentor the alternatively licensed teacher which must be maintained by the designated agency. The mentor teacher checklist must include, but not be limited to the following elements:
  - 12.00(2)(f)(i) membership on the support team and attendance at meetings;
  - 12.00(2)(f)(ii) identification of the time the mentor will spend in counseling and supervising the alternatively licensed teacher; and
  - 12.00(2)(f)(iii) the primary responsibility of the mentor to represent the support team in the process of evaluating and making recommendations regarding the initial licensing of the alternatively licensed teacher.
- 12.00(2)(g) provisions made by the designated agency to assist the mentor teacher in properly discharging his/her regular duties. Such provisions may include, but not be limited to:
  - 12.00(2)(g)(i) providing a substitute teacher for the mentor teacher, as necessary and appropriate; and
  - 12.00(2)(g)(ii) allowing for adequate compensatory time and/or other compensation for the mentor teacher's required planning and observation schedule and ongoing regular conferences with the alternatively-licensed teacher.
- 12.00(2)(h) the composition of the alternative teacher preparation program support team. The team must include, at the least, the alternative teacher's mentor teacher, the building principal and a representative of the approved institution of higher education or designated agency.
- 12.00(2)(i) duties of the support team including, but not limited to:
  - 12.00(2)(i)(i) meeting on a regular schedule with an agenda. Documentation of such regularly scheduled meetings must include, but not be limited to, progress of the alternative teacher toward meeting the program's objectives;
  - 12.00(2)(i)(ii) evaluating the related prior education and experience of the alternative teacher to determine the appropriate program elements which will prepare the candidate for full licensure, as prescribed by these and other relevant rules and policies. Additionally:
    - 12.00(2)(i)(ii)(A) the support team may decrease or increase the 225 hours of training based upon its evaluation and the documented evidence it has on file of the qualifications, knowledge and experience of the alternatively-licensed teacher; and
    - 12.00(2)(i)(ii)(B) the training program must include the elements required by these rules;
  - 12.00(2)(i)(iii) developing of the instruction plans and activities for the alternatively licensed teacher's preparation and its delivery must meet the Colorado State

Board of Education-approved standards, as prescribed in section 5.00 of these rules; and

12.00(2)(i)(iv) prior to the beginning of the program, providing the alternative teacher with an orientation to the school, its student population, and the policies and procedures which affect teaching, classroom management strategies and teacher responsibilities, as prescribed by section 12.00(1)(c) of these rules.

12.00(2)(j) a means of assurance that the major portion of the alternative teacher's assignment, if employed as an educator of record or in a clinical experience environment, must be in the content area in which the alternative teacher has been approved by the state through a content area evaluation, as prescribed by section 3.12(1)(c)

12.00(2)(k) explanation of how the school or district will meet the requirements specified in section 12.00(1)(c)(i)(A) of these rules if an alternative teacher is asked by the school or district to teach outside of his/her approved content area.

12.00(2)(l) the method of evaluation of the alternative teacher's proficiencies using performance evaluations, as based on quality standards for Colorado teachers and as prescribed by sections 5.00 - 5.07(5) of these rules.

12.00(2)(m) an inventory of standards pursuant to section 5.00 of these rules for each alternative teacher in its program that documents how the alternative teacher demonstrates proficient knowledge and understanding of the teacher quality standards for Colorado teachers, and their standard elements, including demonstration of proficient performance in a classroom setting.

12.00(2)(n) a schedule of mentor and principal observations, including a minimum of four program candidate observations.

12.00(2)(o) the process by which performance evaluations of alternative teachers will be conducted, which must be consistent with the provisions of section 22-9-106 C.R.S.

12.00(2)(p) measurable objectives for the alternatively licensed teacher's preparation program.

12.00(3) The alternative teacher preparation program may be approved for up to five years, and an onsite evaluation and visit will be conducted not more than every five years, at which time the alternative teacher preparation program will be reviewed and evaluated for evidence of effectiveness of program administration and preparation of alternative teachers for purposes of reauthorization.

#### **12.01 Alternative Teacher Licenses**

For the purposes of issuing an alternative teacher license pursuant to section 22-60.5-201(1)(a), C.R.S., applicants must provide the following to the Colorado Department of Education within 30 days of the candidate's employment and/or acceptance into an alternative educator preparation program:

12.01(1) a copy of the applicant's employment documentation, which includes terms and conditions of employment as the teacher of record or letter of agreement;

12.01(2) documentation from the alternative educator preparation program that the applicant has been accepted into the program, and;

- 12.01(3) a statement of assurance with signatures from the designated agency representative, human resources officer or designee of the participating entity and the applicant verifying that the applicant is employed as a teacher of record or participating in a clinical experience, and that the placement is in the approved endorsement area.

### **13.00 Colorado Teacher of the Year Program**

#### **13.01 Administration**

- 13.01(1) The Colorado Teacher of the Year is selected in accordance with the National Teacher of the Year: selection criteria, as articulated by the Council of Chief State School Officers (CCSSO).

- 13.01(2) The Department may reward the award recipient with gifts, services and opportunities that may include, but need not be limited, to:

13.01(2)(a) a sabbatical from teaching responsibilities that includes moneys awarded to the recipient's employer for the purpose of hiring a substitute teacher during the award recipient's sabbatical.

13.01(2)(b) a cash gift.

13.01(2)(c) travel and lodging expenses.

13.01(2)(d) a computer.

13.01(2)(e) supplies and equipment for the award recipient's classroom or school.

13.01(2)(f) the opportunity to receive additional training or education.

- 13.01(3) During tenure as Colorado Teacher of the Year, the award recipient may participate in activities that may include but need not be limited to:

13.01(3)(a) participating in local, regional and national events related to the award recipient's designation as Colorado Teacher of the Year.

13.01(3)(b) promoting the teaching profession.

13.01(3)(c) teaching best practices to other teachers.

13.01(3)(d) teaching temporarily in other public schools or school districts.

13.01(3)(e) mentoring students in teacher preparation programs and supporting newer teachers in Colorado.

13.01(3)(f) collaborating with institutions of higher education in scholarly research and teaching.

13.01(3)(g) participating in special projects relating to education that are important to the award recipient.

### **14.00 Inactive Status of Licenses**

- 14.00(1) Holders of valid professional licenses may choose to convert the professional license to inactive status by:



- 14.00(1)(a) notifying the Department of Education of his or her intent to place the professional license on inactive status by submitting an online application.
- 14.00(1)(b) simultaneously transferring, either in person or by first-class mail, the professional license certificate to the Department of Education; if the license is in electronic format, the license-holder may upload a copy of it to the application.
- 14.00(1)(c) the Department of Education may, upon request of a license-holder, and with evidence of the license-holder's active military service, reissue the license with a new expiration date reflecting the amount of time which remained on the license prior to the license-holder's active military service, plus the amount of time during which the license-holder served in active military service. and the person must be deemed to not hold a professional license.
- 14.00(2) While on inactive status, the expiration date of a professional license must be suspended and the person must be deemed to not hold a professional license.
- 14.00(3) A person may return a professional license to active status at any time by notifying the Department of Education via application to return his or her professional license.
- 14.00(4) Upon application to return to active status, the Department of Education must reissue the professional license with a new expiration date reflecting the period remaining on the professional license as of the date the license-holder converted to inactive status.
- 14.00(5) Upon receipt of the professional license, the license-holder must resume active status.
- 14.00(6) Renewal of licenses previously inactive:
  - 14.00(6)(a) Any person who placed a license on inactive status may, but is not required, to complete professional development activities which meet the requirements of section 7.02 of these rules. Such activities completed while on inactive status must apply to renewal of the person's professional license after the person returns to active status.
  - 14.00(6)(b) At the time of renewal, the holder must provide to the Department of Education evidence of completion of the professional development activities which meet the requirements of the State Board of Education for license renewal as provided in section 7.02 of these rules and which were completed within the five years preceding the date on which the professional license will expire after its return to active status.

## **15.00 Waivers**

- 15.01 A written request for a waiver must be received by the State Board of Education at least 120 days prior to proposed implementation. The State Board is authorized to waive any requirement in regard to alternative teacher programs or approved induction programs. Waiver applications must include:
  - 15.01(1) the specific portion of these rules to be waived.
  - 15.01(2) the rationale for the request.
  - 15.01(3) detailed information on the innovative programs or plans to be instituted.
  - 15.01(4) financial impact of the proposed waiver, if applicable.

- 15.01(5) reasons why these innovative programs or plans cannot be implemented under the applicable rule.
- 15.01(6) a detailed plan for the evaluation of the innovative programs or plans to show their effectiveness in improving the quality of the affected educators.

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## **Editor's Notes**

### **History**

Sections 2260.5-R-1.00, 15.00, 15.05 emer. rule eff. 08/14/2008.

Sections 2260.5-R-1.00, 15.00, 15.05 eff. 10/31/2008.

Sections 2260.5-R-1.16, 4.04 eff. 10/30/2009.

Sections 2260.5-R-1.00-2.04, 3.01, 3.03, 3.12, 4.03, 4.12, 4.17, 7.02, 13.00, 18.00-19.00 eff. 07/30/2010.

Sections 2260.5-R-1.19, 4.11, 4.14(11)(d-e) emer. rule eff. 09/16/2010.

Sections 2260.5-R-1.17, 4.11, 6.13, 10.05 eff. 12/31/2010.

Sections 2260.5-R-1.20, 8.22-8.23 eff. 01/31/2011.

Sections 2260.5-R-1.21, 4.16, 15.00-15.00(5) eff. 09/30/2012.

Sections 2260.5-R-2.01, 2.03, 3.01, 3.03, 3.05-3.07, 3.12, 4.02-4.04, 4.11, 4.13, 4.17, 8.02, 8.04, 8.14, 12.02, 15.03, 18.00, 23.01 eff. 01/30/2013.

Sections 2260.5-R-1.23, 3.01(2)(e)(ii)(3), 3.06(1), 3.12(3)(b)(i), 4.13(3), 4.13(5), 4.17 eff. 05/15/2014.

Section 2260.5-R-8.20 eff. 07/30/2014.

Section 2260.5-R-4.18 eff. 08/14/2014.

Entire rule eff. 03/30/2016.

Sections 2260.5-R-1.24, 2.01(26), 3.02(1), 3.05-3.07, 4.02(1), 4.09, 4.12-4.14, 4.17, 4.18, 7.02(1), 8.14, 9.01, 9.05-9.07, 10.02, 10.04-10.06, 11.09, 12.00, 12.02, 13.00, 13.01, 15.00, 15.01 eff. 06/14/2017.

Sections 2260.5-R-1.25, 2.01, 12.02(1), 13.00, 15.00, 18.00, 18.01 eff. 01/30/2018.

Entire rule eff. 08/14/2018.

### **Annotations**

Introductory paragraph of Rule 2260.5-R-23.00 (adopted 11/10/2005) was not extended by House Bill 07-1167 and therefore expired 05/15/2007.

Rules 2260.5-R-3.03(2)(a), 3.06(1)(a), 3.06(1)(c), 3.07(1)(d), 4.13(4)(c), 4.17(7), 15.00(2)(d), 15.00(2)(j) (adopted 12/14/2006) were not extended by Senate Bill 08-075 and therefore expired 05/15/2008.

Rules 2260.5-R-3.07(1), 4.17(1), 4.17(2), 4.17(3) were repealed by Senate Bill 08-075, eff. 05/15/2008.

Rules 4.11(6)-4.11(6)(d) (adopted 08/08/2012) were not extended by Senate Bill 13-079 and therefore expired 05/15/2013.

Rule 4.04 (adopted 12/05/2012) was not extended by Senate Bill 15-100 and therefore expired 05/15/2015.

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Tracking number: 2019-00076

**Opinion of the Attorney General rendered in connection with the rules adopted by the**

Colorado State Board of Education

**on 04/10/2019**

1 CCR 301-37

**RULES FOR THE ADMINISTRATION OF THE EDUCATOR LICENSING ACT OF 1991**

The above-referenced rules were submitted to this office on 04/22/2019 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

April 24, 2019 11:02:13

**Philip J. Weiser**  
Attorney General  
by Eric R. Olson  
Solicitor General

## **Permanent Rules Adopted**

### **Department**

Department of Education

### **Agency**

Colorado State Board of Education

### **CCR number**

1 CCR 301-87

### **Rule title**

1 CCR 301-87 RULES FOR THE ADMINISTRATION OF A STATEWIDE SYSTEM TO  
EVALUATE THE EFFECTIVENESS OF LICENSED PERSONNEL EMPLOYED BY  
SCHOOL DISTRICTS AND BOARDS OF COOPERATIVE EDUCATION SERVICES 1 -  
eff 05/30/2019

### **Effective date**

05/30/2019

## DEPARTMENT OF EDUCATION

### Colorado State Board of Education

## RULES FOR ADMINISTRATION OF A STATEWIDE SYSTEM TO EVALUATE THE EFFECTIVENESS OF LICENSED PERSONNEL EMPLOYED BY SCHOOL DISTRICTS AND BOARDS OF COOPERATIVE SERVICES

### 1 CCR 301-87

*[Editor's Notes follow the text of the rules at the end of this CCR Document.]*

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#### 0.00 STATEMENT OF BASIS AND PURPOSE

These rules are promulgated pursuant to Colorado Revised Statutes sections 22-9-104(2) and 22-9-105.5(10). Section 22-9-101, C.R.S., et seq. creates a system to evaluate the effectiveness of licensed personnel in school districts and boards of cooperative services throughout the state as a means of improving the quality of education in Colorado.

The basic purposes of the statewide system to evaluate the effectiveness of licensed personnel are:

- To ensure that all licensed personnel are evaluated using multiple, fair, transparent, timely, rigorous, and valid methods, fifty percent of which evaluation is determined by Measures of Student Learning;
- To ensure that all licensed personnel receive adequate feedback and professional development support to provide them a meaningful opportunity to improve their effectiveness; and
- To ensure that all licensed personnel are provided the means to share effective practices with other educators throughout the state.

#### 1.00 DEFINITIONS

- 1.01 "Administrator" means any person who administers, directs, or supervises the education instructional program, or a portion thereof, in any school or school district in the state and who is not the chief executive officer or an assistant chief executive officer of such school or a person who is otherwise defined as an Administrator by his or her employing school district or BOCES.
- 1.02 "BOCES" or "board of cooperative services" has the same meaning as provided in section 22-5-103(2), C.R.S.
- 1.03 "Colorado Academic Standards" mean the standards adopted by the State Board pursuant to section 22-7-1005, C.R.S that identify the knowledge and skills that a student should acquire as the student progresses from preschool through elementary and secondary education, and include English language proficiency standards. Section 22-7-1013, C.R.S., requires each local education provider to ensure that its preschool through elementary and secondary education standards meet or exceed the Colorado Academic Standards. When referenced in these rules, the Colorado Academic Standards may be substituted with these locally adopted standards.
- 1.04 "Department" means the Colorado Department of Education.
- 1.05 "Educator" means a principal, administrator, teacher, or special services provider.

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- 1.06 “Element” means the detailed description of knowledge and skills that contribute to effective teaching and leading, and which corresponds to a particular Principal Quality Standard, Teacher Quality Standard, or Special Services Provider Quality Standard.
- 1.07 “Licensed personnel” means any persons employed to instruct students or to administer, direct, or supervise the instructional program in a school in the state who hold a valid license or authorization pursuant to the provision of article 60.5 of title 22, Colorado Revised Statutes.
- 1.08 “Measures of Student Learning” or “MSLs” mean the methods used by school districts and BOCES for measuring Student Academic Growth in order to evaluate licensed personnel.
- 1.9 “Measures of Student Outcomes” mean the methods used by school districts and BOCES for measuring student outcomes in order to evaluate special services providers. Measures are not limited to academic measures but may include measures focused on increasing access to learning since these educators may concentrate on non-academic factors that affect overall student well-being.
- 1.10 “Performance Evaluation Rating” means the summative evaluation rating assigned by a school district or BOCES to licensed personnel and reported to the Department on an annual basis. It is the equivalent of a “performance standard,” as defined in section 22-9-103(2.5), C.R.S.
- 1.11 “Principal” means a person who is employed as the chief executive officer or an assistant chief executive officer of a school in the state and who administers, directs, or supervises the education program in the school.
- 1.12 “Principal Professional Performance Plan” means the plan required by section 22-9-105.5(3)(a.5), C.R.S., and is a written agreement developed by a principal and school district administration or local school board that outlines the steps to be taken to improve the principal's effectiveness. The Principal Professional Performance Plan must include professional development opportunities.
- 1.13 “Principal Quality Standard” means the Professional Practices or the Measures of Student Learning needed to achieve effectiveness as a principal.
- 1.14 “Principal Evaluation System Framework” means the complete evaluation system that all school districts and BOCES must use to evaluate principals employed by them. The complete Principal Evaluation System Framework includes the following components: (i) definition of Principal Effectiveness set forth in section 2.01 of these rules, (ii) the Principal Quality Standards described in section 2.02 of these rules, (iii) Measures of Student Learning described in section 5.01 (D) (3) (iv) required elements of a written evaluation system described in section 5.01 of these rules, and (v) the weighting and aggregation of evidence of performance that are used to assign a principal to one of four Performance Evaluation Ratings as described in section 2.03 of these rules.
- 1.15 “Professional Practice” means the behaviors, skills, and knowledge that educators should exhibit. Teacher Quality Standards, Principal Quality Standards, and Special Services Provider Quality Standards reflect the Professional Practice expectations for educators in Colorado.
- 1.16 “School District” or “District” means a school district organized pursuant to article 30 of title 22, C.R.S.
- 1.17 “Special Services Provider” or “SSP” refers to any person licensed under § 22-60.5-101, et. seq., other than a teacher, principal, or administrator who is employed by any school district to provide professional services to students in direct support of the education instructional program.
- 1.18 “Special Services Providers Quality Standards” means the Professional Practices or Measures of Student Outcomes needed to achieve effectiveness as a special services provider.
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- 1.19 “State Board” means the State Board of Education established pursuant to Section 1 of Article IX of the state constitution.
- 1.20 “State Council” means the State Council for Educator Effectiveness established pursuant to article 9 of title 22.
- 1.21 “State Model System” means the personnel evaluation system and supporting resources developed by the Department, which meets all of the requirements for local personnel evaluation systems that are outlined in statute and rule.
- 1.22 “Statewide Summative Assessments” mean the assessments administered pursuant to the Colorado student assessment system of assessments adopted by the State Board pursuant to section 22-7-1006, C.R.S.
- 1.23 “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 is determined using multiple measures, one of which must be the results of statewide summative assessments, and which may include other standards-based measures that are rigorous and comparable across classrooms of similar content areas and levels. Student Academic Growth also may include gains in progress towards postsecondary and workforce readiness, which, for principals, may include performance outcomes for successive student cohorts. Student Academic Growth may include progress toward academic and functional goals included in an individualized education program and/or progress made towards Student Academic Growth Objectives.
- 1.24 “Student Academic Growth Objectives” mean a participatory method of setting measurable goals, or objectives for a specific assignment or class, in a manner aligned with the subject matter taught, and in a manner that allows for the evaluation of the baseline performance of students and the measurable gain in student performance during the course of instruction.
- 1.25 “Teacher” means a person who holds an alternative, initial, or professional teacher license issued pursuant to the provisions of article 60.5 of title 22 and who is employed by a school district, BOCES, or charter school in the state to instruct students.
- 1.26 “Teacher Evaluation System Framework” means the complete evaluation system that all school districts and BOCES must use to evaluate teachers employed by them. A diagram of the complete Teacher Evaluation System Framework includes the following component parts: (i) definition of Teacher Effectiveness set forth in section 3.01 of these rules, (ii) the teacher Quality Standards described in section 3.02 of these rules, (iii) Measures of Student Learning described in section 5.01 (D)(7)(iv) required elements of a written evaluation system described in section 5.01 of these rules, (v) the weighting and aggregation of evidence of performance to assign a teacher to one (vi) the opportunity to appeal an ineffective rating as contemplated in section 22-9-105.5(3)(e)(VII), C.R.S.
- 1.27 “Teacher Development Plan” means the plan required by section 22-9-105.5 (3) (a), C.R.S., defined in section 22-9-103 (6), C.R.S., It is a written agreement mutually developed by a teacher and his or her principal that outlines the steps to be taken to improve the teacher’s effectiveness. The plan may include consideration of induction and mentorship programs, use of highly effective teachers as instructional leaders or coaches, and appropriate professional development activities.
- 1.28 “Teacher Quality Standard” means the Professional Practices or the Measures of Student Learning needed to achieve effectiveness as a teacher.
- 1.29 “Unified Improvement Plan” means the school plan required pursuant to section 22-11-210, C.R.S.
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**2.00 PRINCIPALS: DEFINITION OF EFFECTIVENESS, QUALITY STANDARDS AND PERFORMANCE EVALUATION RATINGS**

**2.01 Definition of Principal Effectiveness:** Effective principals in the state of Colorado are responsible for the collective success of their schools, including the learning, growth and achievement of both students and staff. Effective principals are adept at creating systems that maximize the utilization of resources, foster collaboration and facilitate constructive change. By creating a common vision and articulating shared values, effective principals lead and manage their schools in a manner that supports schools' ability to promote equity and continually improve their positive impact on students and families. As the schools' primary instructional leaders, effective principals enable collaborative communication and reflection based on data to inform curriculum, instruction, and assessment and create structures to facilitate improvement. Effective principals model ethical behavior and continuously reflect on their practice in order to improve systems that support student learning

**2.02 Principal Quality Standards.**

The Principal Quality Standards outline the knowledge and skills required of an effective principal and will be used to evaluate principals in the state of Colorado. All school districts and BOCES must base their evaluations of their principals on either the full set of Principal Quality Standards and associated elements included below, or must adopt their own locally developed standards that meet or exceed the Principal Quality Standards and Elements. A school district or BOCES that adopts its own locally developed standards must crosswalk those standards to the Principal Quality Standards and Elements, so that the school district or BOCES is able to report the data required by sections 4.06 and 6.01(A) of these rules.

**2.02 (A) Quality Standard I:** Principals demonstrate organizational leadership by strategically developing a vision and mission, leading change, enhancing the capacity of personnel, distributing resources, and aligning systems of communication for continuous school improvement.

**2.02 (A) (1) Element a:** Principals collaboratively develop the vision, mission, and strategic plan, based on a cycle of continuous improvement of student outcomes, and facilitate their integration into the school community.

**2.02 (A) (2) Element b:** Principals collaborate with staff and stakeholders to implement strategies for change to improve student outcomes.

**2.02 (A) (3) Element c:** Principals establish and effectively manage systems that ensure high-quality staff.

**2.02 (A) (4) Element d:** Principals establish systems and partnerships for managing all available school resources to facilitate improved student outcomes.

**2.02 (A) (5) Element e:** Principals facilitate the design and use of a variety of communication strategies with all stakeholders.

**2.02 (B) Quality Standard II:** Principals demonstrate inclusive leadership practices that foster a positive school culture and promote safety and equity for all students, staff, and community.

**2.02 (B) (1) Element a:** Principals create a professional school environment and foster relationships that promote staff and student success and well-being.



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- 2.02 (B) (2) **Element b:** Principals ensure that the school provides an orderly, and supportive environment that fosters a sense of safety and well-being.
- 2.02 (B) (3) **Element c:** Principals commit to an inclusive and positive school environment that meets the needs of all students and promotes the preparation of students to live productively and contribute to the diverse cultural contexts of a global society.
- 2.02 (B) (4) **Element d:** Principals create and utilize systems to share leadership and support collaborative efforts throughout the school.
- 2.02 (B) (5) **Element e:** Principals design and/or utilize structures and processes which result in family and community engagement and support.
- 2.02 (C) **Quality Standard III:** Principals demonstrate instructional leadership by: aligning curriculum, instruction and assessment; supporting professional learning; conducting observations; providing actionable feedback; and holding staff accountable for student outcomes.
- 2.02 (C) (1) **Element a:** Principals establish, align, and ensure implementation of a district/BOCES plan of instruction, instructional practices, assessments, and use of student data that result in Student Academic Growth and achievement for all students.
- 2.02 (C) (2) **Element b:** Principals foster a collaborative culture of job-embedded professional learning.
- 2.02 (C) (3) **Element c:** Principals demonstrate knowledge of effective instructional practice and provide feedback to promote continuous improvement of teaching and learning.
- 2.02 (C) (4) **Element d:** Principals hold staff accountable for setting and achieving measurable student outcomes.
- 2.02 (D) **Quality Standard IV:** Principals demonstrate professionalism through ethical conduct, reflection, and external leadership.
- 2.02 (D) (1) **Element a:** Principals demonstrate high standards for professional conduct.
- 2.02 (D) (2) **Element b:** Principals link professional growth to their professional goals.
- 2.02 (D) (3) **Element c:** Principals build and sustain productive partnerships with key community stakeholders, including public and private sectors, to promote school improvement, student learning, and student well-being.
- 2.03 Performance Evaluation Ratings for Principals.** The following four Performance Evaluation Ratings for principals must be used statewide: ineffective, partially effective, effective, and highly effective. The scoring matrix developed by the Department will be used in the State Model System.
- School districts and BOCES may use this scoring matrix as an example or may adopt their own scoring matrix, provided they ensure that each of the Principal Quality Standards have a measurable influence on the final Professional Practice score assigned to principals.
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### 3.00 TEACHERS: DEFINITION OF EFFECTIVENESS, QUALITY STANDARDS, AND PERFORMANCE EVALUATION RATINGS

**3.01 Definition of Teacher Effectiveness.** Effective teachers in the state of Colorado have the knowledge, skills, and commitments needed to provide excellent and equitable learning opportunities and growth for all students. They strive to support growth and development, close achievement gaps and to prepare diverse student populations for postsecondary and workforce success. Effective teachers facilitate mastery of content and skill development, and employ and adjust evidence-based strategies and approaches for students who are not achieving mastery and students who need acceleration. They also develop in students the skills, interests and abilities necessary to be lifelong learners, as well as for democratic and civic participation. Effective teachers communicate high expectations to students and their families and utilize diverse strategies to engage them in a mutually supportive teaching and learning environment. Because effective teachers understand that the work of ensuring meaningful learning opportunities for all students cannot happen in isolation, they engage in collaboration, continuous reflection, ongoing learning, and leadership within the profession.

**3.02 Teacher Quality Standards.** The Teacher Quality Standards outline the knowledge and skills required of an effective Teacher and will be used to evaluate teachers in the state of Colorado. All school districts and BOCES must base their evaluations of licensed classroom teachers on the full set of Teacher Quality Standards and associated detailed Elements included below or must adopt their own locally developed standards that meet or exceed the Teacher Quality Standards and Elements. School districts and BOCES that adopt their own locally developed standards must crosswalk those standards to the Teacher Quality Standards and Elements, so that the school district or BOCES is able to report the data required by sections 4.06 and 6.01(A) of these rules.

3.02 (A) **Quality Standard I:** Teachers demonstrate mastery of and pedagogical expertise in the content they teach. The elementary teacher is an expert in literacy and mathematics and is knowledgeable in all other content that he or she teaches (e.g., science, social studies, arts, physical education, or world languages). The secondary teacher has knowledge of literacy and mathematics and is an expert in his or her content endorsement area(s).

3.02 (A) (1) **Element a:** Teachers provide instruction that is aligned with the Colorado Academic Standards and their districts' organized plan of instruction.

3.02 (A) (2) **Element b:** Teachers develop and implement lessons that connect to a variety of content areas/disciplines and emphasize literacy and mathematics.

3.02 (A) (3) **Element c:** Teachers demonstrate knowledge of the content, central concepts, inquiry, appropriate evidence-based instructional practices, and specialized characteristics of the disciplines being taught.

3.02 (B) **Quality Standard II:** Teachers establish a safe, inclusive, and respectful learning environment for a diverse population of students.

3.02 (B) (1) **Element a:** Teachers foster a predictable learning environment characterized by acceptable student behavior and efficient use of time in which each student has a positive, nurturing relationship with caring adults and peers.

3.02 (B) (2) **Element b:** Teachers demonstrate an awareness of, a commitment to, and respect for multiple aspects of diversity, while working toward common goals as a community of learners.

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- 3.02 (B) (3) **Element c:** Teachers engage students as individuals, including those with diverse needs and interests, across a range of ability levels by adapting their teaching for the benefit of all students.
- 3.02 (B) (4) **Element d:** Teachers work collaboratively with the families and/or significant adults for the benefit of students.
- 3.02 (C) **Quality Standard III:** Teachers plan and deliver effective instruction and create an environment that facilitates learning for their students.
- 3.02 (C) (1) **Element a:** Teachers demonstrate knowledge about the ways in which learning takes place, including the levels of intellectual, physical, social, and emotional development of their students.
- 3.02 (C) (2) **Element b:** Teachers use formal and informal methods to assess student learning, provide feedback, and use results to inform planning and instruction.
- 3.02 (C) (3) **Element c:** Teachers integrate and utilize appropriate available technology to engage students in authentic learning experiences.
- 3.02 (C) (4) **Element d:** Teachers establish and communicate high expectations and use processes to support the development of critical-thinking and problem-solving skills.
- 3.02 (C) (5) **Element e:** Teachers provide students with opportunities to work in teams and develop leadership.
- 3.02 (C) (6) **Element f:** Teachers model and promote effective communication.
- 3.02 (D) **Quality Standard IV:** Teachers demonstrate professionalism through ethical conduct, reflection, and leadership.
- 3.02 (D) (1) **Element a:** Teachers demonstrate high standards for professional conduct.
- 3.02 (D) (2) **Element b:** Teachers link professional growth to their professional goals.
- 3.02 (D) (3) **Element c:** Teachers are able to respond to a complex, dynamic environment.
- 3.02 (D) (4) **Element d:** Teachers demonstrate leadership in the school, the community, and the teaching profession.
- 3.03 Performance Evaluation Ratings for Teachers.** The following four Performance Evaluation Ratings for teachers must be used statewide: ineffective, partially effective, effective, and highly effective.
- School districts and BOCES may use evaluation structures developed by the Department as an example or may adopt their own structure, provided they ensure that each Performance Evaluation Rating is based fifty percent on Measures of Student Learning and that each of the Teacher Quality Standards (Professional Practice) has a measurable influence on the final Performance Evaluation Rating.
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School districts and BOCES must assign one of the Teacher Performance Evaluation Ratings to each teacher in a written evaluation report. As required by section 22-9-106 (3), C.R.S., all evaluation reports must contain a written improvement plan, that must be specific as to what improvements, if any, are needed in the performance of the teacher and clearly sets forth recommendations for improvements, including recommendations for additional education and training during the teacher's license renewal process. As required by section 22-9-105.5 (3) (a), C.R.S., each teacher must be provided with an opportunity to improve his or her effectiveness through a teacher development plan that links his or her evaluation and performance standards to professional development opportunities.

The following status implications apply for each Teacher Performance Evaluation Rating. These status implications do not apply to at-will employees.

**3.03 (A) Ineffective.**

3.03 (A) (1) A teacher whose performance is deemed ineffective must receive written notice that his or her Performance Evaluation Rating shows a rating of ineffective, a copy of the documentation relied upon in measuring his or her performance, and identification of deficiencies.

3.03 (A) (2) *Implications for earning or losing nonprobationary status:* A nonprobationary teacher who is rated as ineffective for two consecutive years loses nonprobationary status.

**3.03 (B) Partially Effective.**

3.03 (B) (1) Implications for earning or losing nonprobationary status: (i) A rating of partially effective must be considered the first of two consecutive years of ineffective performance that results in loss of nonprobationary status. Nonprobationary status in this instance is only lost if the teacher is subsequently rated partially effective or ineffective during the following year.

**3.03 (C) Effective.**

3.03 (C) (1) Implications for earning or losing nonprobationary status: A nonprobationary teacher must maintain an effective rating to retain nonprobationary status. Two consecutive ratings below effective results in the loss of nonprobationary status.

**3.03 (D) Highly Effective.**

3.03 (D) (1) Implications for earning or losing nonprobationary status: For the purposes of gaining or losing nonprobationary status, a rating of highly effective has the same implications as a rating of effective.

**4.00 MEASURING PERFORMANCE OF SPECIAL SERVICES PROVIDERS**

**4.01 Definition of Special Services Providers Effectiveness.** Effective SSPs in the state of Colorado are vital members of the education team and have the knowledge and skills necessary to ensure that diverse student populations have equitable access to academic instruction and participation in school-related activities. Effective SSPs develop and/or implement evidence-based services or specially designed instruction to meet the unique needs of their students. They support growth and development to close achievement gaps and prepare students for postsecondary and workforce success. They have a deep understanding of the interconnectedness of the home, school and community and collaborate with all members of the

education team to strengthen those connections. Through reflection, advocacy, and leadership, they enhance the outcomes and development of their students.

**4.02 Special Services Providers Quality Standards.** The SSP Quality Standards outline the knowledge and skills required for effective special services providers practice and will be used to evaluate SSPs in the state of Colorado. All school districts and BOCES must base their evaluations of SSPs on the full set of SSP Quality Standards and associated detailed descriptions of knowledge and skills (also known as “Elements”). School districts and BOCES must either adopt the state Quality Standards and Elements or adopt a locally-developed set of quality standards and elements that meet or exceed the state standards and elements, as determined by the Department. While there is a single set of SSP Quality Standards which apply to all licensure categories of SSPs, school districts and BOCES must ensure that the tools used to evaluate these providers adequately differentiate the Professional Practices for each category of SSP.

**4.02 (A) Quality Standard I:** Special services providers demonstrate mastery of and expertise in the domain for which they are responsible.

**4.02 (A) (1) Element a:** Special services providers provide services aligned with state and federal laws, local policies and procedures, Colorado Academic Standards, their district’s organized plans of instruction and the individual needs of their students.

**4.02 (A) (2) Element b:** Special services providers demonstrate knowledge of effective services that reduce barriers to and support learning.

**4.02 (A) (3) Element c:** Special services providers demonstrate knowledge of their professions and integrate evidence-based practices and research findings into their services.

**4.02 (B) Quality Standard II:** Special services providers support or establish safe, inclusive, and respectful learning environments for a diverse population of students.

**4.02 (B) (1) Element a:** Special services providers foster a safe, accessible, and predictable learning environment characterized by acceptable student behavior and efficient use of time in which each student has a positive, nurturing relationship with caring adults and peers.

**4.02 (B) (2) Element b:** Special services providers understand and respond to diversity within the home, school, and community.

**4.02 (B) (3) Element c:** Special services providers engage students as individuals with diverse needs and interests, across a range of ability levels by adapting services for the benefit of students.

**4.02 (B) (4) Element d:** Special services providers work collaboratively with the families, and/or-significant adults for the benefit of students.

**4.02 (C) Quality Standard III:** Special services providers plan and deliver effective services in an environment that facilitates learning for their students.

**4.02 (C) (1) Element a:** Special services providers apply knowledge of the ways in which learning takes place, including the appropriate levels of intellectual, physical, social, and emotional development of their students.

- 4.02 (C) (2) **Element b:** Special services providers utilize formal and informal assessments to inform planning and service delivery.
- 4.02 (C) (3) **Element c:** Special services providers integrate and utilize appropriate available technology to engage students in authentic learning experiences.
- 4.02 (C) (4) **Element d:** Special services providers establish and communicate high expectations and use strategies to support the development of critical-thinking, problem-solving skills, and self-advocacy.
- 4.02 (C) (5) **Element e:** Special services providers develop and implement services related to student needs, learning, and progress towards goals.
- 4.02 (C) (6) **Element f:** Special services providers model and promote effective communication.
- 4.02 (D) **Quality Standard IV:** Special services providers demonstrate professionalism through ethical conduct, reflection, and leadership.
  - 4.02 (D) (1) **Element a:** Special services providers demonstrate high standards for ethical and professional conduct.
  - 4.02 (D) (2) **Element b:** Special services providers link professional growth to their professional goals.
  - 4.02 (D) (3) **Element c:** Special services providers are able to respond to a complex, dynamic environment.
  - 4.02 (D) (4) **Element d:** Special service providers demonstrate leadership and advocacy in the school, the community, and their profession.
- 4.03 **Performance Evaluation Ratings for Special Services Providers.** The following four Performance Evaluation Ratings for SSPs must be used statewide: ineffective, partially effective, effective, and highly effective. School districts and BOCES may use the scoring framework developed by the Department as an example or may adopt their own scoring framework, provided they ensure that each of the SSP Professional Practices has a measurable influence on the final Professional Practice score assigned to SSPs. While school districts and BOCES annually must assign a Performance Evaluation Rating to each licensed SSP, school districts and BOCES have discretion to determine how these ratings will be used for purposes of employment contracts, employee retention, and/or the assignment of probationary or nonprobationary status, if applicable.
- 4.04 **Local Systems for Evaluating Special Services Providers**
  - 4.04 (A) School districts and BOCES must include a description of their method for evaluating SSPs in the written local system for the evaluation of licensed personnel, described in section 5.01 of these rules. This method must meet the following criteria:
    - 4.04 (A) (1) School districts or BOCES must select evaluation measures for each of the nine licensure categories of SSPs employed by the school district or BOCES, which measures must reflect varying assignments and job duties;
    - 4.04 (A) (2) The evaluation of SSPs must incorporate multiple measures to evaluate SSPs against the SSP Quality Standards, which measures must be gathered using multiple formats and occasions;

- 4.04 (A) (3) Data used in evaluating SSPs must be collected from the sites, or a representative sample of the sites, at which the SSP provides services;
- 4.04 (A) (4) At least fifty percent of the evaluation must be based on at least two measures of student outcomes, which measures must be aligned with the role and duties and the individual SSP being evaluated;
- 4.04 (A) (5) At least one of the evaluation measures must be an observation by the SSP's supervisor(s) or a trained evaluator with relevant professional expertise. The supervisor(s) is encouraged to consult with the SSP in determining the appropriate approach and timing of the observation, based on the SSP's role and duties;
- 4.04 (A) (6) In addition to an observation, evaluations of SSP's must be based on at least one of the following performance measures, when appropriate to the SSP's assigned duties: student perception measures (where appropriate and feasible), peer feedback, feedback from parents or guardians, review of student support documentation, and/or any other evidence relevant to the SSP's assigned duties;
- 4.04 (A) (7) School districts and BOCES must seek to ensure that measures to evaluate SSPs against the SSP Quality Standards are valid, meaning that the measures are aligned with the professional services that the SSP provides and that analysis and inferences from the measures can be supported by evidence and logic, and that the measures are reliable, meaning that the measures are stable over time and in substance and that data from the measures will be sufficient to warrant reasonably consistent inferences;
- 4.04 (A) (8) In making decisions about how to use data collected about SSP performance, school districts and BOCES must consider whether the data collected are better suited for use in a high-stakes evaluation or for the purpose of providing feedback and professional development opportunities for the individual professional, or for both purposes provided they are appropriately weighted. In making this decision, school districts and BOCES must consider the technical quality and rigor of the methods used to collect the data, and the technical quality of the data itself;
- 4.04 (A) (9) School districts and BOCES must determine how the multiple measures of SSP performance will be aggregated to provide a single rating for Professional Practice on SSP Quality Standards I-IV (Professional Practice), which will then be combined with a single rating for Measures of Student Outcomes to determine a final Performance Evaluation Rating. In developing its weighting policies, each school district or BOCES must ensure that SSP Quality Standards I-IV are aggregated in such a way that each standard has a measurable influence on the rating for Professional Practice. Each school district or BOCES must ensure that the weight assigned to each particular measure is consistent with the measure's technical quality and rigor;
- 4.04 (A) (10) School districts and BOCES must ensure that the person or persons responsible for supervising each SSP's work is clearly identified to the SSP at the beginning of each contract year. The supervisor(s) is responsible for the SSP's evaluation;
- 4.04 (A) (11) The supervisor(s) for each SSP must clearly communicate to the SSP the tools that may be used to measure performance against the SSP Quality Standards prior to their use and the weighting policies that will be used to aggregate data for each SSP Quality Standard into a final Performance

Evaluation Rating. Supervisors must clearly articulate for each SSP the category or categories of personnel into which he or she is assigned. School districts and BOCES that elect to adopt their own locally-developed set of SSP quality standards must clearly communicate how those local standards align with the state's SSP Quality Standards. Supervisors must clearly communicate to SSPs the consequences of each category of Performance Evaluation Rating, including how each SSP's assigned rating contributes to the loss or gain of nonprobationary status for that SSP, if applicable;

4.04 (A) (12) A final Performance Evaluation Rating must be assigned once a year, using a body of evidence collected systematically in the months prior. School districts and BOCES must seek to ensure that the complete body of evidence leads to a valid and reliable measure of each professional's performance against the SSP Quality Standards; and

4.04 (A) (13) Prior to and multiple times throughout the evaluation process, the supervisor(s) for each SSP must engage in professional dialogue with the SSP focused on his/her Professional Practice and growth for the course of the year.

4.04 (B) School districts and BOCES are strongly encouraged to involve providers-with relevant expertise in the evaluation of each SSP in his or her first three years of practice, for any evaluation of an SSP that will be relied upon for decisions concerning job protection status, and once for every third annual evaluation for all other SSPs. If a school district or BOCES chooses to involve such providers, the following practices are recommended:

4.04 (B) (1) The participation of such providers may consist of observations, review of documents or data relevant to the evaluation, interviews with educators, parents, and/or students, and/or any other review that relates to the performance of the SSP and is appropriate and informative for the evaluation of the SSP.

4.04 (B) (2) For each evaluation in which they participate, school districts and BOCES are encouraged to ensure that such providers have participated in one of the trainings in evaluation skills described in section 5.03 (B) of these rules and meet at least one of the following requirements:

4.04 (B) (2) (a) a credential and/or license and work experience in the same domain as the SSP being evaluated;

4.04 (B) (2) (b) if currently working in the field, a Performance Evaluation Rating of effective or highly effective; and/or

4.04 (B) (2) (c) thorough knowledge about professional expectations and responsibilities, aligned to the SSP Quality Standards.

4.04 (B) (3) In advance of the SSP's evaluation, the SSP's supervisor is encouraged to establish the role of any expert's participation in the evaluation.

4.04 (B) (4) As a part of the expert's participation in the evaluation process, the expert is encouraged to contribute to actionable feedback for the SSP and must provide the SSP's supervisor(s) with support designed to advance the supervisor(s)'s knowledge of professional expectations and context.



- 4.04 (C) A school district's or BOCES' policies for evaluating SSPs may reflect a determination that different categories of SSPs or SSPs for whom evaluation results will have greater consequences require varying degrees of evaluation and support.
- 4.04 (D) In developing their written local system for the evaluation of licensed personnel, school districts and BOCES are encouraged to do the following:
- 4.04 (D) (1) collaborate with SSPs, including representatives of relevant local associations or federations, if they exist, in the selection of the measures to be used for SSP evaluations, to ensure that these measures are relevant and appropriate;
- 4.04 (D) (2) include an SSP as a member of the school district's or BOCES' advisory personnel performance evaluation council and the district advisory council described in section 5.02 of these rules;
- 4.04 (D) (3) gather student perceptions of their support experiences, not only as a measure of professional practice for purposes of formal evaluation, but also to provide SSPs with ongoing, informal feedback; and
- 4.04 (D) (4) consult with principals in determining the role that SSP final Performance Evaluation Ratings will play in a principal's Performance Evaluation Rating.
- 4.05 Appeals.** SSPs who receive a second consecutive Performance Evaluation Rating of ineffective or partially effective and who are not employed on an at-will basis may appeal their rating using the process described in section 5.04 of these rules. School districts and BOCES may choose to, but are not required to, provide this appeal process for SSPs who are employed on an at-will basis.
- 4.06 Reporting Requirements.** School districts and BOCES must submit data, as requested by the Department, to allow the Department to monitor implementation of local personnel evaluation systems. The required data must be consistent with the data collected for all educators, as described in section 6.01(C) of these rules, including the Performance Evaluation Ratings assigned to each SSP and the performance results for SSPs on each of the SSP Quality Standards and Measures of Student Outcomes.
- 4.07 Supporting Implementation of Local Systems for Evaluating Special Services Providers.**
- 4.07 (A) The Department will maintain a resource bank that supports school districts and BOCES in the design, implementation, and ongoing support of their SSP evaluation systems, and that includes a broad array of materials applicable to multiple SSP contexts.
- 4.07 (B) The Department is strongly encouraged to establish a pool of providers with field expertise who are willing to support the evaluation of SSPs in the manner described in section 4.04 (B) of these rules. School districts and BOCES may use this pool as a resource if they choose to involve these providers in the evaluation of SSPs.
- 5.00 LOCAL PERFORMANCE EVALUATION SYSTEMS: DUTIES AND POWERS OF LOCAL SCHOOL BOARDS AND BOARDS OF COOPERATIVE EDUCATION SERVICES**
- 5.01 Required Components of Written Local Evaluation System.** Every school district and BOCES must adopt a written evaluation system meeting or exceeding the components of the State Model System that contains, but need not be limited to, the following information:

- 5.01 (A) The purposes of the evaluation system, including, but not limited to, the following:
- 5.01 (A) (1) providing a basis for the improvement of instruction;
  - 5.01 (A) (2) enhancing implementation of programs of curriculum;
  - 5.01 (A) (3) providing the measurement of satisfactory performance for individual licensed personnel and serving as documentation for an unsatisfactory performance dismissal proceeding under article 63 of title 22; and
  - 5.01 (A) (4) serving as a measurement of the professional growth and development of licensed personnel.
- 5.01 (B) The licensed personnel positions to be evaluated, which includes all teachers, including part-time as defined in section 22-63-103(6), C.R.S., SSPs, administrators, and principals;
- 5.01 (C) The title or position of the evaluator for each position to be evaluated;
- 5.01 (D) The standards set by the local school board or BOCES for effective performance for licensed personnel and the criteria to be used to evaluate the performance of each licensed person against such standards, consistent across types of licensed personnel. Though the selected criteria may vary among categories of personnel, to reflect the diversity of students, the evaluation system must apply consistent criteria to each category of personnel, including the various categories of principals, teachers, and SSPs;
- 5.01 (D) (1) **Principal Effectiveness and Principal Quality Standards.** The definition of principal effectiveness, included in section 2.01 of these rules, and either the Principal Quality Standards and associated Elements, included in section 2.02 of these rules, or locally adopted standards that meet or exceed the Principal Quality Standards and Elements.
- 5.01 (D) (2) **Method for Evaluating Performance on Professional Practice.** A description of the method for evaluating principals' Professional Practice, which method must include data collection for multiple measures on multiple occasions.
- 5.01 (D) (2) (a) **Required Measures of Principal Professional Practice.** School districts and BOCES must measure principal performance against Quality Standards I–IV using tools that capture information about the following: (i) input from teachers employed at the principal's school, provided that clear expectation is established prior to collection of the data that at least one of the purposes of collecting the input is to inform an evaluation of the principal's performance and provided that systems are put in place to ensure that the information collected remains anonymous and confidential; and (ii) the percentage and number of teachers in the school who are rated as: effective, highly effective, partially effective, and ineffective; and the number and percentage of teachers who are improving their performance, in comparison to the goals articulated in the principal's Professional Performance Plan.
- 5.01 (D) (2) (b) **Additional Measures of Principal Professional Practice.** In addition to the required measures of Professional Practice, school districts and BOCES may also use other sources of evidence regarding a principal's Professional Practice. School districts and BOCES are strongly encouraged to use measures, where appropriate, that capture

evidence about the following: (i) student perceptions; (ii) parent/guardian perceptions; and (iii) perceptions of other administrators about a principal's professional performance. Other measures may include the following: (i) direct observations; and (ii) examination of a portfolio of relevant documentation regarding the principal's performance against the Principal Quality Standards, which may include, but need not be limited to, professional development strategies and opportunities, evidence of team development, staff meeting notes, school newsletters; content of website pages, award structures developed by the school, master school schedule, or evidence of community partnerships, parent engagement and participation rates, "360 degree" survey tools designed to solicit feedback from multiple stakeholder perspectives, examination of a Unified Improvement Plan, teacher retention data, external review of budgets, and school communications plan.

5.01 (D) (3) **Method for Evaluating Principal Performance Related to Student Academic Growth.** A description of the method for evaluating principals' performance related to Student Academic Growth. The Measures of Student Learning used for evaluating principals' performance must meet the following criteria:

5.01 (D) (3) (a) School districts and BOCES must ensure that data included in the school performance framework, required pursuant to section 22-11-204, C.R.S., is used to evaluate principal performance. School districts and BOCES may choose to weight specific components of the school performance framework differently than they are weighted in the school performance framework, depending on the principal's responsibilities and the performance needs of the school, so long as student longitudinal growth carries the greatest weight.

5.01 (D) (3) (b) School districts and BOCES must incorporate at least one other Measure of Student Learning and must ensure that the Measures of Student Learning selected for principal evaluations are consistent with the Measures of Student Learning used for the evaluation of teachers in each principal's school, as described in section 5.01 (D) (7) of these rules.

5.01 (D) (3) (c) School districts and BOCES are strongly encouraged to involve principals in a discussion of which of the available Measures of Student Learning are appropriate to the principals' schools and school improvement efforts.

5.01 (D) (3) (d) Measures of Student Learning must reflect the growth of students in all subject areas and grades, not only those in subjects and grades that are tested using statewide summative assessments, and must reflect the broader responsibility a principal has for ensuring the overall outcomes of students in the building.

5.01 (D) (3) (e) School districts and BOCES must seek to ensure that Measures of Student Learning correspond to implementation benchmarks and targets included in the Unified Improvement Plan for the school at which a principal is employed.

5.01 (D) (3) (f) School districts and BOCES must seek to ensure that Measures of Student Learning are valid, meaning that they measure growth towards attainment of the academic standards adopted by the local

school board pursuant to section 22-7-1013, C.R.S. and that analysis and inferences from the measures can be supported by evidence and logic.

5.01 (D) (3) (g) School districts and BOCES must seek to ensure that Measures of Student Learning are reliable, meaning that the measures should be reasonably stable over time and in substance and that data from the measures will be sufficient to warrant reasonably consistent inferences.

5.01 (D) (3) (h) **Early Childhood - Grade 3.** For those principals responsible for students in early childhood education through grade 3, evaluation measures must be consistent with outcomes used as the basis for evaluations for teachers teaching these grade levels, which may include, but are not limited to, assessments of early literacy and/or mathematics shared among members of the school community that may be used to measure student longitudinal growth.

5.01 (D) (3) (i) **Grades 4-8.** For those principals responsible for students in grades 4-8, a portion of the evaluation for Measures of Student Learning must be based on the results of the Colorado longitudinal growth model, calculated pursuant to section 22-11-203, C.R.S., for subjects tested by statewide summative assessments. The weight of this measure may be increased to reflect the increased proportion of subjects covered by statewide summative assessments over time. A portion of the principal's evaluation also must be based on other appropriate Measures of Student Learning for students in grades 4-8, which may include, but are not limited to, Measures of Student Learning shared among the evaluated personnel in the school.

5.01 (D) (3) (j) **Grades 9-12.** For those principals responsible for students in grades 9-12, a portion of the evaluation must be based on the results of the Colorado longitudinal growth model, calculated pursuant to section 22-11-203, C.R.S., for subjects tested by state summative assessments. To account for the portion of teachers without direct or indirect results from the Colorado longitudinal growth model, a portion of a principal's growth determination may be based upon appropriate Measures of Student Learning for personnel teaching in subjects and grades not tested by statewide summative assessments, which may include, but are not limited to, Measures of Student Learning shared among evaluated personnel in the school.

5.01 (D) (3) (k) For the evaluation of principals responsible for students in multiple grade spans, school districts and BOCES must select a combination of Measures of Student Learning reflecting the grade levels of all students in the school.

5.01 (D) (3) (l) When compiling Measures of Student Learning to evaluate performance, school districts and BOCES must give the most weight to those measures that demonstrate the highest technical quality and rigor.

5.01 (D) (4) **Weighting of Performance on Principal Quality Standards.** A description of the manner in which performance on each of the Principal Quality Standards will be weighed in assigning a Performance Evaluation Rating. Measures of Principal Professional Practice must determine fifty percent of a principal's overall Performance Evaluation Rating, and Measures of Student Learning must determine the other fifty percent of the overall Performance

Evaluation Rating. Each of the Principal Quality Standards I-IV+(Professional Practice) must have a measurable influence on the overall Performance Evaluation Rating.

- 5.01 (D) (5) **Teacher Effectiveness and Teacher Quality Standards.** The definition of teacher effectiveness, included in section 3.01 of these rules, and either the Teacher Quality Standards and associated Elements, included in section 3.02 of these rules, or locally adopted standards that meet or exceed the Teacher Quality Standards and Elements.

- 5.01 (D) (6) **Method for Evaluating Teacher Professional Practice.** A description of the method for evaluating teachers' Professional Practice, which method must include data collection for multiple measures on multiple occasions. School districts and BOCES must collect teacher performance data related to Professional Practice using observations and at least one of the following measures: (a) student perception measures (e.g. surveys), where appropriate and feasible, (b) peer feedback, (c) feedback from parents or guardians; or (d) review of teacher lesson plans or student work samples.

The method for evaluating teachers' Professional Practice may include additional measures.

In determining how to use the data collected about teacher performance, whether for written evaluation reports or for informal feedback and identification of appropriate professional development, school districts and BOCES must consider the technical quality and rigor of the methods used to collect the data, and the technical quality of the data itself.

- 5.01 (D) (7) **Method for Evaluating Teacher Performance Related to Student Academic Growth.** A description of the method for evaluating teachers' performance related to Student Academic Growth.

School districts and BOCES must categorize teachers into appropriate categories based on the availability and technical quality of student assessments available for the courses and subjects taught by those teachers. School districts and BOCES must then choose or develop appropriate Measures of Student Learning to be used in the evaluation of each personnel category.

Student Academic Growth must be measured using multiple measures. When compiling these measures to evaluate performance, school districts and BOCES must consider the relative technical quality and rigor of the various measures.

Measures of Student Learning must include the following:

- 5.01 (D) (7) (a) A measure of individually-attributed Student Academic Growth, meaning that outcomes on that measure are attributed to an individual licensed person;
- 5.01 (D) (7) (b) A measure of collectively-attributed Student Academic Growth, whether on a school-wide basis or across grades or subjects, meaning that outcomes on that measure are attributed to at least two licensed personnel (e.g., measures included in the school performance framework, required pursuant to section 22-11-204, C.R.S.);
- 5.01 (D) (7) (c) When available, statewide summative assessment results; and

5.01 (D) (7) (d) For subjects with annual statewide summative assessment results available in two consecutive grades, results from the Colorado Growth Model.

5.01 (D) (8) **Selection of Additional Measures for Evaluating Teacher Performance Related to Student Academic Growth** . The method for evaluating Teachers' performance related to Student Academic Growth may include Measures of Student Learning in addition to those described in section 5.01 (D) (7) of these rules. These additional measures must meet the following criteria:

5.01 (D) (8) (a) School districts and BOCES must seek to ensure that Measures of Student Learning are valid, meaning that the measures are aligned with the academic standards adopted by the local school board pursuant to section 22-7-1013, C.R.S. and that analysis and inferences from the measures can be supported by evidence and logic;

5.01 (D) (8) (b) School districts and BOCES must seek to ensure that Measures of Student Learning are reliable, meaning that the measures should be stable over time and in substance and that data from the measures will be sufficient to warrant reasonably consistent inferences;

5.01 (D) (8) (c) In the effort to ensure that Measures of Student Learning are comparable among teachers of similar content areas and grades, school districts and BOCES are strongly encouraged to include teachers in a discussion of which measures are most appropriate to the teachers' classrooms; and

5.01 (D) (8) (d) For teachers teaching two or more subjects, individual Measures of Student Learning must include Student Academic Growth scores from all subjects for which the teacher is responsible.

5.01 (D) (9) **Weighting of Performance on Teacher Quality Standards.** A description of the manner in which performance on each of the Teacher Quality Standards will be weighted in assigning teachers to a Performance Evaluation Rating.

Measures of Teacher Professional Practice must determine fifty percent of a teacher's total overall Performance Evaluation Rating, and Measures of Student Learning must determine the other fifty percent of the overall Performance Evaluation Rating. Each of the Teacher Quality Standards I-IV (Professional Practice) must have a measurable influence on the final Performance Evaluation Rating.

5.01 (E) The frequency and duration of the evaluations, which must be on a regular basis and of such frequency and duration as to ensure the collection of a sufficient amount of data from which fair and reliable conclusions may be drawn, and which meet the following requirements:

5.01 (E) (1) **Principals.** Principals must receive at least one evaluation that results in a written evaluation report each academic year. The written evaluation report, informed by a body of evidence collected systematically in the months prior, must rate a principal as highly effective, effective, partially effective, or ineffective.

- 5.01 (E) (2) **Teachers.** Probationary teachers must receive at least two documented observations and at least one evaluation that results in a written evaluation report each academic year. Nonprobationary teachers must receive a written evaluation report each academic year.

The written evaluation report, informed by a body of evidence collected in the months prior, must include fair and reliable measures of the teacher's performance against the Teacher Quality Standards and be used to rate a teacher as highly effective, effective, partially effective, or ineffective. Teachers must receive the written evaluation report at least two weeks before the last class day of the school year.

- 5.01 (E) (3) **Ongoing Data Collection and Analysis.** School districts and BOCES must collect and analyze data on multiple occasions, in order to provide actionable feedback and support to educators on a regular basis in an effort to make evaluation an ongoing process rather than an event and to facilitate continuous improvement.

- 5.01 (E) (4) **Differentiated Evaluation and Support Needs.** District evaluation policies may reflect a determination that different categories of teachers require varying degrees of evaluation and support.

- 5.01 (F) A description of the process that the school district or BOCES used for validating its evaluation methods. Such process must address:

- 5.01 (F) (1) consistency among the multiple measures used for evaluations;

- 5.01 (F) (2) inter-rater reliability when the measures are applied by different evaluators; and

- 5.01 (F) (3) consistency of data used to evaluate performance (i.e., observation, surveys, Measures of Student Learning) and the Performance Evaluation Ratings that are assigned.

- 5.01 (G) A description of the school district's or BOCES' system for ensuring that every principal is provided with a Principal Professional Performance Plan.

- 5.01 (G) (1) This Principal Professional Performance Plan must be developed in collaboration with individual principals and must outline annual goals for the principal with respect to his or her school's performance and the resources and supports which will be made available to support the principal in achieving the outlined goals. A principal's Professional Performance Plan must be consistent with the measures that are used to evaluate that principal and how the Principal Quality Standards are weighted for that principal's evaluation. School Districts and BOCES are encouraged to include goals related to a principal's and his or her designee's ability to conduct meaningful evaluations of licensed personnel.

- 5.01 (G) (2) Principals must be held accountable for progress against the goals laid out in the Principal Professional Performance Plan and school districts or BOCES must continually monitor performance goals, provide feedback and adjust support for the principal as needed.

- 5.01 (G) (3) The Principal Professional Performance Plan must include the following:

5.01 (G) (3) (a) Goals addressing the number and percentages of effective teachers in the school, and the number and percentage of teachers who are improving, in a manner consistent with the goals for the school outlined in the school's Unified Improvement Plan; and

5.01 (G) (3) (b) Goals addressing school climate and working conditions, developed with reference to a working conditions or school leadership survey (for example, the state-funded biennial Teaching and Learning Conditions in Colorado (TLCC) Survey, required pursuant to section 22-2-503, C.R.S.), and other appropriate data, including conditions highlighted in comprehensive appraisal for district improvement (CADI) and school support team (SST) diagnostic reviews facilitated by the Department.

5.01 (G) (4) School districts and BOCES are also strongly encouraged to include in Principal Professional Performance Plans goals related to staff participation in the Teaching and Learning Conditions in Colorado (TLCC) Survey, administered by the Department pursuant to section 22-2-503, C.R.S., or other working conditions, culture and climate, or school leadership surveys, and use of survey results to guide improvement efforts.

**5.02 Process for Developing Written Local Evaluation System.** Colorado statute outlines requirements for various entities to be involved in the development of local personnel evaluation systems. School districts and BOCES must collaborate with these entities in developing systems that meet the minimum requirements for evaluation systems described in section 5.01 of these rules.

5.02 (A) Each school district must have an **advisory personnel performance evaluation council**, which, at a minimum, consists of the following members appointed by the local school board:

5.02 (A) (1) One teacher;

5.02 (A) (2) One administrator;

5.02 (A) (3) One principal from the school district;

5.02 (A) (4) One school district resident who is a parent of a child attending a school within the school district; and

5.02 (A) (5) One school district resident who is not a parent with a child attending school within the school district.

5.02 (B) The council for a school district may be composed of any other school district committee having proper membership, as defined in section 5.02 (A) of these rules.

5.02 (C) Each BOCES that employs licensed personnel must have a **BOCES advisory personnel performance evaluation council**, which, at a minimum, consists of the following members to be appointed by the BOCES:

5.02 (C) (1) One teacher;

5.02 (C) (2) One administrator;



- 5.02 (C) (3) One principal representative of the school district or districts participating in the BOCES;
- 5.02 (C) (4) One person employed by the BOCES who is defined as licensed personnel pursuant to section 22-9-103(1.5), C.R.S.;
- 5.02 (C) (5) One resident who is a parent of a child attending a school within the participating school district(s); and
- 5.02 (C) (6) One resident who is not a parent of a child attending a school within the participating school district(s).
- 5.02 (D) These advisory personnel performance evaluation councils must consult with the local school board or BOCES as to the fairness, effectiveness, credibility, and professional quality of the licensed personnel performance evaluation system and its processes and procedures and must conduct continuous evaluation of the system.
- 5.02 (E) Additionally, each local school board, pursuant to section 22-11-301, C.R.S., must appoint or create a process for the election of a district accountability committee that consists of:
  - 5.02 (E) (1) At least three parents of students enrolled in the school district public schools;
  - 5.02 (E) (2) At least one teacher who is employed by the school district;
  - 5.02 (E) (3) At least one school administrator who is employed by the school district; and
  - 5.02 (E) (4) At least one person who is involved in business in the community within the school district boundaries.
- 5.02 (F) Among the other powers and duties outlined in section 22-11-302, C.R.S., a district accountability committee is responsible for providing input and recommendations on an advisory basis to principals concerning the development and use of assessment tools used for the purpose of measuring and evaluating Student Academic Growth as it relates to teacher evaluations.
- 5.02 (G) Each public school, pursuant to section 22-11-401, C.R.S., must establish a school accountability committee that consists of at least the following members:
  - 5.02 (G) (1) the principal of the school or the principal's designee;
  - 5.02 (G) (2) at least one teacher who provides instruction at the school;
  - 5.02 (G) (3) at least three parents of students enrolled in the school;
  - 5.02 (G) (4) at least one adult member of an organization of parents, teachers and students recognized by the school; and
  - 5.02 (G) (5) at least one person from the community.
- 5.02 (H) Among the other powers and duties outlined in section 22-11-402, C.R.S., a school accountability committee is responsible for providing input and recommendations on an advisory basis to district accountability committees and school district

administration concerning the Principal Professional Performance Plan for the principal of their school and principal evaluations.

**5.03 Training for Evaluators and Educators**

- 5.03 (A) School districts and BOCES must provide training to all evaluators and educators to provide an understanding of their local evaluation system and to provide the skills and knowledge needed for its implementation.
- 5.03 (B) As required by section 22-9-106(4)(a), C.R.S., all performance evaluations must be conducted by an individual who has completed a Department-approved training in evaluation skills. Teachers may fill the role of an evaluator if they are a designee of an individual with a principal or administrator license and have completed a Department-approved training on evaluation skills. The Department must develop a process for approving education and training programs for evaluators that is consistent with the approval process previously developed pursuant to section 22-9-108, C.R.S.
- 5.03 (C) School districts and BOCES are encouraged to provide training to teachers, so that teachers may conduct peer coaching observations in order to support other teachers by providing actionable feedback on Professional Practice.
- 5.03 (D) School districts and BOCES must clearly communicate to all teachers the tools that will be used to measure their performance of the Teacher Quality Standards and Measures of Student Learning prior to their use, and how these will be weighted and aggregated to determine final Performance Evaluation Ratings. School districts and BOCES must clearly articulate to each educator the personnel category into which they are assigned, and how the growth of the students they teach will be measured for the purpose of informing their Performance Evaluation Rating. School districts and BOCES that elect to adopt their own locally developed quality standards for evaluating teachers must clearly communicate how those local standards align with the state's Teacher Quality Standards. School districts and BOCES must clearly communicate to teachers the consequences of each category of Performance Evaluation Rating, including how each teacher's assigned rating contributes to the loss or gain of nonprobationary status.
- 5.03 (E) School districts and BOCES must clearly communicate to all principals the tools that will be used to measure their performance on the Principal Quality Standards and Measures of Student Learning prior to their use, how the selected measurement tools will be used to determine performance on each Principal Quality Standard, the party or parties responsible for making decisions, and how these multiple measures will be weighted and aggregated to determine final ratings. School districts and BOCES must clearly articulate to principals how Student Academic Growth for principals will be measured, and delineate the manner in which these measures are aligned with the Measures of Student Learning for teachers. School districts and BOCES that elect to adopt their own locally-developed quality standards for evaluating principals must clearly communicate how those local standards align with the state's Principal Quality Standards. School districts and BOCES must clearly communicate to principals the consequences of each category of Performance Evaluation Rating.
- 5.03 (F) School districts and BOCES must provide training to educators to help them understand how the growth of the students for which they are responsible will be measured for their performance evaluation, and to assist educators in responding to Student Academic Growth data.

**5.04 Process for Nonprobationary Teacher to Appeal Second Consecutive Performance Evaluation Rating of Ineffective or Partially Effective.**

- 5.04 (A) **Requirements for All School Districts.** The following requirements apply to the appeal process developed by school districts for a nonprobationary teacher to appeal a second consecutive Performance Evaluation Rating of ineffective or partially effective. For purposes of the appeal process, a rating of ineffective and a rating partially effective carry the same consequence; a teacher loses nonprobationary status after receiving two consecutive ratings of either ineffective or partially effective. The appeal process must allow for a final determination of the appealing teacher's Performance Evaluation Rating and a final determination of whether that teacher retains nonprobationary status; it does not serve the purpose of determining employment and/or termination.
- 5.04 (A) (1) ~~Beginning with the 2015-16 academic school year,~~ Each school district must ensure that a nonprobationary teacher who objects to a second consecutive Performance Evaluation Rating of ineffective or partially effective has an opportunity to appeal that rating.
- 5.04 (A) (2) The appeal process must adhere to the following principles:
- 5.04 (A) (2) (a) the appeal process must be appropriate to the size and location of the school district;
  - 5.04 (A) (2) (b) the appeal process must be fair and clearly communicated to teachers, evaluators, principals, and, where appropriate, students and parents of students;
  - 5.04 (A) (2) (c) the appeal process must be a component of a larger system designed to increase the number of educators able to be successful rather than provide excuses for failure;
  - 5.04 (A) (2) (d) the appeal process must be clearly connected to the school district's educator evaluation process; and
  - 5.04 (A) (2) (e) the appeal process must be constructed to produce appeal decisions in a timely and decisive manner;
- 5.04 (A) (3) The appeal process must be developed, where applicable, through collective bargaining.
- 5.04 (A) (4) The appeal process must be voluntary for a teacher, and initiated only if he or she chooses to file an appeal. As required by section 22-9-106 (4.5)(b), C.R.S., at a minimum, the appeal process provided must allow the nonprobationary teacher to appeal the rating of ineffectiveness to the superintendent of the School District and place the burden upon the nonprobationary teacher to demonstrate that a rating of effective was appropriate.
- 5.04 (A) (5) The appeal process begins on the date that a teacher receives his or her second consecutive Performance Evaluation Rating of ineffective or partially effective and concludes no more than forty-five (45) calendar days after he or she receives the Performance Evaluation Rating. A teacher must file an appeal within fifteen (15) calendar days after receiving his or her rating. These time requirements may be waived, by mutual agreement of both the teacher and the school district.
- 5.04 (A) (6) A teacher is permitted only one appeal for the second consecutive Performance Evaluation Rating of ineffective or partially effective. A teacher filing

an appeal must include all grounds for the appeal within a single written document. Any grounds not raised at the time the written appeal is filed are deemed waived.

5.04 (A) (7) The grounds for an appeal are limited to the following:

5.04 (A) (7) (a) The evaluator did not follow evaluation procedures that adhere to the requirements of statute and rule and that failure had a material impact on the final Performance Evaluation Rating that was assigned (e.g., an observation was never completed or feedback was never shared with the teacher); and/or

5.04 (A) (7) (b) The data relied upon was inaccurately attributed to the teacher (e.g., data included in the evaluation was from students for whom the teacher was not responsible).

5.04 (A) (8) Any documents and/or proceedings related to the appeal process must be deemed confidential.

5.04 (A) (9) The superintendent, or his or her designated individual, is the final decision-making authority in determining a teacher's final Performance Evaluation Rating and whether a nonprobationary teacher loses his or her nonprobationary status. The superintendent must provide a written rationale for his or her final determination.

5.04 (A) (10) The appeal process is final in regard to the final Performance Evaluation Rating and loss or retention of nonprobationary status.

5.04 (A) (11) If the superintendent determines that a rating of ineffective or partially effective was not accurate but there is not sufficient information to assign a rating of effective, the teacher must receive a "no score" and must not lose his or her nonprobationary status. However, if in the following academic school year that teacher receives a final Performance Evaluation Rating of ineffective or partially effective, this rating has the consequence of a second consecutive ineffective rating and the teacher is subject to loss of nonprobationary status.

5.04 (B) **State Model System.** The Department must include in the State Model System a model appeal process for a nonprobationary teacher to appeal a second consecutive Performance Evaluation Rating of ineffective or partially effective.

Each School District that adopts the State Model System may choose either of the following options: (1) to use the model appeal process that incorporates the use of a review panel; or (2) to develop its own distinctive appeal process that adheres to the requirements in section 5.04 (A) of these rules.

In addition to meeting the requirements outlined in section 5.04 (A) of these rules, the Department's model appeal process must include the following components.

5.04 (B) (1) The review panel must serve in an advisory capacity to the superintendent. The superintendent must be the final decision-making authority in determining the teacher's final Performance Evaluation Rating.

5.04 (B) (2) The review panel must be comprised of members that were not directly involved in the evaluation process for the appealing teacher. The superintendent may appoint himself or herself to the review panel.

5.04 (B) (3) Panel members must be selected and trained in a manner designed to ensure the credibility and expertise of the panel members. The panel must be comprised of equal numbers of teachers and administrators, with no more than six panel members total. A process must be developed to ensure continuity of the review panel members.

5.04 (B) (4) The appealing teacher must be given the opportunity to address and provide evidence to the review panel in person or in writing. The review panel must review any written information provided by the appealing teacher prior to meeting to render a recommendation.

5.04 (B) (5) The review panel may invite the teacher or teacher's principal to present in person or in writing where clarification is necessary; however, the teacher and principal have the right of refusal without prejudice.

5.04 (B) (6) To overturn a rating of ineffective or partially effective, the panel must unanimously find that the rating of ineffective or partially effective was inaccurate, with the potential for submission of a majority opinion to the superintendent if the panel is not able to reach unanimous consent.

5.04 (C) **Continuous Improvement.** As a part of its review of local personnel evaluation systems and implementation of the State Model System, the Department must report on the role of the model system appeals process as a lever to ensure broader system accountability. Specifically, the Department must report on how the appeals process supports the following:

5.04 (C) (1) early identification to teachers of any performance deficiencies, well in advance of a second consecutive Performance Evaluation Rating of partially effective or ineffective;

5.04 (C) (2) the provision of targeted and timely opportunities, including resources and training, to teachers to address any identified areas of deficiency promptly after they receive an initial Performance Evaluation Rating of partially effective or ineffective and throughout the following school year;

5.04 (C) (3) a process to ensure that effective teachers are not inappropriately rated as ineffective or partially effective; and

5.04 (C) (4) the completion of performance evaluations only by individuals who have completed a Department-approved training in evaluation skills, as required by section 22-9-106(4)(a), C.R.S.

## 6.00 SUPPORTING IMPLEMENTATION OF REQUIREMENTS FOR LOCAL PERFORMANCE EVALUATION SYSTEMS: DUTIES AND POWERS OF COLORADO DEPARTMENT OF EDUCATION

6.01 **Monitoring and Reporting on Implementation of Requirements for Local Evaluation Systems.** The Department will 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. The intent of monitoring these systems is to understand whether they are implemented in a manner that provides educators with evaluations using multiple, fair, transparent, timely, rigorous and valid methods and ensures that educators receive adequate feedback and professional development support to provide them a meaningful opportunity to improve their effectiveness.

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. These assurances must be signed by (i) the executive director of the BOCES or superintendent of the school district, and (ii) the chair of the BOCES or local school board.

Additional methods that the Department may use to monitor local personnel evaluation systems are (i) integrating information about evaluation systems into accountability and improvement efforts, including, if applicable, the school and district performance reports, required pursuant to section 22-11-503, C.R.S., and (ii) incorporating monitoring data into school and district Unified Improvement Plans.

6.01 (A) School districts and BOCES must submit data, as requested by the Department, to allow said monitoring to occur and the Department will report this data on the SchoolView data portal. In order to report required data to the Department, school districts and BOCES must categorize all teachers they employ as a teacher of record and/or contributing professional, using the statewide definitions of those terms that are established by the Department.

6.01 (B) The Department may only publicly report data related to Performance Evaluation Ratings in the aggregate at the school-, district- and state-level, and may not publicly report this data for cohorts smaller than five educators.

6.01 (C) The Department will annually publish online the results of these monitoring efforts. At a minimum, monitoring efforts must focus on the following objectives and include the following analysis:

6.01 (C) (1) Increasing the effectiveness of all educators, the progress of which may be evaluated using the following data:

6.01 (C) (1) (a) the number of educators assigned to each Performance Evaluation Rating and how those numbers change over time;

6.01 (C) (1) (b) information concerning teacher and principal retention, correlated with Performance Evaluation Ratings and reasons teachers and principals leave districts and schools; and

6.01 (C) (1) (c) perception survey data of Colorado educators, parents and students.

6.01 (C) (2) Analyze the correlation between student performance outcomes and the assignment of educators to Performance Evaluation Ratings, which may be evaluated using the following data:

6.01 (C) (2) (a) student performance data for each public school and data concerning the number of educators at each public school assigned to each Performance Evaluation Rating;

6.01 (C) (2) (b) student performance data, organized according to academic subjects and grades, and data concerning the number of educators assigned to each Performance Evaluation Rating, organized according to academic subjects and grades;

6.01 (C) (2) (c) information concerning the distribution of educators assigned to each Performance Evaluation Rating within each public school and school district;

6.01 (C) (2) (d) information concerning the correlation of Measures of Student Learning used and student performance on statewide summative assessments; and

6.01 (C) (2) (e) information concerning performance results for educators on each of the Teacher Quality Standards and each of the Principal Quality Standards, and analysis of the correlation between results for individual educators on the Measures of Student Learning ~~Academic Growth~~ and the Professional Practice Quality Standards;

6.01 (C) (3) Analyze the equitable distribution of effective and highly effective educators, which may be evaluated using the following data:

6.04 (C) (3) (a) the number of educators assigned to each Performance Evaluation Rating, disaggregated by common course code, educator demographics, student demographics, and school demographics.

6.01 (C) (4) Analyze the extent to which principals and teachers understand how they are being evaluated, what they need to do to improve, and how to access resources they need to support their professional development, which may be evaluated using surveys, focus groups, and/or feedback received during trainings.

6.01 (D) When data collected by the Department indicates that a school district or BOCES is unable to implement a local evaluation system that meets the objectives of the Licensed Personnel Performance Evaluation Act, section 22-9-101, C.R.S., *et seq.*, the Department will conduct a more thorough review of the school districts' or BOCES' processes and procedures for its licensed personnel evaluation system to assure that the system is professional, sound, results in fair, adequate, and credible evaluation, satisfies the Quality Standards in a manner that is appropriate to the size, demographics, and location of the school district or BOCES, and is consistent with the purposes of article 9, title 22.

Pursuant to section 22-11-206(4)(b), C.R.S., if the Department has reason to believe that a school district is not in substantial compliance with one or more of the statutory or regulatory requirements that applies to school districts, the Department must notify the local school board that it has ninety days after the date of notice to come into compliance. If, at the end of the ninety-day period, the Department finds that the school district is not substantially in compliance with the applicable statutory or regulatory requirements, the school district may be subject to the interventions specified in article 11 of title 22, Colorado Revised Statutes.

## **6.02 Evaluation and Continuous Improvement of the Statewide System to Evaluate the Effectiveness of Licensed Personnel**

The Department will use information obtained through monitoring and reporting efforts to identify opportunities for improvement. No later than July 1 of each year the State Board must review these rules (1 CCR 301-87) and using information from implementation of the State Model System and other local systems, determine whether to affirm or revise the rules in order to reflect what has been learned.

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**7.0 PARENT AND STUDENT PARTNERSHIP WITH TEACHERS AND PUBLIC SCHOOL ADMINISTRATORS**

- 7.01 **Parents and Guardians.** Districts and schools must create systems and structures that focus on providing parents and guardians with meaningful opportunities to support the academic achievement and growth of their children. These systems and structures must proactively encourage and support:
- 7.01 (A) high-quality and ongoing communication between parents/guardians and educators and schools using a variety of methods, such as various media, resources and languages;
  - 7.01 (B) involvements of parents/guardians in school and district leadership as currently supported by law and further identified through the implementation of local evaluation systems; and
  - 7.01 (C) the engagement of parent/guardian and community partnerships to ensure the successful implementation of the Principal, Teacher, and SSP Quality Standards.
- 7.02 As appropriate, the Department will provide resources and technical assistance, through the online resource bank, to support districts in developing systems and structures that provide meaningful opportunities for parents/guardians to support the academic achievement and growth of their children.
- 7.03 The Department must encourage districts to monitor and measure the effectiveness of community and family involvement strategies and to use data gathered to inform system refinements.
- 7.04 **Students.** Districts are strongly encouraged to gather student perceptions of their learning experience in order to provide teachers with feedback on their performance. Where appropriate, districts are encouraged to use student perception data as part of the multiple measures used to evaluate teacher Professional Practice, described in section 5.01 (D) (6) of these rules.
- 7.05 Districts are strongly encouraged to gather student perceptions to provide principals with feedback on their performance.

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**Editor's Notes**

**History**

Entire rule eff. 02/15/2012.

Sections SB&P, 5.04 eff. 05/30/2012.

Sections 0.0, 1.00, 4.00 eff. 01/30/2014.

Entire rule eff. 08/14/2018.



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Tracking number: 2019-00078

**Opinion of the Attorney General rendered in connection with the rules adopted by the**

Colorado State Board of Education

**on 04/10/2019**

1 CCR 301-87

**RULES FOR THE ADMINISTRATION OF A STATEWIDE SYSTEM TO EVALUATE THE  
EFFECTIVENESS OF LICENSED PERSONNEL EMPLOYED BY SCHOOL DISTRICTS AND  
BOARDS OF COOPERATIVE EDUCATION SERVICES**

The above-referenced rules were submitted to this office on 04/18/2019 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

April 24, 2019 11:05:28

**Philip J. Weiser**  
Attorney General  
by Eric R. Olson  
Solicitor General

## **Permanent Rules Adopted**

### **Department**

Department of Education

### **Agency**

Colorado State Board of Education

### **CCR number**

1 CCR 301-101

### **Rule title**

1 CCR 301-101 RULES FOR THE ADMINISTRATION OF EDUCATOR LICENSE  
ENDORSEMENTS 1 - eff 05/30/2019

### **Effective date**

05/30/2019

## DEPARTMENT OF EDUCATION

### Colorado State Board of Education

## RULES FOR THE ADMINISTRATION OF EDUCATOR LICENSE ENDORSEMENTS

### 1 CCR 301-101

*[Editor's Notes follow the text of the rules at the end of this CCR Document.]*

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#### 1.00 Statement of Basis and Purpose

The statutory basis for these rules is found in State board – power, and 22-60.5-106 Endorsement of license—effect. These rules establish the standards and criteria for the issuance of endorsements to licenses in subject areas or other areas of educational specialization for teachers, special services providers, principals and administrators.

#### 2.00 General Licensing Regulations

The Colorado Department of Education has the sole authority to issue educator licenses and authorizations. Pursuant to 22-63-201 and 22-32-126, C.R.S., a Colorado license or authorization is required for employment as a teacher, special services provider or principal in a Colorado school or school district. All licenses and authorizations must be endorsed to indicate the grade levels/developmental levels and specialization area(s) which are appropriate to the applicant's preparation, training and experience.

#### 2.01 Definitions

- 2.01(1) Accepted institution of higher education: An institution of higher education that offers at least the standard bachelor's degree and is recognized by one of the following regional associations: Western Association of Schools and Colleges; Northwest Association of Schools, Colleges and Universities; North Central Association of Colleges and Schools; New England Association of Schools and Colleges; Southern Association of Colleges and Schools; or Middle States Association of Colleges and Schools.
- 2.01(2) Administrator: Any person who may or may not be licensed, but who administers, directs or supervises an education instructional or education-related program, or a portion thereof, in any school or school district, or nonpublic school in the state and who is not the chief executive officer or an assistant chief executive officer of such school.
- 2.01(3) Approved induction program: A program of continuing professional development for initial license-holders that meets the requirements of the Colorado State Board of Education, and that upon completion leads to a recommendation for a professional license by the school district or districts, charter school, nonpublic school, or the institute providing such induction program.
- 2.01(4) Approved program of preparation: A program of study for the preparation of educators that meets the content requirements of the Colorado State Board of Education and for public and private institutions, is approved by Colorado Commission on Higher Education and that, upon completion, leads to a recommendation for licensure by an accepted institution of higher education.

- 2.01(5) Board of education: The governing body authorized by law to administer the affairs of any school district in the state except junior and community college districts. "Board of education" also includes a board of cooperative services organized pursuant to 22-5-101, C.R.S.
- 2.01(6) Charter school: A charter school authorized by a school district pursuant to Part 1 of Article 30.5 of Title 22 or a charter school authorized by the state charter school institute pursuant to Part 5 of Article 30.5 of Title 22.
- 2.01(7) Colorado Academic Standards: The state academic standards that identify the knowledge and skills that a student should acquire as the student progresses from preschool through elementary and secondary education, as adopted by the State Board of Education pursuant to section 22-7-1005, C.R.S. The Colorado Academic Standards herein incorporated by reference in these rules were adopted by the State Board of Education in December 2010 and are available at [www.cde.state.co.us](http://www.cde.state.co.us). Later amendments to the Colorado Academic Standards are not incorporated. The Colorado Department of Education maintains a copy of the standards readily available for public inspection at 201 East Colfax Avenue, Denver, Colorado, during regular business hours.
- 2.01(8) Department of education or Department: The Colorado State Department of Education as defined in 24-1-115, C.R.S.
- 2.01(9) Diversity: The backgrounds of all students and school personnel.
- 2.01(10) Endorsement: The designation on a license or an authorization of grade level(s) or developmental level(s), subject matter or service specialization in accordance with the preparation, training and experience of the holder of such license or authorization. Endorsements typically reflect major areas of specialization.
- 2.01(11) Endorsement/specialty area: The sequence of courses and experiences in the academic or professional area that the education student plans to teach, for the grade level(s) or developmental level(s) at which the student plans to teach, and/or for the services that the student plans to provide. Examples of specialty areas include science (grades 7-12), elementary education (grades K-6), school counselor (ages birth-21), reading specialist (grades K-12) and physical education (grades K-12).
- 2.01(12) Institute: The state charter school institute created pursuant to section 22-30.5-503, C.R.S.
- 2.01(13) Knowledge base: The assumptions, theories and research findings which provide the foundations that support the model(s) on which the program is founded, articulated, implemented and evaluated.
- 2.01(14) Licensure: The official recognition by a state governmental agency that an individual has met state-mandated minimum requirements and is approved to practice as a duly certified/licensed educator in the state.
- 2.01(15) Mentor administrator: Any administrator who is designated by a school district or districts, charter school, nonpublic school, or the institute providing an approved induction program for initial administrator licensees, who has demonstrated outstanding administrative skills and school leadership and who can provide exemplary modeling and counseling to initial administrator license-holders participating in an approved induction program.

- 2.01(16) Mentor principal: Any principal who is designated by a school district or districts, charter school, nonpublic school, or the institute providing an approved induction program for initial principal license-holders, who has demonstrated outstanding principal skills and school leadership and who can provide exemplary modeling and counseling to initial principal license-holders participating in an approved induction program.
- 2.01(17) Mentor special services provider: any special services provider who is designated by a school district or districts, charter school, nonpublic school, or the institute providing an approved induction program for initial special services license-holders, who has demonstrated outstanding special services provider skills and school leadership and who can provide exemplary modeling and counseling to initial special services license-holders participating in an approved induction program.
- 2.01(18) Mentor teacher:
- 2.01(18)(a) A teacher designated by a school district, charter school, or nonpublic school, employing an alternative teacher, who has demonstrated outstanding teaching and school leadership and who can provide exemplary modeling and counseling to alternative teachers participating in an alternative teacher program; or
- 2.01(18)(b) Any teacher who is designated by a school district or districts, charter school, nonpublic school, or the institute providing an approved induction program for initial teacher license-holders, who has demonstrated outstanding teaching and school leadership and who can provide exemplary modeling and counseling to initial teacher license-holders participating in an approved induction program.
- 2.01(19) Nonpublic School: Any independent or parochial school that provides a basic academic education. Neither the State Board of Education nor any local school board of education has jurisdiction over the internal affairs of any independent or parochial school in Colorado.
- 2.01 (20) Practicum: An intensive experience in which education students practice and demonstrate professional skills and knowledge. Student teaching and internships are examples of a practicum.
- 2.01(21) Principal: Any person who is employed as the chief executive officer or an assistant chief executive officer of any school in the state and who administers, directs or supervises the education instruction program in such school or nonpublic school.
- 2.01(22) Professional education unit: The college, university, school, department or other administrative body within the institution of higher education that is primarily responsible for the preparation of teachers and other professional education personnel.
- 2.01(23) School: Any of the public schools of the state.
- 2.01(24) School district: Any school district organized and existing pursuant to law, but does not include junior or community college districts. "School district" includes a board of cooperative services organized pursuant to 22-5-101, C.R.S.
- 2.01(25) Special services provider: Any person other than a teacher, principal or administrator who is employed by any school district, charter school, nonpublic school, or the institute to provide professional services to students in direct support of the education instructional program.
- 2.01(26) State Board of Education: The State Board of Education established by Section 1 of Article IX of the Constitution of the State of Colorado.

2.01(27) Student teaching: Part of the 800 hours of field experience required in a teacher preparation program, it is an in-depth, direct teaching experience conducted in a school and classroom setting. It is considered a culminating field-based experience for the basic teacher preparation program where candidates practice and demonstrate professional skills and knowledge.

2.01(28) Teacher: Any person employed to instruct students in any school or nonpublic school in the state.

### **3.00 Endorsement of Licenses or Authorization.**

Licenses and authorizations must be endorsed to indicate the grade levels/developmental levels and specialization area(s) which are appropriate to the applicant's preparation, training and experience.

#### **3.01 Initial Endorsements.**

3.01(1) Initial endorsements must be based upon:

3.01(1)(a) recommendation by a Colorado accepted institution of higher education verifying the satisfactory completion of an approved program for the endorsement; or

3.01(1)(b) recommendation by an accepted out-of-state institution of higher education and compliance with rule 2.03(3) of 1 CCR 301-37 or

3.01(1)(c) evaluation of licenses issued upon foreign degree programs for comparability to Colorado's standards; and

3.01(1)(d) fulfilling the requirements outlined below:

3.01(1)(d)(i) for an elementary education endorsement (grades K-6), passage of a Colorado State Board of Education-approved elementary education content test.

3.01(1)(d)(ii) for a special education generalist endorsement (ages 5 -21):

3.01(1)(d)(ii)(A) verification of 24 semester hours of specific coursework completed at an accepted institution of higher education or the equivalent as determined by the Department of Education through a transcript or portfolio review. The portfolio may include, but is not limited to, verification of teaching experience in the requested endorsement area, experiences outside of schools, in-service or continuing education, standardized assessments and recommendations from experts in the endorsement/specialty area to be taught. Such academic credit and portfolio experiences must be consistent with the content preparation requirements in the appropriate endorsement area found in section 4.00 of these rules; and

3.01(1)(d)(ii)(B) passage of the Colorado State Board of Education-approved special education generalist assessment and passage of a Colorado State Board of Education-approved elementary exam.

3.01(1)(d)(iii) for secondary (grades 7-12) and all K-12 and endorsement areas for ages birth-8:

3.01(1)(d)(iii)(A) a degree in the endorsement area; or

3.01(1)(d)(iii)(B) verification of 24 semester hours of specific coursework completed at an accepted institution of higher education or the equivalent as determined by the Department of Education through a transcript or portfolio review. The portfolio may include, but is not limited to, verification of teaching experience in the requested endorsement area, experiences outside of schools, in-service or continuing education, standardized assessments, and recommendations from experts in the endorsement/specialty area to be taught. Such academic credit and portfolio experiences must be consistent with the content preparation requirements in the appropriate endorsement area found in section 4.00 of these rules; or

3.01(1)(d)(iii)(C) passage of the Colorado State Board of Education-approved assessment of content area knowledge relevant to the area of endorsement.

### **3.02 Additional Endorsements**

Second or subsequent endorsements may be awarded by the Department based upon one of the following:

3.02(1) the completion of an approved program of preparation at an accepted institution of higher education, which includes completion of field experiences, student teaching or practicum or internship, unless waived by the approved institution pursuant to the following:

3.02(1)(a) a waiver of field experience, student teaching, practicum or internship may be granted upon verification of satisfactory experience in the area of endorsement being sought. Waivers of coursework or other program requirements may also be granted for work experience, including teaching or administrative experience in schools.

3.02(1)(b) institutions of higher education must have written criteria, procedures and due-process procedures for the recognition of competencies acquired through experience. Such criteria and due-process procedures must include a process for appealing the denial of a request for waiver of field experience, student teaching, practicum, internship or other coursework or program requirements.

3.02(1)(c) applicants who complete approved programs for additional endorsements must provide evidence of successful completion of the Colorado State Board of Education–approved assessment of content area knowledge in the endorsement area being sought where required.

3.02(2) academic preparation, experience or assessment for endorsements in section 4.00 of these rules:

3.02(2)(a) for elementary education endorsement (grades K-6):

3.02(2)(a)(i) passage of a Colorado State Board of Education-approved elementary content test.

3.02(2)(b) for a special education generalist endorsement (ages 5-21):

- 3.02(2)(b)(i) verification of 24 semester hours of specific coursework completed at an accepted institution of higher education or the equivalent as determined by the Department of Education through a transcript or portfolio review. The portfolio may include, but is not limited to, verification of teaching experience in the requested endorsement area, experiences outside of schools, in-service or continuing education, standardized assessments, and recommendations from experts in the endorsement/specialty area to be taught. Such academic credit and portfolio experiences must be consistent with the content preparation requirements in the appropriate endorsement area found in section 4.00 of these rules; and
- 3.02(2)(b)(ii) passage of the Colorado State Board of Education-approved special education generalist assessment and passage of a Colorado State Board of Education-approved elementary education exam.
- 3.02(2)(c) for secondary (grades 7-12) and all K-12 and endorsements areas for ages birth-8:
  - 3.02(2)(c)(i) a degree in the endorsement area; or
  - 3.02(2)(c)(ii) verification of 24 semester hours of specific coursework completed at an accepted institution of higher education or the equivalent as determined by the Department of Education through a transcript or portfolio review. The portfolio may include but is not limited to verification of teaching experience in the requested endorsement area, experiences outside of schools, in-service or continuing education, standardized assessments, and recommendations from experts in the endorsement/specialty area to be taught. Such academic credit and portfolio experiences must be consistent with the content preparation requirements in the appropriate endorsement area found in section 4.00 of these rules; or
  - 3.02(2)(c)(iii) passage of the Colorado State Board of Education-approved assessment of content area knowledge relevant to the area of endorsement.

### **3.03 Development and Approval of New Endorsement Areas and Discontinuance of Endorsement Areas**

- 3.03(1) The Colorado State Board of Education may establish by rule and regulation appropriate endorsements and the criteria for such endorsements.
- 3.03(2) The Department must utilize appropriate content area representatives from among the education community and interested stakeholders to develop recommendations for consideration by the State Board of Education with regard to the adoption of new endorsement areas or the discontinuance of endorsement areas that are no longer relevant or applicable to student needs.
- 3.03(3) In the event that the State Board of Education discontinues an endorsement that was previously offered, students who at the time of discontinuance are actively enrolled in a program for the discontinued endorsement must have five years from the date that the endorsement is discontinued to complete their program and apply to the Colorado Department of Education for the endorsement.
- 3.03(4) Applicants will have a maximum of five years from the date of a discontinued content assessment to use the successful content assessment scores for fulfillment of an endorsement criteria.



### **3.04 Review of License and Endorsement Standards**

3.04(1) Pursuant to section 22-2-109(1)(g)-(i), C.R.S., the standards of qualification, preparation and experience required for the issuance of licenses and which prescribe standards for endorsements appropriate for licenses must be reviewed periodically for currency.

3.04(1)(a) The Colorado State Board of Education must establish a schedule for review of licensing/endorsement standards.

3.04(1)(b) The Colorado Department of Education must utilize representatives from all levels of education when reviewing and developing licensing endorsement standards.

### **4.00 Teaching Endorsements**

The following shall serve as standards for endorsements on initial and professional teacher licenses:

#### **4.01 Early Childhood Education (Ages Birth-8)**

To be endorsed in early childhood education (ECE), an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program including prescribed field experience and student teaching requirements; have completed an approved program in early childhood education; have demonstrated competency in research-based literacy instruction as outlined in rule 4.02(5) – 4.02(13) and; have demonstrated the competencies specified below:

4.01(1) Child growth and development: Understanding a child's growth, development and learning is paramount in providing experiences that foster each child's predictable steps and sequences of development. Knowing how children typically grow, develop and learn allows early childhood educators to plan, guide and monitor learning experiences that address the integration of developmental domains for each and every child. Developmentally appropriate learning experiences consider a child's developmental abilities, temperament, language and cultural background, needs and learning styles while recognizing factors such as family characteristics and community influences. Fully understanding the importance of child growth, development and learning means all children are valued individually and inclusivity is expected and respected.

4.01(1)(a) Knowledge of developmental domains, changes and milestones: ECE professionals are expected to understand, analyze and implement strategies that reflect current child-development pedagogy, theory and research. Primarily, ECE professionals use this knowledge to plan and implement developmentally appropriate environments and experiences to meet the diverse needs of children and families. The diverse needs include but are not limited to culture, language, economic and ability. In order for ECE professionals to provide pedagogically sound experiences for children and families, they need to identify and address children's diverse developmental abilities and collaborate with community partners to assess children's strengths and challenges.

4.01(1)(b) Individual needs and differences: ECE professionals identify children's and families' risk and protective factors and accordingly plan interventions to support children's growth and development. ECE professionals use evidence-based practices to assess and address children's individual needs with respect to culturally responsive curricula and environments.

4.01(1)(c) Special needs: ECE professionals understand and apply inclusive practices for children with diverse developmental abilities. ECE professionals create inclusive

environments that respect the individual abilities of children and incorporate individual goals/outcomes into daily routines and practices.

- 4.01(1)(d) Fostering healthy attachment and relationships: ECE professionals apply knowledge of healthy caregiver/parent/child attachments to support individual child growth, development and learning. ECE professionals understand the importance of positive relationships and their foundation in social-emotional development and learning.
- 4.01(2) Child observation and assessment: Child observation and assessment enables ECE professionals to use reliable and valid procedures and practices to gather information on an individual child's growth and development. Through gathering information on growth, achievement, learning styles, interests, experiences, challenges and understandings of individual children, the curriculum can be enriched to support children through the developmental stages. Observation and assessment policies, procedures and practices should be sensitive to individual children's needs, culture, language and abilities. Policies, procedures and practices must incorporate ethical standards around confidentiality and unbiased documentation. Allocated time to share results with families and others involved with the child is a critical component to child observation and assessment.
- 4.01(2)(a) Principles: ECE professionals use a continuous authentic assessment process to ask questions, collect information (i.e., data), interpret the information and then make instructional decisions that are individualized and culturally responsive.
- 4.01(2)(b) Gathering and documenting: ECE professionals use a body of evidence from a variety of sources to systematically collect authentic assessment data. ECE professionals collaborate with specialized teams to use the assessment data to recognize and respond to children's developmental concerns through a multi-tiered system of supports.
- 4.01(2)(c) Summarizing and interpreting: ECE professionals link assessment data to the instructional needs of individual children, recognizing many influential factors.
- 4.01(2)(d) Data sharing and reporting: ECE professionals share assessment information to families and other professionals in a culturally sensitive, strength-based manner, using the families' home language.
- 4.01(3) Family and community partnerships: Recognizing that families are their child's first teachers and caregivers is the cornerstone of developing strong partnerships between families and early childhood educators. Children's lives are rooted in their families and communities, so valuing families in the context of their culture, language, home and community is paramount in building strong connections with children and their families. Celebrating and respecting diversity in terms of ability, language, values, customs, traditions, expectations and attitudes is essential for ECE professionals to understand in order to offer developmentally and culturally appropriate learning opportunities that will help children grow, develop and learn. Understanding that children develop in the context of different family structures and dynamics helps ECE professionals to honor the interests, needs, strengths and challenges of developing children as well. When ECE professionals work collaboratively with community organizations and agencies to meet children's needs and to encourage community involvement, children's development is enhanced. Collaborative, reciprocal family and community partnerships help to optimize a child's growth, development and learning.
- 4.01(3)(a) Valuing families: ECE professionals recognize, value and include families' preferences and perspectives when planning and implementing curricular decisions.

- 4.01(3)(b) Respect for diversity: ECE professionals implement culturally responsive practices and acknowledge diversity including cultural, language, economic, religious, family structure and ability level.
- 4.01(3)(c) Effective communication: ECE professionals communicate effectively with families using a variety of effective strategies that respect families' home language and individual communicative needs and preferences.
- 4.01(3)(d) Building reciprocal relationships with families: ECE professionals support families by building meaningful relationships with them so that families have the ability to engage in their children's development and learning experiences.
- 4.01(3)(e) Resources that support children and families: ECE professionals support and provide opportunities to families to engage with their children in meaningful ways. Resources are embedded within the community and reflect the diversity of the families.
- 4.01(4) Guidance: Incorporating responsive guidance strategies into an early childhood program provides opportunities for establishing secure, interpersonal peer-to-peer, adult-to-child and adult-to adult relationships. Developmentally appropriate guidance strategies help children to better understand themselves as individuals and as members of a group. A warm and caring, culturally and linguistically responsive environment in which staff consistently use a variety of evidence-based guidance strategies helps children and families feel respected, valued and accepted. Creating an inclusive and supportive culture is fostered through providing both individual and group guidance strategies.
  - 4.01(4)(a) Positive interactions and relationships with individual children: ECE professionals provide responsive, caring environments for children and implement positive guidance strategies based on individualized needs and developmental characteristics.
  - 4.01(4)(b) Child guidance and discipline – promoting social and emotional: ECE professionals implement evidence-based social-emotional practices that promote children's development of self-regulation that contributes to the foundation for future learning and emotional health.
  - 4.01(4)(c) Communication: ECE professionals work collaboratively with families and specialists to assess and support children with challenging behaviors. Communication between families and professionals will be responsive and strength-based.
  - 4.01(4)(d) Guidance and the role of staff and other adults: ECE Professionals will maintain a supportive environment for staff and families so that they can engage in effective communication, problem-solving and teaming.
- 4.01(5) Health, safety and nutrition: Optimal child development is enhanced if young children are safe from physical and emotional harm. In designing learning environments and experiences for young children, meeting the health, safety and nutritional needs are critical to child growth, development and learning. Environments for young children should be safe from hazards and potential injuries to enable them to explore and learn. Programs should ensure that children are protected from infectious diseases through the implementation of appropriate health, safety and sanitation policies, procedures and daily practices. ECE professionals should work in partnership with families and communities to create healthy, safe and nutritionally sound environments, while honoring family preferences for their children. ECE professionals establish a foundation for future healthy lifestyles and a pathway for lifelong health and well-being.

- 4.01(6) Professional development and leadership: ECE professionals who identify and conduct themselves as professionals play an important role in the growth, development and learning of children. ECE professionals see themselves as members of the larger community of specialized care and education professionals and have a full understanding of the context in which the early childhood profession originated. Those working in the field adopt professional responsibilities, which include adherence to ethical codes of conduct, advocacy and the effective communication of the importance of high-quality early childhood programming. The knowledge achieved in the profession is based on a foundation of research-based practices that is then implemented in all aspects of child, family, colleagues and community involvement. ECE professionals equipped with specialized education, training and coaching/mentoring are better able to provide environments and experiences that support every aspect of a child's growth, development and learning, including aspects related to a child's and family's diverse needs. Participation in advocacy efforts on behalf of children, families and the profession are critical to advancing the knowledge regarding the importance of high-quality early childhood education.
- 4.01(7) Program planning and development is vital to high-quality early childhood programs. Sustaining a philosophical base that utilizes research-driven practices with clear goals and objectives while striving for continuous quality improvement helps to ensure high-quality programming for children and their families. An important responsibility of an early childhood professional is to know and uphold rules, regulations and high-quality standards within the daily operations of the program. Professionals implementing best practices and upholding high-quality standards helps to create high-quality early care and learning environments. Participation in a strong strategic planning process that includes colleagues, community resources, and specialists and takes into account various aspects of organizational, personnel, and financial management is essential.
- 4.01(8) Teaching practices: ECE educators are responsible for planning, implementing and supporting intentional experiences that promote children's growth, development and learning in all developmental and academic domains as defined by the Colorado academic standards. Understanding that children learn from a supportive physical, social and temporal environment, it is important that ECE professionals create opportunities where all children can play interactively, communicate, create, explore and construct knowledge and skills to better understand their world. Establishing a learning environment with regard for student perspectives and that honors all children's individual cultures, strengths, languages, needs and interests and reflects diversity also helps to build a responsive early childhood setting. Planning and implementing a curriculum that responds to the developmental needs of each child and allows children to construct knowledge, skills, concepts, attitudes and dispositions through intentional experiences enhances the learning environment. Teaching practices reflect Colorado Teacher Quality Standards for effective teaching.
- 4.01(8)(a) Planning framework for curricula and learning environment: ECE professionals will plan, implement and evaluate intentional and differentiated instruction that supports the holistic development of all children while adhering to children's strengths, challenges, learning preferences and diversity. Curricula and learning will be embedded within the daily routines and natural environments so that learning is authentic, functional and meaningful to the child and family.
- 4.01(8)(b) Physical health development: ECE professionals plan, implement and adapt activities that promote physical development that is appropriate for children of all ability levels and include indoor and outdoor play experiences that are embedded within the daily routines and developmentally appropriate curriculum.

- 4.01(8)(c) Physical proximity and engagement: ECE professionals plan, implement and adapt activities that promote social engagement that is culturally appropriate for the children and families in their care.
- 4.01(8)(d) Language and research-based literacy development: ECE professionals plan, implement and adapt research-driven curricula through meaningful interactions and daily routines to encourage children of all ability levels to use their home language to understand language, various forms of literacy, interact with others and express themselves through verbal, nonverbal and written forms of communication.
- 4.01(8)(e) Cognitive development: ECE professionals plan, implement and adapt developmentally appropriate curricula throughout daily routines so that children of all ability levels are engaged in learning new concepts, completing tasks and adapting information through meaningful experiences and materials.
- 4.01(8)(f) Social-emotional development: ECE professionals plan, implement and adapt meaningful activities that focus on the promotion of self-regulation, pro-social interactions and emotional expression. Children who are socially and emotionally ready for learning and engagement understand and effectively express their feelings, cooperate with adults and peers and resolve conflicts with support.
- 4.01(8)(g) Fostering creativity: ECE professionals plan, implement and adapt curricula that provide children an opportunity to express themselves through a variety of creative means regardless of their individual abilities, language or culture.
- 4.01(8)(h) Knowledge of productivity: ECE professionals plan and implement a balance of experiences for children that address various levels of play, interactions and activity levels, in addition to responding to the diverse needs of the children in their care.
- 4.01(8)(i) How children learn and approaches to learning: ECE professionals plan, implement and adapt activities that promote all children's creativity, innovation, curiosity, exploration and problem-solving in learning environments and daily routines.

#### **4.02 Elementary Education Endorsement (Grades K-6)**

To be endorsed in elementary education, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program in elementary education including prescribed field experience and student teaching requirements; and have demonstrated the competencies specified below:

- 4.02(1) The elementary educator is knowledgeable about curriculum development and instruction and is able to:
  - 4.02(1)(a) design and implement an integrated curriculum based upon adopted content standards including, but not limited to, language arts (e.g., reading, writing, speaking and listening), science, mathematics, social studies, the arts, health, physical education and technology.
  - 4.02(1)(b) select and use equipment, materials and technology which support a wide variety of instructional strategies to be implemented based on adopted content standards and on both informal and formal assessments of student learning needs.
  - 4.02(1)(c) implement appropriate strategies and activities to increase student achievement.
  - 4.02(1)(d) understand and adhere to strict data privacy and security practices.

4.02(2) The elementary educator is knowledgeable about child development as it applies to learning and is able to:

4.02(2)(a) incorporate documented and proven theories of child development and learning as appropriate for all learners including, but not limited to, exceptional and linguistically diverse learners.

4.02(2)(b) plan and implement differentiated instructional strategies that address stages of individual development, personal traits and interests, language diversity and exceptionality.

4.02(2)(c) recognize and display respect for family, culture, economic and societal influences that affect students' learning and academic progress and draw upon their strengths and experiences in planning for instruction.

4.02(2)(d) effectively articulate the elements of and rationale for the instructional program to students, parents and other professionals.

4.02(3) The elementary educator is knowledgeable about classroom environment and is able to:

4.02(3)(a) provide a safe and engaging learning environment responsive to individual learner needs and student choices and interests.

4.02(3)(b) effectively utilize developmentally appropriate, learner-responsive time-management techniques.

4.02(3)(c) implement positive and effective classroom management strategies that encourage behaviors that will enhance learning for all students.

4.02(4) The elementary educator is knowledgeable about assessment and is able to:

4.02(4)(a) effectively administer a wide variety of ongoing formal and informal assessments that are developmentally appropriate, responsive to the needs of diverse learners and inclusive of adopted content standards.

4.02(4)(b) effectively utilize assessment results and related data to plan for appropriate student instruction.

4.02(4)(c) actively involve students in understanding the importance of assessment and its relationship to meeting learning objectives.

4.02(4)(d) effectively communicate with students, parents and other professionals concerning assessments and student performance.

4.02(5) The elementary educator is highly knowledgeable about research-based literacy development, is able to develop oral and written learning, as well as:

4.02(5)(a) understand and explain the language processing requirements of proficient reading and writing including phonological (speech sound) processing; orthographic (print) processing; semantic (meaning) processing; syntactic (sentence level) processing; discourse (connected text level) processing.

4.02(5)(b) understand and explain other aspects of cognition and behavior that affect reading and writing including attention, executive function, memory, processing speed and graphomotor control.

- 4.02(5)(c) define and identify environmental, cultural and social factors that contribute to literacy development (e.g., language spoken at home, language and literacy experiences, cultural values).
  - 4.02(5)(d) know and identify phases in the typical developmental progression of oral language (semantic, syntactic, pragmatic); phonological skill; printed word recognition; spelling; reading fluency; reading comprehension; and written expression.
  - 4.02(5)(e) understand and explain the known causal relationship among phonological skill, phonic decoding, spelling, accurate and automatic word recognition, text reading fluency, background knowledge, verbal reasoning skill, vocabulary, reading comprehension and writing.
  - 4.02(5)(f) know and explain how the relationships among the major components of research-based literacy development change with reading development (i.e., changes in oral language, including phonological awareness; phonics and word recognition; spelling; reading and writing fluency; vocabulary; reading comprehension skills and strategies; written expression).
  - 4.02(5)(g) know reasonable goals and expectations for learners at various stages of reading and writing development.
- 4.02(6) The elementary educator is knowledgeable about the structure of language including:
- 4.02(6)(a) phonology (the speech sound system), and is able to:
    - 4.02(6)(a)(i) identify, pronounce, classify and compare the consonant and vowel phonemes of English.
  - 4.02(6)(b) orthography (the spelling system), and is able to:
    - 4.02(6)(b)(i) understand the broad outline of historical influences on English spelling patterns, especially Anglo-Saxon, Latin (romance) and Greek;
    - 4.02(6)(b)(ii) define grapheme as a functional correspondence unit or representation of a phoneme;
    - 4.02(6)(b)(iii) recognize and explain common orthographic rules and patterns in English;
    - 4.02(6)(b)(iv) know the difference between “high frequency” and “irregular” words; and
    - 4.02(6)(b)(v) identify, explain and categorize six basic syllable types in English spelling.
  - 4.02(6)(c) morphology, and is able to:
    - 4.02(6)(c)(i) identify and categorize common morphemes in English, including Anglo-Saxon compounds, inflectional suffixes, and derivational suffixes; Latin-based prefixes, roots, and derivational suffixes; and Greek-based combining forms.
  - 4.02(6)(d) semantics, and is able to:
    - 4.02(6)(d)(i) understand and identify examples of meaningful word relationships or semantic organization.

- 4.02(6)(e) syntax, and is able to:
  - 4.02(6)(e)(i) define and distinguish among phrases, dependent clauses, and independent clauses in sentence structure; and
  - 4.02(6)(e)(ii) identify the parts of speech and the grammatical role of a word in a sentence.
- 4.02(6)(f) discourse organization, and is able to:
  - 4.02(6)(f)(i) explain the major differences between narrative and expository discourse;
  - 4.02(6)(f)(ii) identify and construct expository paragraphs of varying logical structures (e.g., classification, reason, sequence); and
  - 4.02(6)(f)(iii) identify cohesive devices in text and inferential gaps in the surface language of text.
- 4.02(7) The elementary educator is knowledgeable about the administration and interpretation of assessments for planning instruction, including:
  - 4.02(7)(a) understanding the differences among screening, diagnostic, outcome and progress monitoring assessments.
  - 4.02(7)(b) understanding basic principles of test construction including reliability, validity, norm-referencing and criterion-referencing.
  - 4.02(7)(c) understanding the principles of progress monitoring and the use of graphs to indicate progress.
  - 4.02(7)(d) knowing the range of skills typically assessed in terms of phonological skills, decoding skills, oral reading skills, spelling and writing.
  - 4.02(7)(e) recognizing the content and purposes of the most common diagnostic tests used by psychologists and educational evaluators.
  - 4.02(7)(f) interpreting measures of reading comprehension and written expression to make appropriate instructional recommendations.
- 4.02(8) The elementary educator is able to develop phonology, and is able to:
  - 4.02(8)(a) identify the general goal of phonological skill instruction and be able to explicitly state the goal of any phonological teaching activity.
  - 4.02(8)(b) know the progression of phonological skill development (i.e., rhyme, syllable, onset-rime, phoneme differentiation).
  - 4.02(8)(c) identify the differences among various phonological manipulations, including identifying, matching, blending, segmenting, substituting and deleting sounds.
  - 4.02(8)(d) understand the principles of phonological skill instruction: brief, multisensory, conceptual and auditory-verbal.



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- 4.02(8)(e) understand the reciprocal relationship among phonological processing, reading, spelling and vocabulary.
  - 4.02(8)(f) understand the phonological features of a second language, such as Spanish, and how they interfere with English pronunciation and phonics.
  - 4.02(9) The elementary educator is able to develop phonics and word-recognition knowledge related to reading including:
    - 4.02(9)(a) knowing or recognizing the appropriate sequence of phonics concepts from basic to advanced.
    - 4.02(9)(b) understanding principles of explicit and direct teaching; model, lead, give guided practice and review.
    - 4.02(9)(c) stating the rationale for multisensory and multimodal techniques.
    - 4.02(9)(d) knowing the routines of a complete lesson format, from the introduction of a word-recognition concept to fluent application in meaningful reading and writing.
    - 4.02(9)(e) understanding research-based adaptations of instruction for students with weaknesses in working memory, attention, executive function or processing speed.
  - 4.02(10) The elementary educator is able to develop fluent, automatic reading of text:
    - 4.02(10)(a) understanding the role of fluency in word recognition, oral reading, silent reading, comprehension of written discourse and motivation to read.
    - 4.02(10)(b) understanding reading fluency as a stage of normal reading development, as the primary symptom of some reading disorders and as a consequence of practice and instruction.
    - 4.02(10)(c) defining and identifying examples of text at a student's frustration, instructional and independent reading level.
    - 4.02(10)(d) knowing sources of activities for building fluency in component reading skills.
    - 4.02(10)(e) knowing which instructional activities and approaches are most likely to improve fluency outcomes.
    - 4.02(10)(f) understanding techniques to enhance a student's motivation to read.
    - 4.02(10)(g) understanding appropriate uses of assistive technology for students with serious limitations in reading fluency.
    - 4.02(10)(h) understand the relationship between accuracy and reading fluency.
  - 4.02(11) The elementary educator is knowledgeable about vocabulary development related to reading instruction including:
    - 4.02(11)(a) understanding the role of vocabulary development and vocabulary knowledge in comprehension.
    - 4.02(11)(b) understanding the role and characteristics of direct and indirect (contextual) methods of vocabulary instruction.
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- 4.02(11)(c) knowing varied techniques for vocabulary instruction before, during and after reading.
- 4.02(11)(d) understanding that word knowledge is multifaceted.
- 4.02(11)(e) understanding the sources of wide differences in students' vocabularies.
- 4.02(12) The elementary educator is able to develop text comprehension including:
  - 4.02(12)(a) being familiar with teaching strategies that are appropriate before, during and after reading and that promote reflective reading.
  - 4.02(12)(b) contrasting the characteristics of major text genres, including narration, exposition and argumentation.
  - 4.02(12)(c) understanding the similarities and differences between written composition and text comprehension, and the usefulness of writing in building comprehension.
  - 4.02(12)(d) identifying in any text the phrases, clauses, sentences, paragraphs and "academic language" that could be a source of miscomprehension.
  - 4.02(12)(e) understanding levels of comprehension including the surface code, text base and mental model (situation model).
  - 4.02(12)(f) understanding factors that contribute to deep comprehension, including background knowledge, vocabulary, verbal reasoning ability, knowledge of literary structures and conventions, and use of skills and strategies for close reading of text.
- 4.02(13) The elementary educator is able to develop handwriting, spelling and written expression:
  - 4.02(13)(a) handwriting:
    - 4.02(13)(a)(i) knowing research-based principles for teaching letter naming and letter formation, both manuscript and cursive; and
    - 4.02(13)(a)(ii) knowing techniques for teaching handwriting fluency.
  - 4.02(13)(b) spelling:
    - 4.02(13)(b)(i) recognizing and explaining the relationship between transcription skills and written expression;
    - 4.02(13)(b)(ii) identifying students' level of spelling development and orthographic knowledge; and
    - 4.02(13)(b)(iii) recognizing and explaining the influences of phonological, orthographic, and morphemic knowledge on spelling.
  - 4.02(13)(c) written expression:
    - 4.02(13)(c)(i) understanding the major components and processes of written expression and how they interact (e.g., basic writing/transcription skills versus text generation);

4.02(13)(c)(ii) knowing grade and developmental expectation for students' writing in the following areas: mechanics and conventions of writing, composition, revision and editing processes; and

4.02(13)(c)(iii) understanding appropriate uses of assistive technology in written expression.

4.02(14) The elementary educator shall self-assess the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

#### **4.03 Agriculture, Food and Natural Resources (Grades 7-12)**

To be endorsed in agriculture, food and renewable natural resources, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program including prescribed field experience and student teaching requirements; have completed an approved program in agriculture, food and renewable natural resources; and have demonstrated the competencies listed below:

4.03(1) The agriculture, food and renewable natural resources educator must have extensive preparation in agriculture, food and renewable natural resources and demonstrate knowledge in related content including, but not limited to, animal sciences; power, structural and technical systems; plant sciences; agribusiness systems; environmental science and natural resource systems; and food products and processing.

4.03(1)(a) The agriculture, food and renewable natural resources educator must be knowledgeable and able to effectively instruct students about one or more of the following content areas:

4.03(1)(a)(i) animal sciences to include, but not be limited to: trends in the animal industry, best practices for animal welfare, nutrition, reproduction, environmental management and performance;

4.03(1)(a)(ii) agricultural power, structural and technical systems to include, but not be limited to: physical science applications in agriculture PST systems; equipment operation, repair and maintenance; planning, building and maintaining agriculture structures; agricultural metal fabrication; and operation and utilization of geospatial technologies in agriculture;

4.03(1)(a)(iii) plant systems to include, but not be limited to: crop management planning; plant anatomy, classification and philosophy; propagation, culture and harvest of plant products; and principles of design in plant systems for environmental enhancement;

4.03(1)(a)(iv) agricultural business systems to include, but not be limited to: business management principles; financial and production data collection and recording; credit and cash management; business planning; and sales and marketing;

4.03(1)(a)(v) environmental science and natural resources to include, but not be limited to: natural resources use planning; interrelationships between natural resources and humans; sustainable production and use of natural resources; environmental analytical procedures; tools and equipment; environmental policies and regulations; and environmental service systems; and

- 4.03(1)(a)(vi) food products and processing to include, but not be limited to: food safety, sanitation and practices; food nutrition; biology, microbiology and chemistry; food processes, storage, distribution and consumption; and food industry scope and development.
- 4.03(1)(b) The agriculture, food and renewable natural resources educator is knowledgeable about and able to:
  - 4.03(1)(b)(i) ensure that students' work reflects industry standards and that students remain aware of current issues in the field;
  - 4.03(1)(b)(ii) maintain an active advisory committee(s) composed of local business/industry representatives to assure that implementation of the curriculum accurately reflects current industry conditions and standards, and to serve as a resource for the placement of students;
  - 4.03(1)(b)(iii) acquire and allocate supplementary fiscal and human resources, as needed, from and within the school, community and industry;
  - 4.03(1)(b)(iv) provide experiences in simulated or real workplace environments that can provide students with appropriate and applicable firsthand experience to enable them to make career decisions based on a knowledgeable perspective;
  - 4.03(1)(b)(v) provide students with a wide variety of opportunities to gain experience with and be able to exercise initiative in applying the skills and abilities of organizational management and leadership, public speaking and parliamentary procedure, and to earn awards and recognition through participation in student vocational and community service organizations;
  - 4.03(1)(b)(vi) provide students with the ability to evaluate, select, adapt and apply technology as needed;
  - 4.03(1)(b)(vii) incorporate and reinforce practical applications of core content knowledge, skills and abilities in simulated or real-world situations and by coordinating instruction with other educational staff;
  - 4.03(1)(b)(viii) present and discuss controversial issues related to agriculture and renewable resources in the instructional setting with clarity and without bias; and
  - 4.03(1)(b)(ix) maintain a safe, well-equipped and well-maintained learning environment and instruct students in the safe and appropriate use, care and maintenance of tools, equipment and applicable substances and materials.
- 4.03(2) The agriculture, food and renewable resources educator shall self-assess the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

#### **4.04 Visual Arts (Grades K-12)**

To be endorsed in visual arts, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program including prescribed field experience and student teaching requirements; have completed an approved program in the content of art; and have demonstrated the competencies listed below:

- 4.04(1) The visual arts educator is knowledgeable about and able to instruct students in:
- 4.04(1)(a) determining and interpreting meaning in works of art.
  - 4.04(1)(b) creating personal meaning in art.
  - 4.04(1)(c) identifying the variety of viewpoints and philosophies behind works of art.
- 4.04(2) The visual arts educator is able to effectively inform students about the terminology and facets of art inherent in their own and other works of art including, but not limited to:
- 4.04(2)(a) the vocabulary and critical language of arts discourse around relevant art processes.
  - 4.04(2)(b) the expressive features and characteristics of art.
  - 4.04(2)(c) the ability to create multiple solutions to visual arts problems.
- 4.04(3) The visual arts educator is able to effectively instruct students regarding:
- 4.04(3)(a) the preparation, research, safety, interrelationships, processes and materials applicable to areas of specialization in art including, but not limited to:
    - 4.04(3)(a)(i) drawing, painting, sculpture, photography, printmaking, fibers, ceramics, jewelry, crafts and media arts; and
    - 4.04(3)(a)(ii) appropriate hands-on art experiences taught in a curriculum designed around the state standards and focused on developing cognitive and manipulative skills.
- 4.04(4) The visual arts educator is able to teach students about the history of art including that in contemporary and past cultures, with an emphasis on:
- 4.04(4)(a) the contributions of the arts to the development of civilization and culture.
  - 4.04(4)(b) the relationship of the arts to the culture/society in which they originated.
  - 4.04(4)(c) the influence of the arts on subsequent and current culture(s).
  - 4.04(4)(d) how the arts are an academic discipline that can relate, connect and transfer to a multitude of life experiences, subjects and disciplines such as math; science; reading, writing and communicating; and social studies.
- 4.04(5) The visual arts educator is able to instruct students on the objective and subjective evaluation and critique of art, and how to:
- 4.04(5)(a) formulate and articulate judgments about works of art based on objective and subjective rationale.
  - 4.04(5)(b) engage in knowledgeable discourse about aesthetics, including the purpose and value of art to the individual and society, from a variety of philosophical stances.
- 4.04(6) The visual arts educator shall provide students with motivation and encouragement to pursue appropriate forms of self-expression in the visual and other arts.

4.04(7) The visual arts educator shall promote more advanced instruction where appropriate.

4.04(8) The visual arts educator shall self-assess the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

#### **4.05 Business and Marketing (Grades 7-12)**

To be endorsed in business and marketing an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program including prescribed field experience and student teaching requirements; have completed an approved preparation program in business/marketing; and have demonstrated the competencies listed below:

4.05(1) The business/marketing educator must have extensive preparation in business and marketing and be knowledgeable about and able to effectively instruct students in the following content areas:

4.05(1)(a) economics, labor market conditions and micro- and macro-economic factors of a domestic and global economy.

4.05(1)(b) technology and its appropriate applications.

4.05(1)(c) information management.

4.05(1)(d) accounting and finance including the basic functions of auditing, banking, investments, taxation, insurance and risk taking.

4.05(1)(e) personnel policies and human resource management including hiring, staff development, compensation and employee relations.

4.05(1)(f) business communications including the use of technology, written communication and presentation skills.

4.05(1)(g) business law, sales contracts, consumer law, employment (including personnel policies and practices), business organization and related matters.

4.05(1)(h) legislation as it affects business and/or marketing fields and issues.

4.05(1)(i) business and marketing ethics.

4.05(1)(j) new and traditional business and/or marketing options, as related to career skills and abilities and career development.

4.05(1)(k) marketing principles and practices of buyer analysis including, but not limited to, development and distribution of products and services.

4.05(2) The business/marketing educator shall self-assess the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

#### **4.06 (Rule Number Reserved.)**

#### **4.07 Drama Theatre Arts (Grades K-12)**

To be endorsed in drama theatre arts, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program including prescribed field experience and student teaching requirements; have completed an approved program in drama theatre arts; be knowledgeable about the Colorado Academic Standards in drama and theatre arts and have demonstrated the competencies specified below:

- 4.07(1) The drama theatre arts educator is knowledgeable about the content and creative processes of drama theatre arts and is able to instruct students about:
- 4.07(1)(a) historical and cultural context including, but not limited to, global theatrical styles, techniques and traditions over time and acknowledging drama theatre arts in society as creative, expressive, communicable and social.
  - 4.07(1)(b) a variety of approaches to critically analyze, observe and critique a variety of styles, genres, aesthetics and technical design, and uses of drama and theatre arts.
  - 4.07(1)(c) skillful use of drama theatre arts literacy in students, demonstrating ways to read, write and communicate using the language of drama theatre arts.
  - 4.07(1)(d) informed demonstration and identification of a variety of techniques and styles of drama theatre arts with confidence, expression, accuracy and intent.
  - 4.07(1)(e) approaches to design, write, problem-solve and innovate to find their own unique dramatic voice.
- 4.07(2) The drama theatre arts educator is able to instruct, effectively demonstrate and provide experiences for students in various areas of drama theatre arts pedagogical theory and practice including, but not limited to:
- 4.07(2)(a) determining and interpreting meaning in dramatic works.
  - 4.07(2)(b) methods of teaching drama theatre arts to students, as age and grade appropriate, and to other educators, as related but not limited to direction and selection of dramatic or theatrical subject matter; communication of ideas through drama and/or theatre; distinguishing theatrical forms and styles; creation of a variety of dramatic and/or theatrical works, employing skills related to dramatic and/or theatrical performances; evaluation of dramatic and/or theatrical works; and relating drama theatre arts to diverse cultures.
  - 4.07(2)(c) knowledge and method of how drama theatre arts relates, informs, connects and transfers to other subjects and disciplines.
  - 4.07(2)(d) knowledge and the ability to envision and implement the creative cyclical process, including critically responding to dramatic and/or theatrical works, the ability to create dramatic and/or theatrical works; and the ability to perform in a variety of dramatic and/or theatrical works.
- 4.07(3) The drama theatre arts educator shall facilitate students' learning in order to develop critical-thinking and reasoning skills, information literacy, collaboration, self-direction and invention skills for lifelong learning about drama theatre arts, including the personal pursuit of further experience in drama theatre arts.
- 4.07(4) The drama theatre arts educator shall self-assess and act upon feedback regarding the effectiveness of instruction, based on the achievement of students, and pursue continuous

professional development through appropriate activities and coursework and through participation in relevant professional organizations.

#### **4.08 Instructional Technology (Grades K-12)**

To be endorsed in instructional technology, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program including prescribed field experience and student teaching requirements; have completed an approved program in instructional technology; and have demonstrated technology integration competencies including, but not limited to, those specified below:

4.08(1) The instructional technology teacher is knowledgeable about technology operations and concepts and is able to:

4.08(1)(a) demonstrate introductory knowledge, skills and understanding of concepts related to technology including, but not limited to:

4.08(1)(a)(i) the nature and basic operations of technology; and

4.08(1)(a)(ii) proficiency in the use of technology.

4.08(1)(b) demonstrate continual growth in technology knowledge and skills to remain up-to-date on current and emerging technologies.

4.08(2) The instructional technology teacher is knowledgeable about planning and designing learning environments and experiences and is able to:

4.08(2)(a) identify and apply educational technology and information literacy principles associated with the development and implementation of long-and short-term instructional plans.

4.08(2)(b) provide developmentally appropriate learning opportunities that incorporate technology in addressing the diverse needs of all learners.

4.08(2)(c) apply current research on teaching and learning with technology when designing effective learning environments and experiences.

4.08(2)(d) identify and locate technology resources and evaluate them for accuracy and suitability.

4.08(2)(e) plan for the management of technology resources within the context of learning activities.

4.08(2)(f) implement strategies to manage student learning in a technology-enhanced environment.

4.08(3) The instructional technology teacher is knowledgeable about teaching, learning and the curriculum and is able to:

4.08(3)(a) develop and facilitate technology-enhanced experiences that address content standards and student technology standards.

4.08(3)(b) design and use technology to support learner-centered strategies that address the diverse needs of students including:



- 4.08(3)(b)(i) instructing students on how to collaborate, publish and interact with peers, experts and other audiences;
- 4.08(3)(b)(ii) instructing students on the use of a variety of media and formats to communicate information and ideas effectively to multiple audiences;
- 4.08(3)(b)(iii) instructing students on the use of technology resources for solving problems and for making informed decisions;
- 4.08(3)(b)(iv) designing instruction that employs technology in the development of strategies for solving real-world problems; and
- 4.08(3)(b)(v) applying technology in the development of students' higher order skills and creativity.
- 4.08(3)(c) manage student-learning activities in a technology-enhanced environment.
- 4.08(4) The instructional technology teacher is knowledgeable about assessment and evaluation and is able to:
  - 4.08(4)(a) apply technology in assessing student learning using a variety of assessment techniques.
  - 4.08(4)(b) use technology resources to collect/analyze data, interpret results and articulate findings to improve instructional practice and maximize student learning.
  - 4.08(4)(c) apply multiple methods of evaluation to determine students' appropriate use of technology resources for learning, communication and productivity.
- 4.08(5) The instructional technology teacher is knowledgeable about productivity and professional practice and is able to:
  - 4.08(5)(a) instruct students on how to utilize technology and technology tools to:
    - 4.08(5)(a)(i) enhance, apply and reinforce learning to increase productivity and to promote creativity;
    - 4.08(5)(a)(ii) construct technology-enhanced models, prepare publications and produce other creative works;
    - 4.08(5)(a)(iii) conduct research and identify the location, evaluation and collection of information from a wide variety of sources;
    - 4.08(5)(a)(iv) process data and report results; and
    - 4.08(5)(a)(v) evaluate and select new information resources and technological innovations based on appropriateness for specific tasks.
  - 4.08(5)(b) use technology resources to engage in ongoing professional development and enhance lifelong learning.
  - 4.08(5)(c) continually evaluate and reflect on professional practice to make informed decisions regarding the use(s) of technology in support of student learning.
  - 4.08(5)(d) apply technology to increase productivity.

- 4.08(5)(e) use technology to communicate and collaborate with peers, parents and stakeholders in support of student learning.
- 4.08(6) The instructional technology teacher is knowledgeable about social, ethical, legal and human issues related to technology and is able to:
  - 4.08(6)(a) demonstrate uses of technology systems, resources and applications aligned with laws, rules and policies, including those at the district and school level.
  - 4.08(6)(b) instruct students about the legal and ethical practices related to technology use and the responsible use of technology systems, information and software.
  - 4.08(6)(c) apply technology resources to enable and encourage learners with diverse backgrounds, characteristics and abilities to receive an optimal education.
  - 4.08(6)(d) promote the safe and healthy use of technology resources.
  - 4.08(6)(e) facilitate equitable access to technology resources for all students.
- 4.08(7) The instructional technology teacher shall self-assess the effectiveness of instruction, based on the achievement of students, and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

#### **4.09 English Language Arts (Grades 7-12)**

To be endorsed in English language arts, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program including prescribed field experience and student teaching requirements; have completed an approved program in English language arts; be knowledgeable about the Colorado Academic Standards in reading, writing and communicating; and have demonstrated the competencies specified below:

- 4.09(1) The English language arts educator is knowledgeable about the content of the English language arts and is able to develop English language arts skills in students based on an applicable understanding of the history and structure of the English language including, but not limited to, the impact of literary and psycholinguistic, sociolinguistic, cultural, familial and other relevant factors, and is able to:
  - 4.09(1)(a) articulate to students an understanding of the relationships between the English language arts and their applications including, but not limited to, reading, writing, speaking, listening and viewing.
  - 4.09(1)(b) select, adapt and create resources, instructional materials and coursework which provide students at all academic levels with:
    - 4.09(1)(b)(i) multiple and varied ways of reinforcing and adding to English language skills development;
    - 4.09(1)(b)(ii) opportunities to gain an understanding and appreciation of the history, structure and evolving nature of the English language;
    - 4.09(1)(b)(iii) the ability to use appropriate variations in language depending on purpose and audience; and

- 4.09(1)(b)(iv) the ability to use standard English language (e.g., usage, grammar, spelling and syntax) when communicating with and understanding others in a variety of formal and informal situations.
- 4.09(2) The English language arts educator is knowledgeable about literature written for adolescents and adults and is able to strategically and with intention present to students an age-appropriate selection of a wide and balanced variety of literary works, authors and genres including, but not limited to:
  - 4.09(2)(a) traditional and contemporary literature, including young adult literature, representing a range of cultures and viewpoints from the United States and other countries.
  - 4.09(2)(b) works of literary theory and literary criticism.
- 4.09(3) The English language arts educator is knowledgeable about appropriate, varied and high-quality literature which can demonstrate to students that literature is central to the humanities and provides a shared reference point from which questions of values, attitudes and beliefs can be explored, and is able to present opportunities for students to:
  - 4.09(3)(a) learn to enjoy and appreciate literature.
  - 4.09(3)(b) gain a critical understanding of a wide variety of literary types, styles and themes – both fiction and non-fiction.
  - 4.09(3)(c) explore, analyze, interpret and evaluate literature.
  - 4.09(3)(d) demonstrate their comprehension of texts in a variety of forms of literature and writings.
  - 4.09(3)(e) use a range of written and oral, formal and informal means of responding to literature.
  - 4.09(3)(f) gain an appreciation of literature that reflects the breadth and diversity of the human experience which serves as a mirror of their own experiences as well as a window into the experiences and perspectives of others.
- 4.09(4) The English language arts educator is knowledgeable about developing students' abilities to read strategically and is able to instruct them about skills related, but not limited to:
  - 4.09(4)(a) analyzing, identifying and clarifying the meaning of texts.
  - 4.09(4)(b) comprehending, interpreting and evaluating texts.
  - 4.09(4)(c) choosing reading materials with increasing sophistication and complexity.
  - 4.09(4)(d) understanding the synergistic relationship between reading and writing.
- 4.09(5) The English language arts educator is knowledgeable about a wide range of readings, from fiction and non-fiction print literature to non-print texts; classical literary genres to those in popular culture; and traditional to contemporary works, and is able to teach students the skills and abilities to:
  - 4.09(5)(a) make sound choices for individual reading.

- 4.09(5)(b) read independently for pleasure, learning and research.
  - 4.09(5)(c) develop individual strategies for reading and comprehending texts.
  - 4.09(5)(e) ask strategic questions, predict, infer, paraphrase and summarize what is read.
  - 4.09(5)(f) use a range of strategies to read with a critical eye to discern the craft of the written piece, rhetorical strategies, authorial intent and literary technique.
  - 4.09(5)(g) compare the development of themes, concepts and authors' writing styles by analyzing a variety of literary works.
- 4.09(6) The English language arts educator is knowledgeable about written communication and able to develop skills and abilities including, but not limited to:
- 4.09(6)(a) effective composition for different purposes and audiences, in a variety of ways and through a variety of genres.
  - 4.09(6)(b) effective writing processes (e.g., planning, drafting, revising, proofreading, editing and publishing).
  - 4.09(6)(c) effective use of the rules of written language.
  - 4.09(6)(d) appropriate and effective thinking skills (e.g., problem-solving, analysis, synthesis, evaluation, etc.) to craft written work.
- 4.09(7) The English language arts educator is knowledgeable about oral communication and is able to develop appropriate student usage thereof including, but not limited to:
- 4.09(7)(a) employing communication strategies for different purposes and audiences in a variety of formats.
  - 4.09(7)(b) utilizing appropriate oral communication processes (e.g., research, organization, presentation and incorporation of feedback).
  - 4.09(7)(c) applying elements of effective communication (e.g., clarity of thought and speech, appropriateness of language, effective use of voice and articulation, and listening skills).
  - 4.09(7)(d) employing listening and speaking as complementary processes.
- 4.09(8) The English language arts educator is knowledgeable about instructional strategies and is able to instruct so that students develop an appropriate vocabulary consisting of academic language as well as real-world language, and so that students are able to use written and oral language for a variety of communication purposes, by providing them with opportunities to:
- 4.09(8)(a) practice and gain proficiency in the art of written and oral communication for a variety of purposes and audiences.
  - 4.09(8)(b) reinforce writing and speaking skills to underscore their importance in learning and communicating.
  - 4.09(8)(c) experience thoughtful guided discourse that allows the practice of a variety of communication strategies.

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- 4.09(8)(d) be evaluated on oral presentations and written work based upon a prearranged, clearly defined set of criteria that provides fair, consistent and constructive feedback for improvement.
- 4.09(9) The English language arts educator is knowledgeable about visual communication and information processes and is able to instruct students about:
- 4.09(9)(a) active and constructive viewing and the visual representation of ideas to assure clear understanding of what is intended.
- 4.09(9)(b) critically evaluating information, media and technology.
- 4.09(9)(c) utilizing technological resources for the access, selection and application of relevant information.
- 4.09(9)(d) identifying the influence of mode and style on representation of content.
- 4.09(9)(e) identifying relevant research for various purposes and materials.
- 4.09(10) The English language arts educator is knowledgeable about technology and media and is able to incorporate them into classroom use and instruction so that students become familiar with visual communication and information processes and are able to:
- 4.09(10)(a) acquire knowledge through the use of a variety of strategies, resources, processes and technologies.
- 4.09(10)(b) judge the quality, usefulness and appropriateness of media and technology presentations.
- 4.09(10)(c) use multi-media technology to communicate their own ideas in a variety of ways.
- 4.09(10)(d) identify visual and electronic texts as significant components of the English language arts and be able to select, analyze and evaluate them based on need or usefulness.
- 4.09(11) The English language arts educator is knowledgeable about student assessments and is able to:
- 4.09(11)(a) develop a variety of ways students may demonstrate mastery appropriate to the English language arts classroom.
- 4.09(11)(b) articulate the relationship between standards, assessments, curricula and classroom instructional strategies.
- 4.09(11)(c) analyze and incorporate assessment data:
- 4.09(11)(c)(i) into the planning for individual and group instruction; and
- 4.09(11)(c)(ii) into the diagnosis of individual student and group needs to increase and/or enhance achievement including, but not limited to, remediation or acceleration.
- 4.09(11)(d) incorporate a range of clearly identified, useful, appropriate, fair and equitable assessment methods to provide students:
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4.09(11)(d)(i) feedback, guidance and instruction to increase their proficiency in reading, writing, speaking and listening;

4.09(11)(d)(ii) multiple opportunities to create products which demonstrate competence in communication through a variety of means including, but not limited to, audio/visual, written and oral presentation; and

4.09(11)(d)(iii) instruction based on assessments of students' needs and on approved standards for English language arts.

4.09(12) The English language arts educator is knowledgeable about literacy and is able to:

4.09(12)(a) provide students with extensive opportunities to acquire and use language and to evaluate literature and texts through reading, writing, speaking, listening and viewing.

4.09(12)(b) demonstrate and promote a commitment to the development of literacy and its applications.

4.09(12)(c) assist students whose first language is one other than English in developing fluency and competence in English language arts.

4.09(12)(d) develop materials and activities that promote student understanding of the synergistic interrelationship between all of the English language arts as defined in 4.09(1)(a).

4.09(12)(e) assist students in identifying and defining questions related to literature and other texts.

4.09(12)(f) effectively model to students the mastery of English oral and written language.

4.09(12)(g) select, adapt and create resources based on an assessment of student academic needs and relevant to required curricula, age grade-level expectations and levels of English-language proficiency.

4.09(12)(h) refine instruction and instructional materials based on student progress.

4.09(12)(i) create an inclusive, challenging, engaging classroom environment in which individual ideas are encouraged, acknowledged, respected and valued.

4.09(12)(j) incorporate student content standards into ongoing lesson plans.

4.09(12)(k) use assessment results to evaluate and improve teaching effectiveness and to plan for professional growth.

4.09(13) The English language arts educator is able to effectively communicate to students, parents, staff and other interested audiences about curriculum, assessment, class requirements, methods of instructional delivery and high standards and expectations for all students.

4.09(14) The English language arts educator shall self-assess the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

#### **4.10 World Languages (Grades K-12)**

To be endorsed in a world language, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program including prescribed field experience and student teaching requirements; have completed an approved program for the preparation of world language teachers; be knowledgeable about the Colorado Academic Standards for world languages; and have demonstrated the competencies specified below:

4.10(1) Language proficiency: A competent world languages teacher is proficient in the language(s) taught, according to the proficiency guidelines outlined by the American Council of the Teaching of Foreign Languages; is able to communicate effectively in interpersonal, interpretive and presentational contexts at a minimum proficiency level, equivalent to the advanced low level defined by the council's proficiency guidelines; and is able to:

4.10(1)(a) speak in the interpersonal mode of communication (except classical languages such as Greek and Latin, as there is no requirement for them to be spoken in interpersonal mode).

4.10(1)(b) interpret oral, printed and video texts and visual images by demonstrating both literal and figurative or symbolic comprehension.

4.10(1)(c) present oral and written information to audiences of listeners or readers.

4.10(2) Cultures, linguistics, literatures and concepts from other disciplines: A competent world languages teacher demonstrates understanding of the multiple content areas that comprise the field of world language learning, recognizes the changing nature of language and is able to:

4.10(2)(a) demonstrate understanding of the interrelatedness of perspectives, products and practices in the target cultures.

4.10(2)(b) demonstrate target cultural understandings and compare cultures through perspectives, products and practices of those cultures.

4.10(2)(c) identify the linguistic elements of the target language system needed to communicate in a variety of settings.

4.10(2)(d) demonstrate an understanding of linguistics and the changing nature of language, and compare language systems.

4.10(2)(e) identify distinctive viewpoints in the literary texts, films, art works and documents from a range of disciplines available only through the target language.

4.10(2)(f) demonstrate an understanding of texts on literary and cultural themes as well as interdisciplinary topics.

4.10(3) Language acquisition: A competent world languages teacher understands second language acquisition theories and their applications to teaching methodologies, and is able to:

4.10(3)(a) apply second language acquisition theories which can be used to help students develop proficiency, increase knowledge and strengthen cognitive skills.

4.10(3)(b) articulate curriculum and instruction to ensure a sequence of age-appropriate learning experiences, progressing from a simple to a more advanced use of the language.

4.10(3)(c) understand the proficiency range levels as defined by the American Council on the Teaching of Foreign Languages.

4.10(4) Diversity of learners: A competent world languages teacher understands how learners differ in their knowledge, experiences, abilities and approaches to language learning; creates interactive, engaging and supportive learning environments that encourage student self-motivation and promote their language learning and understanding; and is able to:

4.10(4)(a) demonstrate an understanding of child and adolescent development to create a supportive learning environment for each student.

4.10(4)(b) create an inclusive, caring, challenging and stimulating differentiated classroom environment in which meaningful communication in the target language occurs and in which all students learn through active participation.

4.10(4)(c) promote a learning environment that encourages lifelong learning and that goes beyond the classroom to include families and communities.

4.10(4)(d) provide learning experiences that reflect learner diversity.

4.10(4)(e) use a variety of language-appropriate resources, available technologies and current state world language standards which meet the instructional and linguistic needs of all students and foster critical and creative thinking.

4.10(5) Colorado Academic Standards in world languages in planning and instruction: A competent world languages teacher understands and uses the current Colorado Academic Standards in world languages to make instructional decisions and integrate them into curricular planning, and is able to:

4.10(5)(a) demonstrate an understanding of the Colorado Academic Standards in world languages and use them as a basis for instructional planning.

4.10(5)(b) align K-12 world language curriculum and instruction with the Colorado Academic Standards in world languages and local school district policies.

4.10(5)(c) integrate the Colorado Academic Standards in world languages into their classroom practice.

4.10(5)(d) use the Colorado Academic Standards in world languages to select and integrate texts including authentic texts, use technology, and adapt and create instructional materials for use in communication.

4.10(6) Assessment of languages and cultures and impact on student learning: A competent world languages teacher designs ongoing assessments using a variety of assessment models to show evidence of K-12 students' ability to communicate in the instructed language in interpersonal, interpretive and presentational modes; expresses understanding of cultural and literary products, practices and perspectives of the instructed language; and is able to:

4.10(6)(a) design ongoing, authentic performance assessments using a variety of assessment models for all learners.

4.10(6)(b) reflect on and analyze the results of student assessments and adjust instruction accordingly.

4.10(6)(c) use data to inform and strengthen instruction.

4.10(6)(d) interpret the results of student performances to all stakeholders in the community.



- 4.10(6)(e) build student responsibility for his/her own learning.
- 4.10(7) Professional learning and reflection: A competent teacher of world languages engages in ongoing professional learning opportunities to strengthen personal linguistic, cultural and pedagogical competence and promote reflection on practice, and in so doing is able to:
  - 4.10(7)(a) demonstrate an understanding of the value of professional learning and reflection on instructional practice and professional growth.
  - 4.10(7)(b) continually evaluate the effects of personal choices and their impact on student learning.
  - 4.10(7)(c) reflectively evaluate the effect and impact of professional learning choices on instructional practice and student achievement.
  - 4.10(7)(d) demonstrate an understanding of their professional responsibility to keep current with events relevant to the cultures of the target language.
  - 4.10(7)(e) demonstrate an understanding of professional growth opportunities such as membership in professional organizations, accessing professional journals, attending conferences and study and/or travel abroad.
- 4.10(8) Advocacy: A competent teacher of world languages articulates the role and value of languages and cultures to interact successfully in the global community and is able to:
  - 4.10(8)(a) articulate the role and value of languages and cultures in preparing students to interact in the global community.
  - 4.10(8)(b) foster relationships with school colleagues, families and agencies in the larger community to support students' language learning and student achievement.
- 4.10(9) American Sign Language (ASL). To be endorsed in American Sign Language, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program; have completed an approved program for the preparation of American Sign Language teachers including prescribe field experience and student teaching requirements; and have demonstrated the competencies for American Sign Language.
- 4.10(10) The world language educator shall self-assess the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

#### **4.11 Health (Grades K-12)**

To be endorsed in health, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program including prescribed field experience and student teaching requirements; have completed an approved program in health; be knowledgeable about the Colorado Academic Standards in comprehensive health and physical education and have demonstrated the competencies specified below:

- 4.11(1) The health educator is knowledgeable about the content of physical and mental health and is able to incorporate the following into the various aspects of health instruction and delivery, with recognition of the cultural, societal and familial sensitivity necessary to handle often controversial

subject matter with students of differing personal characteristics and circumstances, backgrounds and developmental stages:

- 4.11(1)(a) information about ecology and its interaction with society as related, but not limited to, studies in such fields as the biological and behavioral sciences.
  - 4.11(1)(b) bases for students to make informed and healthy life choices about current and continuing health issues of individuals in a society including, but not limited to: physical, emotional and social health; alcohol, tobacco and other controlled substances; prescription medication; wellness, nutrition and exercise; disease prevention and control; and communicable and non-communicable diseases.
  - 4.11(1)(c) information on individual rights, options and responsibilities with regard to health care.
  - 4.11(1)(d) information about physical and psychological human growth and development, as well as the status of and matters related to individual, self-monitored and family health, as relevant and appropriate to a health curriculum and program and the age and/or grade level of students.
- 4.11(2) The health educator is knowledgeable about evaluation and identification of criteria for evaluation and is able to articulate effectively to students regarding the use of valid and reliable health information and resources including, but not limited to:
- 4.11(2)(a) consumer health; public and school health care programs; informed selection of health products and services; consumer protection agencies and other related resources; health fallacies and superstitions; health insurance and plans; health care systems; health care-related technology; and accurate information-technology and other informational sources.
  - 4.11(2)(b) identification of emerging health problems and issues in general, and specifics related to urban, suburban and rural areas.
- 4.11(3) The health educator is knowledgeable about and is able to effectively articulate to students the dynamics of accidents and how to create conditions conducive to safe living.
- 4.11(4) The health educator is knowledgeable about and able to effectively promote health and health care careers to students.
- 4.11(5) The health educator must be able to effectively integrate into instruction the following skills: collaboration, critical thinking and reasoning, information literacy, self-direction and invention.
- 4.11(6) The health educator shall self-assess the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

#### **4.12 Family and Consumer Sciences (Grades 7-12)**

To be endorsed in family and consumer sciences, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program including prescribed field experience and student teaching requirements, which must include but not be limited to general career/technical knowledge about the world of work and the skill and processes that cut across industries, as well as industry-specific knowledge and demonstrations of proficiency in the use of a variety of technological applications in a lab and/or natural setting; have completed an approved program in family and consumer sciences; and have demonstrated the competencies listed below:

4.12(1) The family and consumer sciences educator must have extensive preparation in family and consumer sciences and be knowledgeable about and able to effectively instruct students regarding the following content areas:

4.12(1)(a) human development and parenting including, but not limited to:

4.12(1)(a)(i) theories, principles and sequences of human development – prenatal through late adulthood – and family structures and functions, as they influence, support and/or inhibit human development;

4.12(1)(a)(ii) the family as the basis of a strong society including, but not limited to, the historical and cultural elements of family structures; what is essential for a healthy marriage (i.e., commitment and determination to build a long-lasting relationship); role expectations; nuclear and extended family interactions; and universal core values (e.g., caring, responsibility, respect, trust, relationships, et.al.);

4.12(1)(a)(iii) cultural and individual community differences; social issues; ethical conduct; and legal rights, obligations and responsibilities;

4.12(1)(a)(iv) selection of a spouse and development of a parenting partnership;

4.12(1)(a)(v) developmentally appropriate parenting skills including, but not limited to nurturing, intellectual and creative stimulation; health, nutrition and exercise; safety and constructive discipline of children; and

4.12(1)(a)(vi) strategies for balancing work and family life including, but not limited to time and financial management and criteria for evaluating family support services (e.g., child and elder care).

4.12(1)(b) nutrition and foods including, but not limited to:

4.12(1)(b)(i) food chemistry, preparation, packaging, food allergies, the global market and biotechnology;

4.12(1)(b)(ii) dietary elements and determination of adequacy; sources and functions of nutrients; criteria for making appropriate nutritional, fitness/exercise and wellness choices -- with recognition given to cultural considerations and style of life – and health and nutrition-related issues, conditions and diseases;

4.12(1)(b)(iii) food safety, personal hygiene and safety practices/standards according to industry standards, including official and/or accepted industry hygiene standards; and

4.12(1)(b)(iv) use of cooking tools and equipment; methods and terminology; use and conversion of recipes; incorporation of research, preparation, product and general technology; evaluation, use and preparation of convenience foods; and the basic skills of food preparation, balance, portion control and presentation.

4.12(1)(c) resource management including, but not limited to:

4.12(1)(c)(i) personal finance management principles and skills of the various life stages, such as budgeting, banking, saving and investment, credit (its use and misuse), insurance, taxes, estate planning and consideration of the effect of legislation, public policy and economic conditions on personal financial choices;

- 4.12(1)(c)(ii) consumer market skills such as rights and responsibilities, laws and public policy, comparative shopping, evaluation of advertising claims and consumer complaints, resources and options;
- 4.12(1)(c)(iii) consumer resource management skills such as values and goals, community resources, sound criteria for decision-making and information, technology and human resources;
- 4.12(1)(c)(iv) the active role consumers can play in business and public decision-making and policy-formation with regard to housing, clothing, transportation, energy conservation, environmental issues, etc.;
- 4.12(1)(c)(v) the principles and elements of design as applied to clothing and the housing environment and the consideration and selection of clothing and housing, as based on historical, psychological, physical, social and cultural needs in accordance with personal preference; and
- 4.12(1)(c)(vi) selection, use, care and disposal of fibers, fabrics and finishes as specifically applied to clothing and to the housing environment.
- 4.12(1)(d) interpersonal relationships including, but not limited to:
  - 4.12(1)(d)(i) individual self-concept, wellness and responsible decision-making related to personal choices throughout various life stages in areas such as substance abuse, sexuality, violence and conflict resolution;
  - 4.12(1)(d)(ii) personal goal-setting and decision-making; work ethic; communication, leadership, teamwork and negotiations skills; and coping strategies to handle and manage peer pressure, change and crisis situations; and
  - 4.12(1)(d)(iii) cultural and style of life choices, social issues, and legal and ethical rights and responsibilities in a variety of life-affecting situations.
- 4.12(2) The family and consumer sciences educator is able to:
  - 4.12(2)(a) use a variety of applicable assessment strategies to determine the learning needs, comprehension and levels of experience of participating students.
  - 4.12(2)(b) design programs and activities for students that incorporate core and other academic skills and abilities with career/technical content to provide students relevant and current information about the key issues, concepts, competencies and skills necessary for personal application by the student and/or for work/employment in a specific industry.
  - 4.12(2)(c) instruct students about employment basics and employability skills, family and consumer studies career pathways and qualities necessary to function in the work place.
  - 4.12(2)(d) inform students about careers in family and consumer sciences professions and related fields, such as service-oriented industries, and about the role professional organizations play in the field.
  - 4.12(2)(e) evaluate, purchase and maintain an inventory of appropriate equipment, technology, materials and products.

- 4.12(2)(f) demonstrate for and instruct students about necessary safety practices and procedures.
- 4.12(2)(g) demonstrate for and instruct students in the proper identification, storage, handling, use and disposal of food.
- 4.12(2)(h) articulate to students a well-founded philosophy regarding career and technical education to keep students aware of current issues in the field and present relevant and appropriate issues with clarity and without bias.
- 4.12(2)(i) arrange for and supervise relevant and appropriate experiences and opportunities in simulated or real-world environments to help students base their decision-making on first-hand knowledge and sound criteria, by providing:
  - 4.12(2)(i)(i) coordination for cooperative/internship programs and off-site experiences for students by maintaining business/industry/inter-and intra-school partnerships and/or other community and school district contacts;
  - 4.12(2)(i)(ii) students with a wide variety of opportunities to gain experience with and be able to exercise initiative in applying the skills and abilities required in family and consumer sciences, and to earn awards and recognition, through participation in student vocational and/or community service organizations; and
  - 4.12(2)(i)(iii) supervision of students during community service, travel, conferences and related instructional family and consumer sciences activities.
- 4.12(3) The family and consumer sciences educator is able to demonstrate the value of family and consumer sciences professions by seeking professional development and by remaining current in the field and participating in appropriate professional organizations.
- 4.12(4) The family and consumer sciences educator is able to develop additional resources, as appropriate and necessary, from and within the community and the school itself.
- 4.12(5) The family and consumer sciences educator shall self-assess the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

#### **4.13 Technology Education (Grades 7-12)**

To be endorsed in technology education, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program including prescribed field experience and student teaching requirements; have completed an approved program in technology education; and have demonstrated the competencies specified below:

- 4.13(1) Knowledge: The beginning technology educator must have:
  - 4.13(1)(a) a basic understanding of the history of technology education and the historical development and trends of technology and technology education.
  - 4.13(1)(b) extensive preparation in technology systems and processes and demonstrate applied knowledge with respect to the following areas:
    - 4.13(1)(b)(i) communication/information including verbal, written, graphic and electronic components;

- 4.13(1)(b)(ii) transportation including power, energy and mechanical systems; and
- 4.13(1)(b)(iii) production including construction, manufacturing, authoring, design and prototyping.
- 4.13(1)(c) additional preparation and demonstrated applied knowledge in the natural physical sciences, including environmental science, as used in technological systems and processes.
- 4.13(1)(d) additional preparation and demonstrated applied knowledge in mathematics as used in technological systems and processes.
- 4.13(1)(e) extensive preparation in the principles of contextual learning methodology.
- 4.13(1)(f) a knowledge and understanding of workforce preparation documents and employability skills and standards.
- 4.13(1)(g) a basic understanding of the principles of high-productivity organizations from business and industry.
- 4.13(1)(h) a basic understanding of the economic, political and legal consequences inherent within the application of technological systems and processes to our society.
- 4.13(1)(i) extensive preparation in application of the various tools accessible by students to facilitate improved self-learning.
- 4.13(1)(j) a basic understanding of the methodologies of research into projected developments and applications of emerging technologies.
- 4.13(1)(k) an understanding of good questioning skills and techniques to be used with students and peers to collect, organize and interpret information.
- 4.13(1)(l) the knowledge and understanding to organize and manage a student organization.
- 4.13(2) Performance: The beginning technology educator is able to:
  - 4.13(2)(a) manage all student work areas in a safe and prudent manner and guide students in the safe use of tools, systems and processes in school-based and work-based learning sites.
  - 4.13(2)(b) guide students to become knowledgeable in:
    - 4.13(2)(b)(i) the application of academic concepts from math, science and communications as they apply to technological systems and processes;
    - 4.13(2)(b)(ii) the allocation of resources such as time, money, materials, facilities and human resources;
    - 4.13(2)(b)(iii) the acquisition, evaluation, organization, interpretation and communication of information related to technological systems and processes;
    - 4.13(2)(b)(iv) the selection and application of technology appropriate to tasks;
    - 4.13(2)(b)(v) the maintenance of systems of information, technology and records; and

- 4.13(2)(b)(vi) the application of relevant conflict resolution techniques as applied to the workplace.
- 4.13(2)(c) work as a team member in conjunction with academic and other occupational educators to develop systems that support learning across curricular disciplines.
- 4.13(2)(d) demonstrate competency in the management of equipment, materials, supplies and people.
- 4.13(2)(e) demonstrate good questioning skills and techniques to be used with students and peers to collect, organize and interpret information.
- 4.13(2)(f) employ interpersonal and organizational skills to develop an ongoing working relationship with community business and industry partners.
- 4.13(2)(g) communicate the possible career pathways for students entering an occupation in the communications, transportation, architecture, construction, manufacturing and environmental areas.
- 4.13(2)(h) guide students in the use of communication technologies to research occupational clusters occupational opportunities.
- 4.13(2)(i) guide students to develop problem-solving techniques or adopt problem-solving techniques from other sources.
- 4.13(2)(j) demonstrate the proper use of tools, systems and processes appropriate to the course content with respect to the acceptable standards of business and industry.
- 4.13(2)(k) construct individual and cooperative learning experiences which integrate school-based and work-based learning for students utilizing student-centered approaches.
- 4.13(2)(l) reinforce the academic concepts by demonstrating their practical applications.
- 4.13(3) The technology educator shall self-assess the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

#### **4.14 Secondary Mathematics (Grades 7-12)**

To be endorsed in secondary mathematics, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program, including prescribed field experience and student teaching requirements; have completed an approved program in mathematics; be knowledgeable about the Colorado Academic Standards in mathematics in grades 7 through 12; and have demonstrated the competencies specified below:

- 4.14(1) Develop in students an understanding and use of:
  - 4.14(1)(a) number sense, properties and operations.
  - 4.14(1)(b) patterns, functions and algebraic structures.
  - 4.14(1)(c) measurement.
  - 4.14(1)(d) data analysis, statistics and probability.

- 4.14(1)(e) functions and use of variables.
- 4.14(1)(f) shape, dimension and geometric relationships.
- 4.14(2) The mathematics educator is able to effectively demonstrate to students and instruct:
  - 4.14(2)(a) approaches to problem-solving that utilize mathematical content in identifying, analyzing, formulating and solving problems that occur in mathematical processes and everyday situations.
  - 4.14(2)(b) the utilization of mathematical ideas, both verbally and in writing, using both everyday language and mathematical terminology.
  - 4.14(2)(c) the utilization of verbal and written discourse, between teacher and students and among students, to develop and extend students' mathematical understanding.
  - 4.14(2)(d) the construction and evaluation of mathematical conjectures and arguments to validate one's own mathematical thinking.
  - 4.14(2)(e) independent study in mathematics.
  - 4.14(2)(f) the use of mathematics in studying patterns and relationships.
  - 4.14(2)(g) the interrelationships within mathematics; how to connect concrete, pictorial and abstract representations; and the connections between mathematics and other disciplines and real-world situations through the selection of appropriate applications from such fields as natural sciences, social sciences, business and engineering, and is able to:
    - 4.14(2)(g)(i) utilize a wide variety of resource materials, including, but not limited to, manipulative materials, graphing calculators, computers and other technologies as tools in learning and for the application(s) of mathematics;
    - 4.14(2)(g)(ii) utilize assessment data to monitor students' acquisition of mathematical skills and abilities and in the process of determining appropriate delivery of instruction based on identified student need and to select appropriate mathematical tasks to reinforce and promote students' development of mathematical concepts and skills;
    - 4.14(2)(g)(iii) create an engaging and effective environment in which all students develop mathematically in order to participate more fully in a technologically based society;
    - 4.14(2)(g)(iv) create an environment in which reflection, uncertainty and inquiry are incorporated in the learning of mathematical skills, abilities and concepts; and
    - 4.14(2)(g)(v) apply appropriate knowledge of current research in the teaching and learning of mathematics and incorporate national, state and local guidelines related to mathematics instruction.
- 4.14(3) The mathematics educator shall consistently seek out professional development in the field of mathematics, which can provide enhanced knowledge, skills and abilities in the content area, and participate in professional organizations appropriate and relevant to the field.

**4.15 Music (Grades K-12)**



To be endorsed in music, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program including prescribed field experience and student teaching requirements; have completed an approved program in music; be knowledgeable about the Colorado Academic Standards in music; and have demonstrated the competencies specified below:

- 4.15(1) The music educator is knowledgeable about the content and creative processes of music and is able to:
- 4.15(1)(a) teach the historical and cultural context of music including, but not limited to, global musical styles, techniques and traditions over time and acknowledging music in society as creative, expressive, communicable and social.
  - 4.15(1)(b) use a variety of approaches to critically analyze, observe and critique a variety of styles, genres, aesthetics and technical aspects of music.
  - 4.15(1)(c) develop music literacy in students, demonstrating ways to read, write and communicate using the language of music.
  - 4.15(1)(d) provide informed demonstration and identification of a variety of techniques and styles of music with confidence, expression, accuracy and intent.
  - 4.15(1)(e) use a variety of approaches to teach students to design, write, problem-solve and innovate to find their own unique musical voice.
- 4.15(2) The music educator is able to instruct about, effectively demonstrate and provide experiences for students in various areas of music pedagogical theory and practice including, but not limited to:
- 4.15(2)(a) determining and interpreting meaning in musical works.
  - 4.15(2)(b) methods of teaching music to students, as age and grade appropriate, and to other educators, regarding the direction and selection of musical repertoire; communication of ideas through music; distinguishing musical forms and styles; creation of a variety of musical works; employing skills related to musical performances; evaluation of musical works and relating music to diverse cultures.
  - 4.15(2)(c) knowledge and method of how music relates, informs, connects and transfers to other subjects and disciplines.
  - 4.15 (2)(d) knowledge and the ability to envision and implement the creative cyclical process, including applying and demonstrating a variety of music theory skills, creating musical works; expressing music in a performance setting; and critiquing, evaluating and refining musical works.
- 4.15 (3) The music educator shall facilitate students' learning in order to develop critical-thinking and reasoning skills, information literacy, collaboration, self-direction and invention skills for lifelong learning about music including the personal pursuit of further experience in music.
- 4.15 (4) The music educator shall self-assess and act upon feedback regarding the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

**4.16 Physical Education (Grades K-12)**

To be endorsed in physical education, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program including prescribed field experience and student teaching requirements; have completed an approved program in physical education; be knowledgeable about the Colorado Academic Standards in comprehensive health and physical education; and have demonstrated the competencies specified below:

4.16(1) The physical education educator is knowledgeable about the content of physical education and is able to:

4.16(1)(a) articulate effectively to students, other educators and interested stakeholders the socio-cultural, philosophical and psychological foundations of physical education, including the historical development of play, games, dance and sports, and the study of human growth and development.

4.16(1)(b) effectively articulate the physical and biological science foundations of physical education including, but not limited to, such areas as human anatomy, exercise physiology, kinesiology and health.

4.16(1)(c) effectively instruct students about the fundamentals of physical movement including the patterns and types of movement, gymnastics, tumbling, games, team and individual sports, physical fitness and perceptual motor activities.

4.16(2) The physical education educator is knowledgeable about and able to demonstrate and effectively instruct students at appropriate age/grade levels about:

4.16(2)(a) four or more individual and/or dual activities including, but not limited to, wrestling, track and field, tennis, bowling, golf, badminton, archery, rodeo, gymnastics, aquatics, rhythm, dance, weight-training and fitness.

4.16(2)(b) four or more team sports and/or games including, but not limited to, baseball, softball, basketball, lacrosse, field hockey, water polo, flag and contact football, soccer, volleyball and skiing.

4.16(3) The physical education educator is knowledgeable about and able to demonstrate the organization, planning, administering, teaching and evaluating of a program of physical education including, but not limited to:

4.16(3)(a) adaptive physical education.

4.16(3)(b) first aid.

4.16(3)(c) prevention and care of athletic injuries.

4.16(3)(d) rules and officiating.

4.16(3)(e) analyses and techniques involved with competitive sports.

4.16(4) The physical education educator provides students with motivation and encouragement to establish attitudes and behaviors and to pursue activities which will result in lifetime fitness.

4.16(5) The physical education educator is able to effectively integrate into instruction the following skills: collaboration, critical thinking and reasoning, information literacy, self-direction and invention.

- 4.16(6) The physical education educator shall self-assess the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

**4.17 Science (Grades 7-12)**

To be endorsed in science, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program including prescribed field experience and student teaching requirements; have completed an approved program in science; be knowledgeable about the Colorado Academic Standards in science; and have demonstrated the competencies specified below:

- 4.17(1) The science educator is knowledgeable about the content, concepts and skills of the sciences and is able to effectively instruct students regarding physical, life and earth sciences and applicable mathematics.

- 4.17(2) The science educator must have completed an area or areas of concentration in, demonstrate knowledge of, and effectively instruct students about one or more areas selected from:

4.17(2)(a) physics including, but not limited to, general and experimental physics, mechanics, electricity, magnetism, quantum and atomic physics, sound, and optics.

4.17(2)(b) chemistry including, but not limited to, general chemistry, organic chemistry, inorganic chemistry, analytical chemistry and physical chemistry.

4.17(2)(c) biology including, but not limited to, general biology, environmental biology, biotechnology, genetics, evolution, human anatomy, ecology, molecular biology, and matter and energy in living systems.

4.17(2)(d) earth and space science including, but not limited to, historical and physical geology, astronomy, environmental science, meteorology, oceanography, geomorphology, stratigraphy, mineralogy and earth systems.

4.17(2)(e) general science including, but not limited to, general chemistry, physics, biology, earth and space science, environmental science and applicable mathematics.

- 4.17(3) The science educator is knowledgeable about and is able to:

4.17(3)(a) effectively articulate to students current issues and events affecting or affected by science; age-/grade-appropriate controversial topics from multiple science perspectives, including historical and philosophical bases; and an analytical approach to students with clarity and without bias.

4.17(3)(b) effectively demonstrate to students and instruct students on the use of a wide variety of science tools, primary and secondary source materials, print resources, laboratory and natural settings, and technological resources.

4.17(3)(c) effectively instruct students about the design of experiments; data reporting; use of appropriate and relevant technology; interpretation of results; and the steps which may be taken in the presentation of the processes involved and the results obtained.

4.17(3)(d) effectively instruct students in core scientific practices which include, but are not limited to, asking questions and defining problems; analyzing and interpreting data; engaging in argument from evidence; constructing explanations and designing solutions; developing and using models; planning and carrying out investigations; obtaining,

evaluating, and communicating information; and using mathematics and computational thinking.

- 4.17(3)(e) effectively integrate technology into instructional and assessment strategies, as appropriate to science education and the learner.
  - 4.17(3)(f) effectively instruct students about the interconnected nature of science as it is practiced and experienced in the real world, including the connections between and among the various science disciplines and within other disciplines.
  - 4.17(3)(g) effectively demonstrate for and instruct students about the basic elements of the nature of science including, but not limited to, inquiry, curiosity, discovery, openness to new ideas and skepticism.
  - 4.17(3)(h) effectively communicate to students the historical and dynamic nature of science.
  - 4.17(3)(i) demonstrate for students the connection between an inquiry-based lesson and a larger conceptual-based module and the linkage of both to state-approved student science academic standards.
  - 4.17(3)(j) effectively demonstrate for and instruct students in the linkage(s) between curriculum, instruction and assessment as they relate to state-approved student science academic standards.
  - 4.17(3)(k) effectively demonstrate for and instruct students about safety considerations in science instruction and in the science classroom including, but not limited to, proper use, storage and disposal or maintenance of biological, chemical and scientific equipment and specimens.
  - 4.17(3)(l) instruct and supervise students in the proper preparation and use of laboratory equipment and materials.
  - 4.17(3)(m) evaluate laboratory settings, equipment, materials and procedures to identify and manage the resolution of potential safety hazards.
  - 4.17(3)(n) provide solutions to equipment problems and be able to make minor adjustments in the operation of equipment.
  - 4.17(3)(o) incorporate into planning information related to state and federal regulations, legal issues and guidelines pertaining to scientific materials and specimens.
- 4.17(4) The science educator shall self-assess the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

#### **4.18 Social Studies (Grades 7-12)**

To be endorsed in social studies, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program including prescribed field experience and student teaching requirements; have completed an approved program in social studies; be knowledgeable about and able to instruct students in the Colorado Academic Standards in social studies; and have demonstrated the competencies specified below:

- 4.18(1) The social studies educator is knowledgeable about social studies including history, geography, political science and economics, and is able to effectively instruct students about:

- 4.18(1)(a) history including, but not limited to, Colorado, the United States and world history.
  - 4.18(1)(b) geography including, but not limited to, cultural and physical geography, human geography and globalization.
  - 4.18(1)(c) political science including, but not limited to, that of the United States and comparative state, local and other national governments.
  - 4.18(1)(d) economics including, but not limited to, that of comparative economic theories, applications and institutions, past and present; micro-, macro-and global economics; and personal financial literacy.
  - 4.18(1)(e) the behavioral and social sciences including, but not limited to, psychology, sociology, anthropology and concepts related and integral to the historical and current organization of culture and society.
- 4.18(2) The social studies educator is knowledgeable about and is able to:
- 4.18(2)(a) effectively demonstrate and instruct students about civil discourse in the classroom, including the utilization of oral and written communication and presentation.
  - 4.18(2)(b) effectively analyze social and historical events from multiple perspectives for students and articulate an appropriate analytical approach with clarity and balance and without bias.
  - 4.18(2)(c) effectively integrate discussion of and address with students grade level/age-appropriate current events and issues, including controversial issues, with clarity and balance and without bias.
  - 4.18(2)(d) effectively instruct students about the use of primary and secondary source documents acquired through appropriate use of technology and other relevant means as part of informed research, and in the acquisition and enhancement of knowledge and skills.
  - 4.18(2)(e) effectively teach students the skills of data analysis and interpretation.
  - 4.18(2)(f) promote to students appropriate, relevant, positive and productive community service and experiences.
  - 4.18(2)(g) provide students with identifiable connections between the various social science disciplines and other disciplines.
  - 4.18(2)(h) implement informal and formal assessment tools relevant and appropriate to the social studies classroom, and apply assessment data to planning for student instruction.
  - 4.18(2)(i) effectively demonstrate and instruct students about elements of social studies applications including, but not limited to, inquiry, an openness to new ideas, skepticism, analysis, problem-solving, decision-making and active citizenship, and provide opportunities for students to utilize these skills.
  - 4.18(2)(j) integrate into instruction and provide opportunities for students to develop the skills of collaboration, critical-thinking and reasoning, information literacy, self-direction and invention.

- 4.18(3) The social studies educator shall self-assess the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

**4.19 Speech (Grades 7-12)**

To be endorsed in speech, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program including prescribed field experience and student teaching requirements; have completed an approved program in speech; and have demonstrated the competencies specified below:

- 4.19(1) The speech teacher is knowledgeable about speech and communication and is able to:
- 4.19(1)(a) articulate and demonstrate the principles of effective communication to a wide variety of audiences.
  - 4.19(1)(b) effectively demonstrate and instruct students about effective inter- and intra-personal communication methods and techniques including, but not limited to, nonverbal communication, conflict management, emphatic understanding and responding.
  - 4.19(1)(c) effectively demonstrate and instruct students about techniques for effective group communication including, but not limited to, small-group communication, organizational communication, group process leadership, critical listening, discussion, inquiry, problem-solving and decision-making.
  - 4.19(1)(d) effectively demonstrate and instruct students about techniques utilized in non-print media including, but not limited to, radio and television, film-making, mass media, mass communication and the evaluation, effect and aesthetic dimensions of media.
  - 4.19(1)(e) articulate and demonstrate techniques used in effective public communication including, but not limited to, those of voice and diction, public address, (including preparation, rehearsal, presentation and feedback), oral interpretation, rhetoric, forensics, debate and readers' theater.
- 4.19(6) articulate and instruct students about elements of the psychology of communication including, but not limited to, effective methods of persuasion, mass communication, semantics, sociolinguistics, persuasive campaigns, social movements, textual and impact analysis (i.e., consumer affairs), argumentation, motivation, clarification, aesthetic strategies and the adaptation of communication strategies to a wide variety of situations, settings and audiences.
- 4.19(7) demonstrate to students effective intercultural communication strategies based on, but not limited to, respect for individual differences related to ethnicity, cross-cultural, economic and gender differences, and for other communication studies and the elimination of stereotyping.
- 4.19(8) effectively demonstrate to students methods of teaching speech communication including, but not limited to, language acquisition, communication in classroom environments, directing forensics and debate, teaching with group process, creative drama, approaches to listening, overcoming communication anxiety and performance evaluation.
- 4.19(9) the speech educator shall self-assess the effectiveness of instruction, based on the learning and achievement of students, and pursue continuous professional development through appropriate activities, including speech-related activities involving students, coursework, and participation in relevant professional organizations.

**4.20 Dance (Grades K-12)**

To be endorsed in dance, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program including prescribed field experience and student teaching requirements; have completed an approved program in dance; be knowledgeable about and able to instruct students in the Colorado Academic Standards in dance; and have demonstrated the competencies specified below:

4.20(1) The dance educator is knowledgeable about the art of dance and is able to:

- 4.20(1)(a) teach the historical and cultural context including, but not limited to, global dance styles and traditions over time, acknowledging dance in society as creative, expressive, communicable and social.
- 4.20(1)(b) instruct students to use criticism and analysis to reflect upon and understand new works, reconstructions and masterpieces.
- 4.20(1)(c) apply the skillful use of dance literacy and the use of traditional and/or non-traditional notation systems via words, symbols and/or media technology.
- 4.20(1)(d) implement the choreographic process as the art of making dance using form, intent, dynamics and principles of time, space and energy, structure and design.
- 4.20(1)(e) help students develop the skills and technique that produce competence and confidence during performance, and the ability to communicate choreographic intent.

4.20(2) The dance educator is able to instruct, effectively demonstrate and provide experiences for students in various areas of dance pedagogical theory and practice including, but not limited to:

- 4.20(2)(a) dance theory aligned with safe and developmentally appropriate pedagogical approaches.
- 4.20(2)(b) methods of teaching dance to students, as age and grade appropriate, and to other educators as related, but not limited to, the creative process; direction and selection of all performance repertoire and productions in the school setting; and performance, evaluation, choreography, and cultural and historical context.
- 4.20(2)(c) knowledge and method of how dance relates, informs, connects and transfers to other subjects and disciplines.
- 4.20(2)(d) knowledge and the ability to envision and implement the creative cyclical process, including the skills of movement, technique and performance; the ability to create, compose, and choreograph; an understanding of historical and cultural context, and the ability to reflect, connect and respond.

4.20(3) The dance educator shall facilitate students' learning in order to develop critical-thinking and reasoning skills, information literacy, collaboration, self-direction and invention skills for lifelong learning about dance including the physical benefits and personal pursuit of further experience in dance.

4.20(4) The dance educator shall self-assess and act upon feedback regarding the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

#### **4.21 Trade and Industry (Grades 7-12)**

To be endorsed in trade and industry, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program including prescribed field experience and student teaching requirements; have completed an approved program in trade and industry education; and have demonstrated the competencies specified below:

4.21(1) The trade and industry educator is knowledgeable and able to effectively instruct students about the content of trade and industry education including, but not limited to:

4.21(1)(a) concepts, skills, abilities and expectations relevant to trades and industries in general.

4.21(1)(b) the occupational (career and/or technical) content areas which are appropriate for instruction in secondary schools.

4.21(2) The trade and industry educator is knowledgeable and able to effectively instruct students in one or more occupational (career and/or technical) content areas.

4.21(3) The trade and industry educator is able to:

4.21(3)(a) instruct students about the dynamic effects of trade and industry and vocational (career and technical) education on the history and development of society(ies).

4.21(3)(b) demonstrate and effectively instruct students about the skills, abilities and other aspects requisite for career development, proficiency and for further training and education in one or more specific occupational content areas including, but not limited to:

4.21(3)(b)(i) the relationship between an occupation and its practical application(s) and incorporation of academic subject matter, concepts, skills and abilities including, but not limited to, communication, problem-solving, inquiry and analysis relevant to a wide range of work settings;

4.21(3)(b)(ii) the safe, efficient and effective use of state-of-the-art and other available, still-utilized tools, equipment, materials and resources relevant to the content area and in a variety of settings and circumstances;

4.21(3)(b)(iii) the appropriate integration and applications of relevant technology within the occupational content area;

4.21(3)(b)(iv) the relevant and current standards, practices and policies affecting the occupational content area and trade and industry in general, and relevant practical applications;

4.21(3)(b)(v) business and management practices including, but not limited to, planning; organizing; managing; the acquisition of equipment, machinery, tools and supplies and their maintenance and storage; record-keeping; budgeting; accounting; marketing; and practical applications in a variety of work-place settings;

4.21(3)(b)(vi) the relationship between business and economics and producers, consumers, communities, states and the country; and

4.21(3)(b)(vii) ethical considerations including, but not limited to, high professional standards, a strong work ethic, personal responsibility and lifelong learning.

4.21(4) The trade and industry educator must provide students with:



- 4.21(4)(a) a wide variety of instructional approaches adapted to meet the needs of a diverse student population.
  - 4.21(4)(b) a safe and engaging instructional space, which includes the establishment and implementation of appropriate and relevant rules and practices related to appropriate maintenance, storage, distribution and use of equipment, machinery, tools, materials and supplies.
  - 4.21(4)(c) a wide variety of engaging hands-on cognitive and psychomotor experiences relevant to the content area, including the use of related technology to optimize learning and its practical applications.
  - 4.21(4)(d) appropriate and state-of-the art equipment, supplies and materials, within fiscal means.
  - 4.21(4)(e) assessments and self-assessments that promote occupational skills' proficiency.
- 4.21(5) The trade and industry educator is knowledgeable about and participates in:
- 4.21(5)(a) life-long learning and the continuing acquisition of current information relative to the occupational content area, and the improvement of effective instructional delivery of that content area to students.
  - 4.21(5)(b) curriculum implementation across disciplines and articulation between secondary and post-secondary education programs, both occupational and academic.
  - 4.21(5)(c) the advocacy for, formation and/or ongoing development of and/or implementation of appropriate content-related student organizations and promotion of student participation in appropriate occupational and professional organizations.
- 4.21(6) The trade and industry educator shall self-assess the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

#### **4.22 Culturally and Linguistically Diverse Education (Grades K-12)**

To be endorsed in culturally and linguistically diverse (CLD) education, an applicant must hold an earned bachelor's degree or higher from an accepted institution of higher education; must hold a Colorado initial or professional teacher or special services license; and must have demonstrated competencies specified below by completion of a Colorado State Board of Education-approved program for the preparation of an educator of culturally and linguistically diverse student populations in accordance with 3.02(1) or by verification of 24 semester hours of specific coursework from an accepted institution of higher education as determined by the Department of Education through a transcript review in accordance with 3.02(2)(a).

- 4.22(1) The educator of CLD student populations must be knowledgeable about, understand and be able to use the major theories, concepts and research related to language acquisition and language development for CLD students. In support of student learning, the candidate must demonstrate understanding and ability to implement research-based knowledge about:
- 4.22(1)(a) linguistics that include orthography, phonology, morphology, vocabulary, syntax, semantics and pragmatics applied to English language development for culturally and linguistically diverse students.
  - 4.22(1)(b) instructional practices that support acquisition of English language as an additional language for CLD students.

- 4.22(1)(c) written and oral discourse that includes intention and functions of speech, genres and organizational features and patterns.
- 4.22(1)(d) sociolinguistics that include cultural references, register, varieties of dialects and accents, and nonverbal communication.
- 4.22(2) The educator of CLD student populations must be knowledgeable about, understand and be able to apply the major theories, concepts and research related to research-based literacy development for CLD students. In support of student learning, the CLD educator must demonstrate understanding and ability to implement research-based knowledge about:
  - 4.22(2)(a) research-based literacy instruction including the identification and use of linguistic interdependence to support development of the components of language development (listening, speaking, reading, writing and critical-thinking) in English for CLD students.
  - 4.22(2)(b) the basic elements of research-based literacy and the ability to provide effective instruction that is systematic, explicit, comprehensive and effective in support of the English language developmental needs of CLD students.
  - 4.22(2)(c) language and literacy development for CLD students for social and instructional purposes in the school setting, with an emphasis on communication of information, ideas and concepts necessary for academic success, particularly in language arts, mathematics, science and social studies.
  - 4.22(2)(d) the contribution of native language to acquisition of English as an additional language.
  - 4.22(2)(e) the distinction between language differences and learning disabilities.
- 4.22(3) The educator of CLD student populations must understand and implement strategies and select materials to aid English language and content learning. In support of student learning, the CLD educator must demonstrate understanding of and the ability to implement research-based knowledge about:
  - 4.22(3)(a) the functions of the English language to second language learners to support their development of both social and academic language skills.
  - 4.22(3)(b) effective instructional techniques, methodologies and strategies to develop English language literacy and to meet the diverse needs of second language learners, including those students with learning disorders.
  - 4.22(3)(c) effective instruction and instructional planning that is systemic, sequential, well-articulated and delivered in an engaging environment.
  - 4.22(3)(d) selection and utilization of instructional materials and resources that are age-, grade level- and language proficiency-appropriate, that are aligned with the curriculum, English language proficiency standards and English language arts content standards, and that maintain and/or improve student achievement.
  - 4.22(3)(e) maintenance and support of high academic performance standards and expectations for CLD student populations.

- 4.22(3)(f) providing instructional strategies that integrate the development of English language literacy and content literacy to improve student access to content curricula, particularly in language arts, mathematics, science and social studies.
- 4.22(4) The educator of CLD student populations must be knowledgeable about, understand and be able to apply the major theories, concepts and research related to culture, diversity and equity in order to support academic access and opportunity for CLD student populations. In support of student learning, the CLD educator must be able to demonstrate knowledge and understanding of:
  - 4.22(4)(a) Colorado state law and federal law, history and socio-political context related to CLD student populations, education, multicultural education and bilingual education.
  - 4.22(4)(b) the role of culture in language development and academic success.
  - 4.22(4)(c) the relation of cultural identity and heritage language to English language learning and academic success.
  - 4.22(4)(d) the contribution of heritage language maintenance to the development of English language literacy.
  - 4.22(4)(e) the relationship of culture to family and community involvement in schools in order to communicate, collaborate and enhance parental involvement.
- 4.22(5) The educator of CLD student populations must be knowledgeable about, understand and be able to use progress monitoring in conjunction with formative and summative assessments to support student learning. In support of student learning, the candidate must demonstrate knowledge and ability to:
  - 4.22(5)(a) assist content teachers in the interpretation of summative assessments of content knowledge, including national content assessments and Colorado-approved content assessments, for the purpose of guiding instruction and learning for CLD students.
  - 4.22(5)(b) administer and interpret the results of summative assessments of English language proficiency, including national and Colorado-approved content assessments for the purpose of assessing English proficiency and guiding instruction.
  - 4.22(5)(c) develop, administer and interpret the results of formative assessments and progress monitoring of English language proficiency that are appropriate for the language proficiency level of the student for the purpose of guiding instruction.
  - 4.22(5)(d) communicate and collaborate with other educators, special services providers and student population family members to identify and assist in the implementation of a comprehensive instructional plan that responds to the socio-economic, academic and linguistic needs of CLD students.
- 4.22(6) The culturally and linguistically diverse education educator shall self-assess the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

#### **4.23 Culturally and Linguistically Diverse (CLD) Bilingual Education Specialist (Grades K-12)**

To be endorsed as a CLD bilingual education specialist, an applicant must hold an earned bachelor's degree or higher from an accepted institution of higher education; must hold a Colorado initial or

professional teacher license; must have completed an approved program for the preparation of an educator of bilingual education; and must have demonstrated the competencies specified below:

4.23(1) The CLD bilingual education specialist must be knowledgeable about and able to demonstrate:

- 4.23(1)(a) a high level of proficiency in the standards noted in rule 4.22(1)-(5).
- 4.23(1)(b) ability to implement research-based knowledge to effectively deliver literacy and content instruction in a heritage language of a current Colorado student population.
- 4.23(1)(c) research-based knowledge and ability to utilize students' heritage language to help them transition skills and strategies learned in the heritage language to literacy and content areas in English.
- 4.23(1)(d) demonstrate the research-based knowledge and ability to plan and implement lessons to help students make cross-language connections.
- 4.23(1)(e) a high level of biliteracy and academic language proficiency in English and in one other heritage language used by Colorado students – as determined by the Department -- including, but not limited to, reading, writing, listening, oral communication and critical thinking.
- 4.23(1)(f) understanding and ability to implement research-based knowledge to discriminate between effective and ineffective bilingual programs in order to develop and deliver effective research-informed structures and programs that support bilingual development.
- 4.23(1)(g) proficiency and ability to teach in a non-English language.
- 4.23(1)(h) understanding of research-based knowledge of the culture and history of a heritage language community of Colorado students.

4.23(2) The culturally and linguistically diverse education bilingual specialist shall self-assess the effectiveness of instruction based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

#### **4.24 Middle School Mathematics (Grades 6-8)**

To be endorsed in middle school mathematics, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved teacher preparation program, including prescribed field experience and student teaching requirements; have completed an approved program in middle school mathematics; be knowledgeable about the Colorado Academic Standards in mathematics grades 6 through 8; and have demonstrated the competencies specified below:

4.24(1) Develop in students an understanding and use of:

- 4.24(1)(a) Number and quantity
- 4.24(1)(b) Algebra and functions
- 4.24(1)(c) measurement.
- 4.24(1)(d) Data, statistics, and probability

4.24(1)(e) Geometry

4.24(2) The mathematics educator is able to effectively demonstrate to students and instruct:

4.24(2)(a) approaches to problem-solving that utilize mathematical content in identifying, analyzing, formulating and solving problems that occur in mathematical processes and everyday situations.

4.24(2)(b) the utilization of mathematical ideas, both verbally and in writing, using both everyday language and mathematical terminology.

4.24(2)(c) the utilization of verbal and written discourse, between teacher and students and among students, to develop and extend students' mathematical understanding.

4.24(2)(d) the construction and evaluation of mathematical conjectures and arguments to validate one's own mathematical thinking.

4.24(2)(e) independent study in mathematics.

4.24(2)(f) the use of mathematics in studying patterns and relationships.

4.24(2)(g) the interrelationships within mathematics; how to connect concrete, pictorial and abstract representations; and the connections between mathematics and other disciplines and real-world situations through the selection of appropriate applications from such fields as natural sciences, social sciences, business and engineering, and is able to:

4.24(2)(g)(i) utilize a wide variety of resource materials, including, but not limited to, manipulative materials, graphing calculators, computers and other technologies as tools in learning and for the application(s) of mathematics;

4.24(2)(g)(ii) utilize assessment data to monitor students' acquisition of mathematical skills and abilities and in the process of determining appropriate delivery of instruction based on identified student need and to select appropriate mathematical tasks to reinforce and promote students' development of mathematical concepts and skills;

4.24(2)(g)(iii) create an engaging and effective environment in which all students develop mathematically in order to participate more fully in a technologically based society;

4.24(2)(g)(iv) create an environment in which reflection, uncertainty and inquiry are incorporated in the learning of mathematics skills, abilities and concepts; and

4.24(2)(g)(v) apply appropriate knowledge of current research in the teaching and learning of mathematics and incorporate national, state and local guidelines related to mathematics instruction.

4.24(3) The mathematics educator shall consistently seek out professional development in the field of mathematics, which can provide enhanced knowledge, skills and abilities in the content area, and participate in professional organizations appropriate and relevant to the field.

**5.00 Special Education and Gifted Education (Ages 5-21)**

**5.01 Special Education Core (Ages 5-21)**

As outlined in section 22-60.5-106(2) C.R.S., the Department is required to endorse a teacher license with special education if the teacher has completed a program in special education offered by an accepted institution of higher education, which program content has been approved by the Colorado State Board of Education. The following Council for Exceptional Children (CEC) Special Education Preparation Standards and Initial Special Education Knowledge and Skill Common Items (ISCI) were adopted for 9.00 licensing rules.

The Special Education Core endorsement represents the competencies, knowledge and skills expected of all special education teachers at all levels. The core includes preparation standards in the seven areas of learner development and individual learning differences, learner environments, curricular content knowledge, assessment, instructional planning and strategies, professional learning and practice, and collaboration, and key elements and common items within each standard.

5.01(1) Learner development and individual learning differences: Beginning special education professionals understand how exceptionalities may interact with development and learning and use this knowledge to provide meaningful and challenging learning experiences for individuals with exceptionalities:

5.01(1)(a) Beginning special education professionals understand how language, culture and family background influence the learning of individuals with exceptionalities.

5.01(1)(b) Beginning special education professionals use understanding of development and individual differences to respond to the needs of individuals with exceptionalities.

5.01(1)(c) Beginning special education professionals are knowledgeable of:

5.01(1)(c)(i) typical and atypical human growth and development;

5.01(1)(c)(ii) similarities and differences among individuals with exceptionalities;

5.01(1)(c)(iii) educational implications of characteristics of various exceptionalities;

5.01(1)(c)(iv) family systems and the role of families in supporting development.

5.01(1)(c)(v) cultural perspectives influencing the relationships among families, schools and communities as related to instruction;

5.01(1)(c)(vi) variations in beliefs, traditions and values across and within cultures and their effects on relationships among individuals with exceptionalities, family and schooling;

5.01(1)(c)(vii) characteristics and effects of the cultural and environmental milieu of the individual with exceptionalities and the family;

5.01(1)(c)(viii) similarities and differences of individuals with and without exceptionalities;

5.01(1)(c)(ix) effects of various medications on individuals with exceptionalities;

5.01(1)(c)(x) effects an exceptional condition(s) can have on an individual's life;

5.01(1)(c)(xi) impact of learners' academic and social abilities, attitudes, interests and values on instruction and career development;

- 5.01(1)(c)(xii) differing ways of learning of individuals with exceptionalities, including those from culturally diverse backgrounds, and strategies for addressing these differences;
  - 5.01(1)(c)(xiii) effects of cultural and linguistic differences on growth and development;
  - 5.01(1)(c)(xiv) characteristics of one's own culture and use of language and the ways in which these can differ from other cultures and uses of languages; and
  - 5.01(1)(c)(xv) ways of behaving and communicating among cultures that can lead to misinterpretation and misunderstanding.
- 5.01(2) Learning environments: Beginning special education professionals create safe, inclusive, culturally responsive learning environments so that individuals with exceptionalities become active and effective learners and develop emotional well-being, positive social interactions and self-determination.
- 5.01(2)(a) Beginning special education professionals through collaboration with general education and other colleagues create safe, inclusive, culturally responsive learning environments to engage individuals with exceptionalities in meaningful learning activities and social interactions.
  - 5.01(2)(b) Beginning special education professionals use motivational and instructional interventions to teach individuals with exceptionalities how to adapt to different environments.
  - 5.01(2)(c) Beginning special education professionals know how to intervene safely and appropriately with individuals with exceptionalities in crisis.
  - 5.01(2)(d) Beginning special education professionals are knowledgeable of:
    - 5.01(2)(d)(i) demands of learning environments;
    - 5.01(2)(d)(ii) basic classroom management theories and strategies for individuals with exceptionalities;
    - 5.01(2)(d)(iii) effective management of teaching and learning;
    - 5.01(2)(d)(iv) teacher attitudes and behaviors that influence behavior of individuals with exceptionalities;
    - 5.01(2)(d)(v) social skills needed for educational and other environments;
    - 5.01(2)(d)(vi) strategies for crisis prevention and intervention;
    - 5.01(2)(d)(vii) strategies for preparing individuals to live harmoniously and productively in a culturally diverse world;
    - 5.01(2)(d)(viii) ways to create learning environments that allow individuals to retain and appreciate their own and each other's respective language and cultural heritage;
    - 5.01(2)(d)(ix) ways cultures are negatively stereotyped; and
    - 5.01(2)(d)(x) strategies used by diverse populations to cope with a legacy of former and continuing racism.

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- 5.01(2)(e) Beginning special education professionals demonstrate the skills to:
- 5.01(2)(e)(i) create a safe, equitable, positive and supportive learning environment in which diversities are valued;
  - 5.01(2)(e)(ii) identify realistic expectations for personal and social behavior in various settings;
  - 5.01(2)(e)(iii) identify supports needed for integration into various program placements;
  - 5.01(2)(e)(iv) design learning environments that encourage active participation in individual and group activities;
  - 5.01(2)(e)(v) modify the learning environment to manage behaviors;
  - 5.01(2)(e)(vi) use performance data and information from all stakeholders to make or suggest modifications in learning environments;
  - 5.01(2)(e)(vii) establish and maintain rapport with individuals with and without exceptionalities;
  - 5.01(2)(e)(viii) teach self-advocacy;
  - 5.01(2)(e)(ix) create an environment that encourages self-advocacy and increased independence;
  - 5.01(2)(e)(x) use effective and varied behavior management strategies;
  - 5.01(2)(e)(xi) use the least intensive behavior management strategy consistent with the needs of the individual with exceptionalities;
  - 5.01(2)(e)(xii) design and managing daily routines;
  - 5.01(2)(e)(xiii) organize, develop and sustain learning environments that support positive intra-cultural and intercultural experiences;
  - 5.01(2)(e)(xiv) mediate controversial intercultural issues among individuals with exceptionalities within the learning environment in ways that enhance any culture, group or person;
  - 5.01(2)(e)(xv) structure, direct and support the activities of para-educators, volunteers and tutors; and
  - 5.01(2)(e)(xvi) use universal precautions.
- 5.01(3) Curricular content knowledge: Beginning special education professionals use knowledge of general and specialized curricula to individualize learning for individuals with exceptionalities. Beginning special education professionals understand the central concepts, structures of the discipline and tools of inquiry of the content areas they teach, and can organize this knowledge, integrate cross-disciplinary skills and develop meaningful learning progressions for individuals with exceptionalities.
- 5.01(3)(a) Beginning special education professionals understand and use general and specialized content knowledge for teaching across curricular content areas to individualize learning for individuals with exceptionalities.
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- 5.01(3)(b) Beginning special education professionals modify general and specialized curricula to make them accessible to individuals with exceptionalities.
  - 5.01(3)(c) Beginning special education professionals are knowledgeable of:
    - 5.01(3)(c)(i) theories and research that form the basis of curriculum development and instructional practice;
    - 5.01(3)(c)(ii) scope and sequences of general and special curricula;
    - 5.01(3)(c)(iii) national, state and local curricula standards; and
    - 5.01(3)(c)(iv) technology for planning and managing the teaching and learning environment.
  - 5.01(3)(d) Beginning special education professionals demonstrate the skills to:
    - 5.01(3)(d)(i) identify and prioritize areas of the general curriculum and accommodations for individuals with exceptionalities; and
    - 5.01(3)(d)(ii) integrate affective, social and life skills with academic curricula.
  - 5.01(4) Assessment: Beginning special education professionals use multiple methods of assessment and data-sources in making educational decisions.
    - 5.01(4)(a) Beginning special education professionals select and use technically sound formal and informal assessments that minimize bias.
    - 5.01(4)(b) Beginning special education professionals use knowledge of measurement principles and practices to interpret assessment results and guide educational decisions for individuals with exceptionalities.
    - 5.01(4)(c) Beginning special education professionals in collaboration with colleagues and families use multiple types of assessment information in making decisions about individuals with exceptionalities.
    - 5.01(4)(d) Beginning special education professionals engage individuals with exceptionalities to work toward quality learning and performance and provide feedback to guide them.
    - 5.01(4)(e) Beginning special education professionals are knowledgeable of:
      - 5.01(4)(e)(i) basic terminology used in assessment;
      - 5.01(4)(e)(ii) legal provisions and ethical principles regarding assessment of individuals;
      - 5.01(4)(e)(iii) screening, pre-referral, referral and classification procedures;
      - 5.01(4)(e)(iv) use and limitations of assessment instruments; and
      - 5.01(4)(e)(v) national, state and local accommodations and modifications.
    - 5.01(4)(f) Beginning special education professionals demonstrate the skills to:
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- 5.01(4)(f)(i) gather relevant background information;
  - 5.01(4)(f)(ii) administer nonbiased formal and informal assessments;
  - 5.01(4)(f)(iii) use technology to conduct assessments;
  - 5.01(4)(f)(iv) develop or modify individualized assessment strategies;
  - 5.01(4)(f)(v) interpret information from formal and informal assessments;
  - 5.01(4)(f)(vi) use assessment information in making eligibility, program and placement decisions for individuals with exceptionalities, including those for culturally and/or linguistically diverse backgrounds;
  - 5.01(4)(f)(vii) report assessment results to all stakeholders using effective communication skills;
  - 5.01(4)(f)(viii) evaluate instruction and monitor progress of individuals with exceptionalities; and
  - 5.01(4)(f)(ix) create and maintain records.
- 5.01(5) Instructional planning and strategies: Beginning special education professionals select, adapt and use a repertoire of evidence-based instructional strategies to advance learning of individuals with exceptionalities.
- 5.01(5)(a) Beginning special education professionals consider an individual's abilities, interest learning environments, and cultural and linguistic factors in the selection, development and adaptation of learning experiences for individual with exceptionalities.
  - 5.01(5)(b) Beginning special education professionals use technologies to support instructional assessment, planning and delivery for individuals with exceptionalities.
  - 5.01(5)(c) Beginning special education professionals are familiar with augmentative and alternative communication systems and a variety of assistive technologies to support the communication and learning of individuals with exceptionalities.
  - 5.01(5)(d) Beginning special education professionals use strategies to enhance language development and communication skills of individuals with exceptionalities.
  - 5.01(5)(e) Beginning special education professionals develop and implement a variety of education and transition plans for individuals with exceptionalities across a wide range of settings and different learning experiences in collaboration with individuals, families and teams.
  - 5.06(5)(f) Beginning special education professionals teach to mastery and promote generalization of learning.
  - 5.06(5)(g) Beginning special education professionals teach cross-disciplinary knowledge and skills such as critical-thinking and problem-solving to individuals with exceptionalities.
  - 5.01(5)(h) Beginning special education professionals are knowledgeable of:
    - 5.01(5)(h)(i) roles and responsibilities of the para-educator related to instruction, intervention and direct service;

- 5.01(5)(h)(ii) evidence-based practices validated for specific characteristics of learners and settings; and
- 5.01(5)(h)(iii) augmentative and assistive communication strategies.
- 5.01(5)(i) Beginning special education professionals demonstrate the skills to:
  - 5.01(5)(i)(i) develop and implement comprehensive, longitudinal individualized programs in collaboration with team members;
  - 5.01(5)(i)(ii) involve the individual and family in setting instructional goals and monitoring progress;
  - 5.01(5)(i)(iii) use functional assessments to develop intervention plans;
  - 5.01(5)(i)(iv) use task analysis;
  - 5.01(5)(i)(v) sequence, implement and evaluate individualized learning objectives;
  - 5.01(5)(i)(vi) develop and select instructional content, resources and strategies that respond to cultural, linguistic and gender differences;
  - 5.01(5)(i)(vii) incorporate and implement instructional and assistive technology into the educational program;
  - 5.06(5)(i)(viii) prepare lesson plans;
  - 5.06(5)(i)(ix) prepare and organize materials to implement daily lesson plans.
  - 5.06(5)(i)(x) use instructional time effectively;
  - 5.06(5)(i)(xi) make responsive adjustments to instruction based on continual observations;
  - 5.01(5)(i)(xii) prepare individuals to exhibit self-enhancing behavior in response to societal attitudes and actions;
  - 5.01(5)(i)(xiii) use strategies to facilitate integration into various settings;
  - 5.01(5)(i)(xiv) teach individuals to use self-assessment, problem-solving and other cognitive strategies to meet their needs;
  - 5.01(5)(i)(xv) select, adapt and use instructional strategies and materials according to characteristics of the individual with exceptionalities;
  - 5.01(5)(i)(xvi) use strategies to facilitate maintenance and generalization of skills across learning environments;
  - 5.01(5)(i)(xvii) use procedures to increase the individual's self-awareness, self-management, self-control, self-reliance and self-esteem;
  - 5.01(5)(i)(xviii) use strategies that promote successful transitions for individuals with exceptionalities;

- 5.01(5)(i)(xix) use strategies to support and enhance communication skills of individuals with exceptionalities;
  - 5.01(5)(i)(xx) use communication strategies and resources to facilitate understanding of subject matter for individuals with exceptionalities whose primary language is not the dominant language; and
  - 5.01(5)(i)(xxi) modify instructional practices in response to ongoing assessment data.
- 5.01(6) Professional learning and ethical practice: Beginning special education professionals use foundational knowledge of the field and their professional ethical principles and practice standards to inform special education practice, to engage in lifelong learning and to advance the profession.
- 5.01(6)(a) Beginning special education professionals use professional ethical principles and professional practice standards to guide their practice.
  - 5.01(6)(b) Beginning special education professionals understand how foundational knowledge and current issues influence professional practice.
  - 5.01(6)(c) Beginning special education professionals understand that diversity is a part of families, cultures and schools, and that complex human issues can interact with the delivery of special education services.
  - 5.01(6)(d) Beginning special education professionals understand the significance of lifelong learning and participate in professional activities and learning communities.
  - 5.01(6)(e) Beginning special education professionals advance the profession by engaging in activities such as advocacy and mentoring.
  - 5.01(6)(f) Beginning special education professionals provide guidance and direction to para-educators, tutors and volunteers.
  - 5.01(6)(g) Beginning special education professionals are knowledgeable of:
    - 5.00(6)(g)(i) models, theories, philosophies and research methods that form the basis for special education practice;
    - 5.01(6)(g)(ii) laws, policies and ethical principles regarding behavior management planning and implementation;
    - 5.01(6)(g)(iii) relationship of special education to the organization and function of educational agencies;
    - 5.01(6)(g)(iv) rights and responsibilities of individuals with exceptionalities, parents, teachers, other professionals and schools related to exceptionalities;
    - 5.01(6)(g)(v) issues in definition and identification of individuals with exceptionalities, including those from culturally and linguistically diverse backgrounds;
    - 5.01(6)(g)(vi) issues, assurances and due process rights related to assessments, eligibility and placement within a continuum of services;
    - 5.01(6)(g)(vii) family systems and the role of families in the educational process;

- 5.01(6)(g)(viii) historical points of view and contribution of culturally diverse groups;
- 5.01(6)(g)(ix) impact of the dominant culture on shaping schools and the individuals who study and work in them;
- 5.01(6)(g)(x) potential impact of differences in values, languages and customs that can exist between the home and school;
- 5.01(6)(g)(xi) personal cultural biases and difference that affect one's teaching;
- 5.01(6)(g)(xii) importance of the teacher serving as a model for individuals with exceptionalities;
- 5.01(6)(g)(xiii) continuum of lifelong professional development; and
- 5.01(6)(g)(xiv) methods to remain current regarding research-validated practice.
- 5.01(6)(h) Beginning special education professionals demonstrate the skills to:
  - 5.01(6)(h)(i) practice within the CEC code of ethics and other standards of the profession;
  - 5.01(6)(h)(ii) uphold high standards of competence and integrity and exercise sound judgment in the practice of the profession;
  - 5.01(6)(h)(iii) act ethically in advocating for appropriate services;
  - 5.01(6)(h)(iv) conduct professional activities in compliance with applicable laws and policies;
  - 5.01(6)(h)(v) demonstrate commitment to developing the highest education and quality-of-life potential of individuals with exceptionalities;
  - 5.01(6)(h)(vi) demonstrate sensitivity for the culture, language, religion, gender, disability, socio-economic status and sexual orientation of individuals;
  - 5.01(6)(h)(vii) practice within one's skill limits and obtain assistance as needed;
  - 5.01(6)(h)(viii) use verbal, nonverbal and written language effectively;
  - 5.01(6)(h)(ix) conduct self-evaluation of instruction;
  - 5.01(6)(h)(x) access information on exceptionalities;
  - 5.01(6)(h)(xi) reflect on one's practice to improve instruction and guide professional growth;
  - 5.01(6)(h)(xii) engage in professional activities that benefit individuals with exceptionalities, their families and one's colleagues;
  - 5.01(6)(h)(xiii) demonstrate commitment to engage in evidence-based practices; and
  - 5.01(6)(h)(xiv) articulate personal philosophy of special education.

5.01(7) Collaboration and cultural responsiveness: Beginning special education professionals collaborate with families, other educators, related service providers, individuals with exceptionalities and personnel from community agencies in culturally responsive ways to address the needs of individuals with exceptionalities across a range of learning experiences.

5.01(7)(a) Beginning special education professionals use the theory and elements of effective collaboration.

5.01(7)(b) Beginning special education professionals serve as a collaborative resource to colleagues.

5.01(7)(c) Beginning special education professionals use collaboration to promote the well-being of individuals with exceptionalities across a wide range of settings and collaborators.

5.01(7)(d) Beginning special education professionals are knowledgeable of:

5.01(7)(d)(i) models and strategies of consultation and collaboration;

5.01(7)(d)(ii) roles of individuals with exceptionalities, families and school and community personnel in planning of an individualized program;

5.01(7)(d)(iii) concerns of families of individuals with exceptionalities and strategies to help address these concerns; and

5.01(7)(d)(iv) culturally responsive factors that promote effective communication and collaboration with individuals with exceptionalities, families, school personnel and community members.

5.01(7)(e) Beginning special education professionals demonstrate the skills to:

5.01(7)(e)(i) maintain confidential communication about individuals with exceptionalities;

5.01(7)(e)(ii) collaborate with families and others in assessment of individuals with exceptionalities;

5.01(7)(e)(iii) foster respectful and beneficial relationships between families and professionals;

5.01(7)(e)(iv) assist individuals with exceptionalities and their families in becoming active participants in the educational team;

5.01(7)(e)(v) plan and conduct collaborative conferences with individuals with exceptionalities and their families;

5.01(7)(e)(vi) collaborate with school personnel and community members in integrating individuals with exceptionalities into various settings;

5.01(7)(e)(vii) use group problem solving skills to develop, implement and evaluate collaborative activities;

5.01(7)(e)(viii) model techniques and coach others in the use of instructional methods and accommodations;

5.01(7)(e)(ix) communicate with school personnel about the characteristics and needs of individuals with exceptionalities;

5.01(7)(e)(x) communicate effectively with families of individuals with exceptionalities from diverse backgrounds; and

5.01(7)(e)(xi) observe, evaluate and provide feedback to para-educators.

## **5.02 Special Education Specialist (Ages 5-21)**

To be endorsed as a special education specialist, an applicant must hold a Colorado initial or professional teacher license as a special education generalist or demonstrate through multiple performance measures the competencies required for a special education generalist endorsement; hold an earned master's or higher degree in special education from an accepted institution of higher education; have completed an approved program for the preparation of special education specialists, including prescribed field experience requirements; ensure that instruction is consistent with Colorado Academic Standards, Colorado accreditation requirements and school district and school priorities and objectives; and have demonstrated the competencies specified below:

5.02(1) The special education specialist is knowledgeable about professional leadership; the critical roles and responsibilities of effective ethical leadership; best instructional practices; how to effectively address outcomes for all learners, including those with disabilities; and is able to:

5.02(1)(a) use the Colorado standards to develop individualized educational plans (IEPs) for students with diverse educational needs.

5.02(1)(b) recognize limitations of professional expertise and collaborate and consult with appropriate support services to meet the needs of students and their families.

5.02(1)(c) effectively coach and mentor other education professionals to ensure that individuals with disabilities have access to and appropriately participate in the general education curriculum and instructional programs.

5.02(1)(d) initiate effective collaborative relationships with other community agencies and programs, where appropriate, to gain access to resources and to promote improved quality of education for students with disabilities.

5.02(1)(e) effectively articulate and model to other professionals the legal and ethical aspects of the special education profession.

5.02(1)(f) demonstrate effective consultation and collaboration skills with students, families and professional colleagues in administrative, instructional and intervention settings.

5.02(1)(g) provide leadership in transitioning students within and across systems so that students have the skills, knowledge and ability they need to achieve desired outcomes.

5.02(1)(h) develop and effectively use accountability systems to document the academic and related success of students with disabilities, and to improve instruction and the provision of services.

5.02(1)(i) assume proactive roles in management, governance and leadership within relevant professional organizations and educational systems.

5.02(1)(j) develop and implement professional development programs and constructive evaluation procedures designed to improve instructional content and practices.

- 5.02(1)(k) mentor colleagues using a variety of adult learning methods including, but not limited to, coaching and demonstrating effective instructional delivery.
- 5.02(1)(l) engage in ongoing and sustained professional development.
- 5.02(2) The special education specialist is knowledgeable about the foundations of special education and the legal framework, historical precedents, curricular foundations and cultural and socio-economic factors affecting students with disabilities, and is able to:
  - 5.02(2)(a) develop, implement and supervise individualized education planning.
  - 5.02(2)(b) consult and collaborate effectively, with educators, families and community members to facilitate learning.
  - 5.02(2)(c) modify and create successful learning environments for all children and youth, and incorporate knowledge of effective and proven past practices, cultural influences and socio-economic factors.
  - 5.02(2)(d) evaluate and select effective appropriate curriculum-related materials to improve student learning.
- 5.02(3) The special education specialist is knowledgeable about learning needs and effective instructional approaches for learners with special needs and is able to:
  - 5.02(3)(a) assess the influence of economic, cultural, sociological and linguistic factors on learning and address this in planning for student learning.
  - 5.02(3)(b) use a variety of continuous monitoring strategies to measure learning, adjust instruction and enhance student progress towards standards' acquisition in literacy and numeracy.
  - 5.02(3)(c) effectively demonstrate, effectively implement and evaluate a wide variety of appropriate instructional strategies.
  - 5.02(3)(d) develop and effectively implement instructional programs for acquisition, maintenance, generalization and application of knowledge and skills.
  - 5.02(3)(e) effectively teach students methods of attaining educational goals, and assist them in developing the means to act independently.
  - 5.02(3)(f) design, communicate and implement effective accommodations for use in a variety of environments.
  - 5.02(3)(g) effectively teach the assessment, use and implementation of assistive technology to students and colleagues.
- 5.02(4) The special education specialist is knowledgeable about cognition, communication and language; proven documented theories of cognition, communication and language development; curriculum planning; instruction and evaluation and is able to:
  - 5.02(4)(a) assess and evaluate the communicative and cognitive skills of students with disabilities in coordination with other related-profession specialists.
  - 5.02(4)(b) assist in the design of curriculum and instruction based on cognitive, communicative and language assessment results.



- 5.02(4)(c) incorporate principles of speech and language acquisition into the teaching of research-based literacy skills including the graphophonemic, syntactic, semantic and pragmatic aspects of language development and communicative competence.
- 5.02(4)(d) use assessment strategies to identify cognitive, language and communication needs affected by cultural, language-diversity, neurological and psycholinguistic factors and address these needs in planning.
- 5.02(5) The special education specialist is knowledgeable about social and emotional needs including the behavioral, social and emotional needs inherent in the development of learners with disabilities, and is able to:
  - 5.02(5)(a) assess the impact of psychological, sociological, cultural and ecological factors on the development and implementation of educational interventions to positively affect the behavior of students with special needs.
  - 5.02(5)(b) develop, implement and coordinate functional behavioral assessments.
  - 5.02(5)(c) choose, use and interpret behavior and social assessment tools.
  - 5.02(5)(d) develop, implement, supervise, evaluate and modify individual behavior support plans.
  - 5.02(5)(e) apply effective educational practices designed to improve the acquisition of social skills.
  - 5.02(5)(f) apply fair, consistent and effective systemic management strategies to prevent problem behavior.
  - 5.02(5)(g) select, apply and monitor educational interventions to safely, effectively manage students in crisis.
  - 5.02(5)(h) assess and monitor the impact of psychopharmacological interventions on student learning and behavior.
  - 5.02(5)(i) apply information about mental illness to the development, evaluation and implementation of educational interventions.
- 5.02(6) The special education specialist is knowledgeable about specialized educational needs and the unique characteristics of learners with significant health, physical, sensory and communication concerns across learning environments, and is able to:
  - 5.02(6)(a) assess, develop and implement appropriate and effective accommodations for learners with health, physical and sensory needs.
  - 5.02(6)(b) analyze, select and implement effective assistive technologies to facilitate students' learning communication.
  - 5.02(6)(c) demonstrate and implement strategies that enhance mobility, appropriate positioning and environmental access for learners with significant physical and health needs.
  - 5.02(6)(d) collaborate with appropriate health professionals to assist in the development and implementation of health care plans.

- 5.02(6)(e) analyze, select and implement strategies that effectively support access to the general education curriculum for learners with health, physical and sensory needs.
- 5.02(7) The special education specialist is knowledgeable about practice-based inquiry, is a reflective practitioner and is able to:
  - 5.02(7)(a) engage in professional discourse about effective and proven research-based practices.
  - 5.02(7)(b) use qualitative and quantitative forms of inquiry to collect, analyze and synthesize data to improve practice.
  - 5.02(7)(c) collaborate with colleagues and parents to study, analyze and respond to data that positively affect practices and policies for whole school improvement.
  - 5.02(7)(d) utilize proven and effective research to guide practice and create appropriate and effective learning experiences for students.
  - 5.02(7)(e) select and use appropriate inquiry tools.
  - 5.02(7)(f) design and implement documented and effective research models that constructively challenge hypotheses about teaching and learning.
  - 5.02(7)(g) disseminate documented, proven, effective practice(s).
  - 5.02(7)(h) gain access via technology and other means to a range of databases to acquire relevant information and support practice.
  - 5.02(7)(i) adhere to ethical principles for conducting research with human subjects.
  - 5.02(7)(j) involve students, parents and colleagues in the design, implementation and analysis of effective classroom practice.
  - 5.02(7)(k) evaluate the effects of choices and actions on student learning and modify learning and related plans accordingly.

**5.03 Special Education Specialist : Visually Impaired (Ages Birth-21)**

To be endorsed as a special education specialist: visually impaired, an applicant must hold an earned master's or higher degree in special education visual impairment or its equivalent (as determined by the Department) from an accepted institution of higher education; have completed an approved program for the preparation of special education specialists: visually impaired including prescribed field experience requirements; and have demonstrated the competencies specified below:

- 5.03(1) The special education specialist: visually impaired is knowledgeable about the foundations of special education including, but not limited to, the legal framework, historical precedents, auricular foundation and cultural and socio-economic factors affecting students with visual impairment(s) and other disabilities, and is able to:
  - 5.03(1)(a) articulate to a variety of audiences the models, theories, historical foundation and philosophies that provide the bases for special education practice related to learners who are visually impaired.

- 5.03(1)(b) articulate to a variety of audiences variations in beliefs, traditions and values across cultures and their effect on attitudes toward and expectations for students with visual impairment(s).
  - 5.03(1)(c) identify and gain access to federal entitlements that provide specialized equipment and materials for students with visual impairment(s).
  - 5.03(1)(d) articulate and explain current educational definitions, identification criteria, labeling issues, and incidence and prevalence figures for students with visual impairment(s) and deaf blindness.
- 5.03(2) The special education specialist: visually impaired is knowledgeable about the characteristics of learners, human development and the implications of blindness, visual impairment(s) and deaf blindness upon developmental and academic skills acquisition, and is able to articulate and incorporate into the planning for students relevant information about:
- 5.03(2)(a) the structure, function and normal development of the human visual system.
  - 5.03(2)(b) basic terminology, manifestations and educational implications of diseases and disorders of the human visual system.
  - 5.03(2)(c) effects of medication(s) on the function(s) of the visual system.
  - 5.03(2)(d) the development of other senses when vision is impaired.
  - 5.03(2)(e) the effects of visual impairment(s) on early development of motor skills, cognition, social/emotional interaction, self-help, communication and early literacy.
  - 5.03(2)(f) similarities and differences between the cognitive, physical, cultural, social, emotional, sensory and literacy needs of students with and without visual impairment(s).
  - 5.03(2)(g) differential characteristics of students with visual impairments including levels of severity and the impact of concomitant additional disabilities.
  - 5.03(2)(h) the effects of visual impairment(s) on the family and the reciprocal impact on the individual's self-esteem.
  - 5.03(2)(i) psychosocial aspects of visual impairment(s).
  - 5.03(2)(j) the impact of visual impairment(s) and deaf blindness on formal and incidental learning experiences.
  - 5.03(2)(k) psychosocial aspects of visual impairment(s).
- 5.03(3) The special education specialist: visually impaired is knowledgeable about visual disorders and is able to:
- 5.03(3)(a) explain the characteristics of visual disorders to families and to other educational service providers.
  - 5.03(3)(b) describe the effects of visual impairment(s) – with and without additional disabilities – on development, learning and literacy.

- 5.03(3)(c) provide information regarding the cognitive, communication, physical, medical, cultural, social, emotional, sensory and literacy needs of students with visual impairment(s) to their families and to educational and related service providers.
- 5.03(3)(d) recommend adaptations within instructional environments to identify and accommodate individual sensory need(s).
- 5.03(4) The special education specialist: visually impaired is knowledgeable about assessment and evaluation and is able to:
  - 5.03(4)(a) complete accurate assessments of students' developmental and academic performance, apply the information in planning for students and articulate to a variety of audiences regarding:
    - 5.03(4)(a)(i) specialized terminology used in the medical diagnoses and educational assessment(s) of students with visual impairment(s);
    - 5.03(4)(a)(ii) specific assessments that measure functional vision and learning modalities;
    - 5.03(4)(a)(iii) ethical considerations, legal provisions, regulations and guidelines related to the valid and relevant assessment of students with visual impairment(s);
    - 5.03(4)(a)(iv) specialized policies and procedures for screening, pre-referral, referral, classification and placement of students with visual impairment(s);
    - 5.03(4)(a)(v) alternative assessment tools and techniques for students with visual impairment(s) including, but not limited to, state- or district-level alternate assessment practices;
    - 5.03(4)(a)(vi) appropriate interpretation and application of assessment scores for students with visual impairment(s) and deaf blindness; and
    - 5.03(4)(a)(vii) the relationship(s) between assessment, individualized family service plan (IFSP) and individualized education plan (IEP) development, and placements, as each affects the educational services provided to students with visual impairment(s).
- 5.03(5) The special education specialist: visually impaired is knowledgeable about and able to evaluate the validity of individual tests for use with students with visual impairment(s) and is able to:
  - 5.03(5)(a) use disability-specific assessment instruments.
  - 5.03(5)(b) adapt and implement a variety of assessment procedures in evaluating students with visual impairments and deaf blindness.
  - 5.03(5)(c) interpret eye reports and other information related to the visual impairment(s) including, but not limited to, low-vision evaluation reports to students with visual impairment(s), their families and to other educational and related service providers.
  - 5.03(5)(d) utilize assessment and performance data to develop specific recommendations for modification(s) of and accommodations for the student's learning environment(s) and educational materials.

- 5.03(5)(e) conduct, interpret and apply the results of formal and informal assessment(s) of functional vision and learning modalities.
  - 5.03(5)(f) create and maintain disability-related records for students with visual impairment(s).
  - 5.03(5)(g) gather background information and family history relevant to the individual student's visual status and instructional needs.
  - 5.03(5)(h) incorporate assessment information into the development of IFSPs and IEPs.
  - 5.03(5)(i) utilize assessment information to develop literacy modality plans for students with visual impairment(s).
- 5.03(6) The special education specialist: visually impaired is knowledgeable about instructional content and practice, specialized instructional strategies and appropriate accommodation(s), and is able to demonstrate these strategies and/or teach learners with visual impairment(s):
- 5.03(6)(a) the use of the abacus, slate and stylus, Braille writer, electronic note taker(s), talking calculator, tactile graphics, computers and other types of access and adaptive technology.
  - 5.03(6)(b) basic concepts related to content standards.
  - 5.03(6)(c) increasing visual access to and within learning environments related to instruction, the use of print adaptations and optical and non-optical devices.
  - 5.03(6)(d) increasing non-visual access to learning environments.
  - 5.03(6)(e) alternative reasoning and decision-making skills.
  - 5.03(6)(f) organization and study skills.
  - 5.03(6)(g) structured pre-cane orientation and mobility assessment and instruction.
  - 5.03(6)(h) tactual perceptual skills.
  - 5.03(6)(i) health and health issues.
  - 5.03(6)(j) adapted physical and recreational skills.
  - 5.03(6)(k) social and daily living skills.
  - 5.03(6)(l) developing career awareness and providing them with vocational counseling.
  - 5.03(6)(m) promoting self-advocacy.
  - 5.03(6)(n) identifying sources of and acquiring specialized instructional and other relevant materials.
  - 5.03(6)(o) identifying techniques for the adaptation of instructional methods and materials.
- 5.03(7) The special education specialist: visually impaired is knowledgeable about planning for the instruction of students with visual impairment(s) and is able to:

- 5.03(7)(a) develop comprehensive short- and long-range individualized learning programs for students with visual impairment(s) and deaf blindness.
  - 5.03(7)(b) prepare appropriate individual and group lesson plans.
  - 5.03(7)(c) involve the student with visual impairment(s) in setting instructional goals and charting progress.
  - 5.03(7)(d) select, adapt and utilize instructional strategies and materials appropriate to the learning needs of the student with visual impairment(s).
  - 5.03(7)(e) use strategies to help students learn, maintain new skills and be able to generalize those skills across other learning environments.
  - 5.03(7)(f) choose and implement instructional techniques that promote successful transitions for students with visual impairment(s).
  - 5.03(7)(g) evaluate and modify instruction according to student need.
  - 5.03(7)(h) interpret and use multiple sources of assessment data in planning for the instruction of students with visual impairment(s) and deaf blindness.
  - 5.03(7)(i) choose and use appropriate forms of technology to accomplish instructional objectives for students with visual impairment(s) and integrate technology into the instructional process.
  - 5.03(7)(j) sequence, implement and evaluate learning objectives based on standards-based education and the expanded core curriculum for students with visual impairment(s).
  - 5.03(7)(k) teach students with visual impairment(s) to think, solve problems and utilize other cognitive strategies to meet individual learning needs.
- 5.03(8) The special education specialist: visually impaired is knowledgeable about effective planning for and management of the teaching and learning environment to provide a setting conducive to group and individualized learning, and is able to:
- 5.03(8)(a) transcribe, proofread and interline materials in contracted literary, Nemeth and foreign language Braille codes.
  - 5.03(8)(b) utilize specialized equipment and software, such as Braille writers, slate and stylus, computerized Braille transcription and tactile image enhancers, to prepare adapted or modified materials in Braille, accessible print, tactile and other formats appropriate to the assessed needs of students with visual impairment(s).
  - 5.03(8)(c) obtain and organize materials intended to implement instructional objectives for students with visual impairment(s).
  - 5.03(8)(d) design multisensory learning environments that engage the active participation of students with visual impairment(s) in group and individual activities.

- 5.03(8)(e) design and implement strategies and techniques that facilitate the inclusion of students with visual impairment(s) into a wide variety of educational and community settings.
- 5.03(8)(f) direct the activities of a classroom paraprofessional, volunteer, peer tutor or Braille transcriber.
- 5.03(8)(g) create learning environments that encourage self-advocacy and independence for students with visual impairment(s).
- 5.03(9) The special education specialist: visually impaired is knowledgeable about promoting appropriate student behavior and social interaction skills and demonstrates:
  - 5.03(9)(a) effective learning environment management which engenders positive behavior(s) between and among students, such as, but not limited to, strategies that:
    - 5.03(9)(a)(i) identify ways to address attitudes and behaviors that can positively or negatively influence the development and achievement of students with visual impairments;
    - 5.03(9)(a)(ii) effectively instruct students in the development of the social skills needed across educational and living environments;
    - 5.03(9)(a)(iii) identify strategies for preparing students with visual impairment(s) to live harmoniously and productively in a diverse world; and
    - 5.03(9)(a)(iv) identify and address inappropriate behaviors attributable to or caused by visual impairment(s).
- 5.03(10) The special education specialist: visually impaired is knowledgeable about and able to manage student behavior(s) and learning through:
  - 5.03(10)(a) the modification of the learning environment including, but not limited to, schedule, physical arrangement and/or materials.
  - 5.03(10)(b) the selection, implementation and evaluation of appropriate and applicable classroom management strategies for students with visual impairment(s).
  - 5.03(10)(c) the incorporation of social skills training into the curriculum.
  - 5.03(10)(d) utilization of procedures intended to increase student self-awareness, self-control, self-reliance and self-esteem.
  - 5.03(10)(e) preparing students with visual impairment(s) to present themselves in a socially appropriate manner, providing information about, but not limited to, that related to grooming, dress and interpersonal skills.
  - 5.03(10)(f) preparing students to adapt to progressive eye conditions when necessary.
  - 5.03(10)(g) preparing students with visual impairment(s) to appropriately and effectively utilize the services of support personnel.
  - 5.03(10)(h) preparing students with visual impairment(s) to gain access to information about services provided in and for the community.

- 5.03(10)(i) preparing students with visual impairment(s) to act appropriately in social situations.
- 5.03(10)(j) preparing students with visual impairment(s) to respond to societal attitudes and actions with positive behavior(s) and self-advocacy.
- 5.03(11) The special education specialist: visually impaired is knowledgeable about communication and collaborative partnerships and demonstrates:
  - 5.03(11)(a) effective communication and the ability to collaborate with students, their families, and school and community personnel in identifying and addressing:
    - 5.03(11)(a)(i) typical and/or specific concerns of parents of students with visual impairment(s) and appropriate strategies to assist them in resolving concerns;
    - 5.03(11)(a)(ii) roles of students with visual impairment(s), parents, educational service providers and community personnel in planning individualized programs for students;
    - 5.03(11)(a)(iii) strategies for assisting families and other team members in planning appropriate transitions for students with visual impairment(s);
    - 5.03(11)(a)(iv) unique services, networks and organizations that serve as resources to/for students with visual impairment(s);
    - 5.03(11)(a)(v) roles of paraprofessionals or para-educators who work directly with students with visual impairment(s) and deaf blindness; and
    - 5.03(11)(a)(vi) the necessity for role models for students with visual impairment(s).
- 5.03(12) The special education specialist: visually impaired demonstrates the ability to collaborate with others and is able to:
  - 5.03(12)(a) identify and implement strategies for working with students with disabilities, parents, and school and community persons, in a wide variety of learning and learning-related environments.
  - 5.03(12)(b) communicate and consult with students, parents, education service providers and community personnel.
  - 5.03(12)(c) foster respectful and beneficial relationships between and among families and professionals.
  - 5.03(12)(d) encourage and assist families in becoming active participants in the education of their own children.
  - 5.03(12)(e) plan and conduct conferences with families or primary caregivers as required and/or necessary.
  - 5.03(12)(f) collaborate with general education teachers and other school and community personnel regarding the integration of students with disabilities into the general learning environment.
  - 5.03(12)(g) communicate with general education teachers, administrators and other school personnel about the characteristics and needs of students with disabilities.



- 5.03(12)(h) assist families and other team members in understanding the impact of visual impairment(s) and deaf blindness on learning and experience.
- 5.03(12)(i) report results of specialized assessments to students with visual impairment(s), their families and pertinent team members in relevant and appropriate ways.
- 5.03(12)(j) manage and direct the activities of para-educators or peer tutors who work with students with visual impairment(s).
- 5.03(13) The special education specialist: visually impaired is knowledgeable about professionalism and ethical practices and demonstrates:
  - 5.03(13)(a) appropriate professional practices in contributing to the field of education and to the academic achievement of each individual student including, but not limited to:
    - 5.03(13)(a)(i) decision-making based on the ethical considerations governing the profession of special education, especially as related to the field of the education of the visually impaired learner;
    - 5.03(13)(a)(ii) recognizing cultural bias and how it can affect teaching;
    - 5.03(13)(a)(iii) serving as a role model for students with visual impairment(s);
    - 5.03(13)(a)(iv) participation in consumer and professional organizations and remaining up-to-date with publications and journals relevant to the field of visual impairments; and
    - 5.03(13)(a)(v) the ability to research information related to the learning needs of and outcomes for students with visual impairment(s).
- 5.03(14) The special education specialist: visually impaired functions in a professional manner by:
  - 5.03(14)(a) demonstrating professional ethics.
  - 5.03(14)(b) accepting the personal characteristic(s) of students with and without visual impairment(s).
  - 5.03(14)(c) remaining up-to-date on literature related to students with visual impairment(s).
  - 5.03(14)(d) participating in professional organizations representing the field of visual impairment(s), as appropriate.
  - 5.03(14)(e) engaging in professional-growth activities which may benefit students with visual impairment(s), their families and/or colleagues.
  - 5.03(14)(f) practicing self-assessment related to instruction, and seeking professional development activities which support the advancement of personal skills and knowledge.

**5.04 Special Education Specialist: Deaf/Hard-of-Hearing (Ages Birth-21)**

To be endorsed as a special education specialist: deaf/hard-of-hearing, an applicant must hold an earned master's or higher degree in special education: deaf/hard-of-hearing or its equivalent – as determined by the Department of Education – from an accepted institution of higher education; have completed an approved program for the preparation of special education specialists: deaf/hard of hearing including prescribed field experience requirements; and have demonstrated the competencies specified below:

- 5.04(1) The special education specialist: deaf/hard-of-hearing is knowledgeable about the philosophical, historical and legal foundations of special education and is able to articulate and incorporate into planning for students:
- 5.04(1)(a) current definitions of students with hearing loss including terminology, identification criteria, labeling issues and current incidence and prevalence figures.
  - 5.04(1)(b) models, theories and appropriate philosophies that provide the basis for educational practice relevant to students who are deaf or hard-of-hearing.
  - 5.04(1)(c) variations in beliefs, traditions and values across cultures and within society, and the effect of the relationships between children who are deaf or hard-of-hearing, their families, schools and communities, and can:
    - 5.04(1)(c)(i) identify resources, model programs, organizations, agencies, research centers and technology that can be of assistance in working with students who are deaf or hard-of-hearing;
    - 5.04(1)(c)(ii) apply understanding of proven theory, of philosophy and of models of effective practice to the education of students who are deaf or hard-of-hearing; and
    - 5.04(1)(c)(iii) articulate the pros and cons of current issues and trends in special education and in educating students who are deaf or hard-of-hearing.
- 5.04(2) The special education specialist: deaf/hard-of-hearing is knowledgeable about factors that impact the learning of students who are deaf or hard-of-hearing and is able to articulate and incorporate into planning for these students:
- 5.04(2)(a) relevant elements of learning necessary for enhancement of cognitive, emotional and social development.
  - 5.04(2)(b) proven and effective research on communication, socialization and cognition.
  - 5.04(2)(c) cultural dimensions of being deaf or hard-of-hearing.
  - 5.04(2)(d) the specific impact of various etiologies of hearing loss on the sensory, motor and/or learning capability.
  - 5.04(2)(e) knowledge of the effect of family involvement, onset of hearing loss, age of identification, amplification and provision of services.
  - 5.04(2)(f) knowledge of the impact of early and ongoing comprehensible communication.
  - 5.04(2)(g) the effect of sensory input, including both incidental communication and experiences, on the development of language and cognition.
- 5.04(3) The special education specialist: deaf/hard-of-hearing is knowledgeable about and is able to:
- 5.04(3)(a) demonstrate effective communication strategies to students who are deaf or hard-of-hearing.
  - 5.04(3)(b) describe how to make incidental learning opportunities accessible.

- 5.04(3)(c) articulate the interrelationship between communication, socialization and cognition.
- 5.04(4) The special education specialist: deaf/hard-of-hearing is knowledgeable about the assessment, effective teaching, service and special services provision and the evaluation of students who are deaf or hard-of-hearing, and is able to:
  - 5.04(4)(a) implement formal and informal assessment procedures for eligibility, placement and program planning.
  - 5.04(4)(b) articulate legal provisions, regulations and guidelines regarding unbiased diagnostic assessment(s) and the use of instructional assessment measures.
  - 5.04(4)(c) incorporate into planning the specifics of policies regarding referral and placement procedures.
  - 5.04(4)(d) demonstrate amplification system's parts and articulate function, benefits and limitations of options in group and personal amplification.
  - 5.04(4)(e) administer assessment procedures and instruments for students who are deaf or hard-of-hearing and those with additional disabilities, and utilize appropriate assessment tools and informal assessment and evaluation procedures, utilizing natural/heritage/preferred language.
  - 5.04(4)(f) use assessment data in making informed instructional decisions and for planning individual programs that result in appropriate service delivery and intervention for students who are deaf or hard-of-hearing.
  - 5.04(4)(g) troubleshoot amplification problems and explain the parts and functions of group and personal amplification.
  - 5.04(4)(h) develop and implement effective communication plans.
  - 5.04(4)(i) plan an educational program to address the needs of students who are deaf or hard-of-hearing and who may have additional disabilities or conditions that impact learning.
- 5.04(5) The special education specialist: deaf/hard-of-hearing is knowledgeable about content standards and practice and is able to:
  - 5.04(5)(a) identify and utilize specialized instructional materials relevant to specific student need and content standards.
  - 5.04(5)(b) incorporate into planning information related but not limited to the syntactic, semantic use of American Sign Language (ASL) and English.
  - 5.04(5)(c) incorporate into planning information related to languages and systems used to communicate with individuals who are deaf or hard-of-hearing.
  - 5.04(5)(d) articulate normal speech development and characteristics of speech development for deaf or hard-of-hearing students.
  - 5.04(5)(e) implement assessment procedures and curricula designed for:

- 5.04(5)(e)(i) the speech development of students who are deaf or hard-of-hearing and those who may have additional disabilities;
- 5.04(5)(e)(ii) ASL and English language development;
- 5.04(5)(e)(iii) stimulating the utilization of residual hearing;
- 5.04(5)(e)(iv) strategies/techniques related to the promotion of reading development;  
and
- 5.04(5)(e)(v) written language development.
- 5.04(5)(f) design and implement strategies and techniques for positively affecting the speech development of students who are deaf or hard-of-hearing.
- 5.04(5)(g) design and implement strategies/techniques to effectively instruct students about ASL and English language development.
- 5.04(5)(h) design and implement strategies/techniques for the stimulation and utilization of residual hearing.
- 5.04(5)(i) address in planning ways to facilitate cultural identity, linguistic, academic, cognitive, physical and social-emotional development.
- 5.04(5)(j) plan effective multi-level lessons.
- 5.04(5)(k) incorporate proven and effective research-supported instructional strategies and practices.
- 5.04(5)(l) implement strategies and procedures that effectively facilitate the deaf or hard-of-hearing student's transition to new settings and to meeting life challenges.
- 5.04(5)(m) communicate with advanced proficiency in relevant language(s) (English, ASL) and/or sign systems.
- 5.04(5)(n) select, modify, design, produce and utilize specialized and appropriate media, instructional materials, resources and technology.
- 5.04(5)(o) infuse communication skills into academic areas.
- 5.04(5)(p) apply appropriate and effective first- and second-language teaching strategies to meet student need.
- 5.04(5)(q) promote and encourage speech development; ASL and English language development; the utilization of residual hearing; reading and written language development to students who are deaf or hard-of-hearing.
- 5.04(5)(r) implement multi-level lessons for students who are deaf or hard-of-hearing.
- 5.04(5)(s) develop effective transition plan for students who are deaf or hard-of-hearing.
- 5.04(6) The special education specialist: deaf/hard-of-hearing is knowledgeable about the learning environment and is able to:

- 5.04(6)(a) demonstrate the adaptations needed within a variety of learning environments and within the community for students who are deaf or hard-of-hearing.
  - 5.04(6)(b) manage assistive devices appropriate for students who are deaf or hard-of-hearing.
  - 5.04(6)(c) select, implement and evaluate effective classroom management strategies.
  - 5.04(6)(d) adapt learning environments to effectively meet needs of students who are deaf or hard-of-hearing and those who may have additional disabilities or special needs.
  - 5.04(6)(e) plan and effectively implement instruction for students who are deaf or hard-of-hearing and those with additional disabilities or special needs.
- 5.04(7) The special education specialist: deaf/hard-of-hearing is knowledgeable about promoting student social interaction and independence and is able to:
- 5.04(7)(a) demonstrate processes for establishing ongoing interactions of students who are deaf or hard-of-hearing with peers and role models who are deaf, hard-of-hearing or hearing.
  - 5.04(7)(b) provide opportunities for interaction with communities of individuals who are deaf, hard-of-hearing or hearing on the local, state and national levels.
  - 5.04(7)(c) provide students with a wide variety of communication strategies which allow effective interaction with people and in places, situations and organizations within the community.
  - 5.04(7)(d) implement strategies for teaching appropriate social skills and behavior in a variety of situations to students who are deaf or hard-of-hearing.
  - 5.04(7)(e) provide appropriate methods of effective self-advocacy to students who are deaf or hard-of-hearing.
  - 5.04(7)(f) articulate social/emotional/psychological developmental and social/emotional issues related to students who are deaf or hard-of-hearing.
  - 5.04(7)(g) promote independence and responsibility to students who are deaf or hard-of-hearing.
  - 5.04(7)(h) effectively teach students who are deaf or hard-of-hearing:
    - 5.04(7)(h)(i) how to use support personnel and contact resources appropriately and effectively;
    - 5.04(7)(h)(ii) how to be self-advocates;
    - 5.04(7)(h)(iii) how to be independent and take responsibility for their own actions;
    - 5.04(7)(h)(iv) about legal procedures, their rights and how to take appropriate action;
    - 5.04(7)(h)(v) to express emotions appropriately; and
    - 5.04(7)(h)(vi) how to use a wide variety of assistive devices.

- 5.04(8) The special education specialist: deaf/hard-of-hearing is knowledgeable about communication and collaborative partnerships and is able to:
- 5.04(8)(a) provide a wide variety of resources to family members and professionals who are deaf or hard-of-hearing; to assist them in dealing with educational concerns and options, utilizing relevant available services and determining appropriate communication modes; and to identify cultural and community opportunities for students who are deaf or hard-of-hearing.
  - 5.04(8)(b) identify and articulate appropriate roles and responsibilities of educators and support personnel including, but not limited to, interpreters, note-takers and paraprofessionals in the delivery of education and education-related activities and programs to students who are deaf or hard-of-hearing.
  - 5.04(8)(c) articulate the effects of communication on the development of family relationships and strategies to facilitate communication in families with children who are deaf or hard-of-hearing.
  - 5.04(8)(d) articulate appropriate strategies to promote partnerships and to overcome barriers between families and professionals to effectively meet the needs of students who are deaf or hard-of-hearing.
  - 5.04(8)(e) articulate to families and professionals the educational options, communication modes/philosophies, services, cultural issues and community resources available for children who are deaf or hard-of-hearing.
  - 5.04(8)(f) facilitate communication between the child who is deaf and his or her family and/or other caregivers when, and as, appropriate.
  - 5.04(8)(g) facilitate/oversee coordination of and supervise support personnel including but not limited to interpreters, note-takers and paraprofessionals, to meet the needs of students who are deaf or hard-of-hearing.
  - 5.04(8)(h) use collaborative strategies and effective communication skills with individuals who are deaf or hard-of-hearing, parents, school and community personnel in various learning environments.
  - 5.04(8)(i) advocate for meeting the social-emotional, educational and communication needs of students who are deaf or hard-of-hearing in a wide variety of settings.
- 5.04(9) The special education specialist: deaf/hard-of-hearing is knowledgeable about professionalism and ethical practice and is able to:
- 5.04(9)(a) acquire the additional knowledge and skills necessary to effectively educate students who are deaf or hard-of-hearing and to work successfully with their families, other professionals and interested stakeholders.
  - 5.04(9)(b) participate in relevant professional and other organizations and remain current regarding publications and journals relevant to the field of educating students who are deaf or hard-of-hearing.
  - 5.04(9)(c) self-assess, design and implement an ongoing professional development plan relevant to being an effective educator of students who are deaf and hard-of-hearing.

**5.05 Early Childhood Special Education Specialist (Ages Birth-8)**

To be endorsed as an early childhood special education specialist for ages birth-8, an applicant must have completed a degree or non-degree program at the graduate level in early childhood special education that includes field-based experience or practicum; have demonstrated the competencies found at 5.01 of these rules and 5.08 of 1 CCR 301-37; and have demonstrated the additional competencies, knowledge and skills specified below:

5.05(1) Assessment: Advanced early childhood special education specialists use valid and reliable assessment practices to minimize bias.

5.05(1)(a) Advanced early childhood special education specialists are knowledgeable of:

- 5.05(1)(a)(i) evaluation processes and determination of eligibility;
- 5.05(1)(a)(ii) a variety of methods for assessing and evaluating the performance of individuals with exceptionalities;
- 5.05(1)(a)(iii) strategies for identifying individuals with exceptionalities; and
- 5.05(1)(a)(iv) evaluating an individual's success in the general education curriculum.

5.05(1)(b) Advanced early childhood special education specialists possess specialized knowledge of:

- 5.05(1)(b)(i) policy and research implications that promote recommended practices in assessment and evaluation; and
- 5.05(1)(b)(ii) systems and theories of child and family assessment.

5.05(1)(c) Advanced early childhood special education specialists demonstrate the skills to:

- 5.05(1)(c)(i) design and use methods for assessing and evaluating programs;
- 5.05(1)(c)(ii) design and implement research activities to examine the effectiveness of instructional practices;
- 5.05(1)(c)(iii) advocate for evidence-based practices in assessment; and
- 5.05(1)(c)(iv) report the assessment of individuals' performance and evaluation of instructional programs.

5.05(1)(d) Advanced early childhood special education specialists demonstrate the specialized skills to:

- 5.05(1)(d)(i) provide leadership in the development and implementation of unbiased assessment and evaluation procedures that include family members as an integral part of the process;
- 5.05(1)(d)(ii) provide leadership in the development and implementation of unbiased assessment and evaluation procedures for childcare and early education environments and curricula; and
- 5.05(1)(d)(iii) provide leadership when selecting effective formal and informal assessment instruments and strategies.

5.05(2) Curricular content knowledge: Advanced early childhood special education specialists use their knowledge of general and specialized curricula to improve programs, supports and services at classroom, school, community and system levels.

5.05(2)(a) Advanced early childhood special education specialists possess specialized knowledge of at least one developmental period or one particular area of disability or delay.

5.05(2)(b) Advanced early childhood special education specialists demonstrate the specialized skills to:

5.05(2)(b)(i) apply various curriculum theories and early learning standards, and evaluate their impact;

5.05(2)(b)(ii) integrate family and social systems theories to develop, implement, and evaluate family and educational plans;

5.05(2)(b)(iii) incorporate and evaluate the use of universal design and assistive technology in programs and services;

5.05(2)(b)(iv) design, implement, and evaluate plans to prevent and address challenging behaviors across settings;

5.05(2)(b)(v) design, implement, and evaluate developmentally responsive learning environments, preventative strategies, program wide behavior supports, and tiered instruction; and

5.05(2)(b)(vi) apply interdisciplinary knowledge from the social sciences and the allied health fields.

5.05(3) Programs, services and outcomes: Advanced early childhood special education specialists facilitate the continuous improvement of general and special education programs, supports, and services at the classroom, school, and system levels for individuals with exceptionalities.

5.05(3)(a) Advanced early childhood special education specialists are knowledgeable of:

5.05(3)(a)(i) effects of the cultural and environmental milieu of the child and the family on behavior and learning;

5.05(3)(a)(ii) theories and methodologies of teaching and learning, including adaptation and modification of curriculum;

5.05(3)(a)(iii) continuum of program options and services available to individuals with exceptionalities;

5.05(3)(a)(iv) pre-referral intervention processes and strategies;

5.05(3)(a)(v) process of developing individual educational programs (IEPs); and

5.05(3)(a)(vi) developmentally appropriate strategies for modifying instructional methods and the learning environment.

5.05(3)(b) Advanced early childhood special education specialists possess specialized knowledge of a range of delivery systems for programs and services available for infants and young children and their families



- 5.05(3)(c) Advanced early childhood special education specialists demonstrate the skills to:
  - 5.05(3)(c)(i) develop programs, including the integration of related services, for individuals with exceptionalities based upon a thorough understanding of individual differences;
  - 5.05(3)(c)(ii) connect educational standards to specialized instructional services;
  - 5.05(3)(c)(iii) improve instructional programs using principles of curriculum development and modification and learning theory; and
  - 5.05(3)(c)(iv) incorporate essential components into individualized education plans.
- 5.05(3)(d) Advanced early childhood special education specialists demonstrate the specialized skills to:
  - 5.05(3)(d)(i) design, implement, and evaluate home and community-based programs and services;
  - 5.05(3)(d)(ii) address medical and mental health issues and concerns when planning, implementing, and evaluating programs and services; and
  - 5.05(3)(d)(iii) use recommended practices to design, implement and evaluate transition programs and services.
- 5.05(4) Research and inquiry: Advanced early childhood special education specialists conduct, evaluate and use inquiry to guide professional practice.
  - 5.05(4)(a) Advanced early childhood special education specialists are knowledgeable of evidence-based practices validated for specific characteristics of learners and settings.
  - 5.05(4)(b) Advanced early childhood special education specialists demonstrate the skills to:
    - 5.05(4)(b)(i) identify and use the research literature to resolve issues of professional practice;
    - 5.05(4)(b)(ii) evaluate and modify instructional practices; and
    - 5.05(4)(b)(iii) use educational research to improve instruction, intervention strategies and curricular materials.
  - 5.05(4)(c) Advanced early childhood special education specialists demonstrate the specialized skills to:
    - 5.05(4)(c)(i) create and/or disseminate new advances and evidence-based practices;
    - 5.05(4)(c)(ii) help others understand early development and its impact across the life span; and
    - 5.05(4)(c)(iii) interpret and apply research to the provision of quality services and program practices to infants, young children and their families in a variety of educational and community settings.

5.05(5) Leadership and policy: Advanced early childhood special education specialists provide leadership to formulate goals, set and meet high professional expectations, advocate for effective policies and evidence-based practices, and create positive and productive work environments.

5.05(5)(a) Advanced early childhood special education specialists are knowledgeable of:

- 5.05(5)(a)(i) needs of different groups in a pluralistic society;
- 5.05(5)(a)(ii) evidence-based theories of organizational and educational leadership;
- 5.05(5)(a)(iii) emerging issues and trends that potentially affect the school community and the mission of the school;
- 5.05(5)(a)(iv) federal and state education laws and regulations;
- 5.05(5)(a)(v) current legal, regulatory, and ethical issues affecting education; and
- 5.05(5)(a)(vi) responsibilities and functions of school communities and boards.

5.05(5)(b) Advanced early childhood special education specialists possess specialized knowledge of:

- 5.05(5)(b)(i) sociocultural, historical and political forces that influence diverse delivery systems, including mental health;
- 5.05(5)(b)(ii) policy and emerging trends that affect infants and young children, families, resources and services; and
- 5.05(5)(b)(iii) community resources on national, state and local levels that impact program planning and implementation and the individualized needs of the child and family.

5.05(5)(c) Advanced early childhood special education specialists demonstrate the skills to:

- 5.05(5)(c)(i) promote a free appropriate public education in the least restrictive environment;
- 5.05(5)(c)(ii) promote high expectations for self, staff, and individuals with exceptionalities;
- 5.05(5)(c)(iii) advocate for educational policy within the context of evidence-based practices; and
- 5.05(5)(c)(iv) mentor teacher candidates, newly certified teachers and other colleagues.

5.05(5)(d) Advanced early childhood special education specialists demonstrate the specialized skills to:

- 5.05(5)(d)(i) advocate on behalf of infants and young children with exceptional needs, and their families, at local, state and national levels;
- 5.05(5)(d)(ii) provide leadership to help others understand policy and research that guide recommended practices;

5.05(5)(d)(iii) provide leadership in the collaborative development of community-based services and resources; and

5.05(5)(d)(iv) provide effective supervision and evaluation.

5.05(6) Professional and ethical practice: Advanced early childhood special education specialists use foundational knowledge of the field and professional ethical principles and practice standards to inform special education practice, engage in lifelong learning, advance the profession and perform leadership responsibilities to promote the success of professional colleagues and individuals with exceptionalities.

5.05(6)(a) Advanced early childhood special education specialists are knowledgeable of:

5.05(6)(a)(i) legal rights and responsibilities of individuals, staff and parents/guardians;

5.05(6)(a)(ii) moral and ethical responsibilities of educators; and

5.05(6)(a)(iii) human rights of individuals with exceptionalities and families.

5.05(6)(b) Advanced early childhood special education specialists demonstrate the skills to:

5.05(6)(b)(i) model ethical behavior and promote professional standards;

5.05(6)(b)(ii) implement practices that promote success for individuals with exceptionalities;

5.05(6)(b)(iii) use ethical and legal discipline strategies;

5.05(6)(b)(iv) disseminate information on effective school and classroom practices;

5.05(6)(b)(v) create an environment which supports continuous instructional improvement; and

5.05(5)(b)(vi) develop and implement a personalized professional development plan.

5.05(6)(c) Advanced early childhood special education specialists demonstrate the specialized skills to:

5.05(6)(c)(i) engage in reflective inquiry and professional self-assessment;

5.05(6)(c)(ii) participate in professional mentoring and other types of reciprocal professional development activities; and

5.05(6)(c)(iii) participate actively in organizations that represent recommended practices of early intervention and early childhood special education on a national, state, and local level.

5.05(7) Collaboration: Advanced early childhood special education specialists collaborate with stakeholders to improve programs, services and outcomes for individuals with exceptionalities and their families.

5.05(7)(a) Advanced early childhood special education specialists are knowledgeable of:

5.05(7)(a)(i) methods for communicating goals and plans to stakeholders; and

- 5.05(7)(a)(ii) roles of educators in integrated settings.
- 5.05(7)(b) Advanced early childhood special education specialists possess specialized knowledge of:
  - 5.05(7)(b)(i) roles and responsibilities of personnel in the development and implementation of team-based early childhood special education and early intervention services; and
  - 5.05(7)(b)(ii) theories, models and research that support collaborative relationships.
- 5.05(7)(c) Advanced early childhood special education specialists demonstrate the skills to:
  - 5.05(7)(c)(i) collaborate to enhance opportunities for learners with exceptionalities; and
  - 5.05(7)(c)(ii) apply strategies to resolve conflict and build consensus.
- 5.05(7)(d) Advanced early childhood special education specialists demonstrate the specialized skills to:
  - 5.05(7)(d)(i) implement and evaluate leadership and models of collaborative relationships; and
  - 5.05(7)(ii) collaborate with stakeholders in developing and implementing positive behavior support plans to prevent and address challenging behavior.

## **5.06 Gifted Education Core (Ages 4-21)**

To hold the gifted education core endorsement, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; must hold a Colorado initial or professional teacher or special services license; have completed an approved program for the preparation of gifted education educators, including prescribed field experience and student teaching requirements; have passed any required general education content and/or gifted education assessments; and have demonstrated competency in the seven areas specified below:

5.06(1) Learner development and individual learning differences: An educator with a gifted education core endorsement understands variations in learning and development in cognitive and affective areas between and among individuals with gifts and talents and applies this understanding to provide appropriately meaningful and challenging learning experiences for individuals with exceptionalities. This educator understands that learner differences and development are manifest and monitored via data, bodies of evidence, advanced learning plans (ALPs), academic and affective goals, and multi-tiered system of supports systemic intervention strategies and tools for differentiation, acceleration and enrichment that address advanced learning differences and to support optimal continual development of individual growth and potential. The gifted educator applies knowledge of:

- 5.06(1)(a) gifted learner development in order to:
  - 5.06(1)(a)(i) apply documented current theories related to intelligence, creativity, brain research, underlying exceptional cognition, asynchronicity and the expression of talent as it applies to all gifted students, including early childhood students, twice-exceptional learners (i.e., gifted and talented students with disabilities), highly gifted students, underachieving high-potential students, culturally and ethnically diverse gifted students, high-potential linguistically diverse students, students

- with unique affective needs, high-potential economically disadvantaged students and others;
- 5.06(1)(a)(ii) understand documented theories of human development, ages 4-21, as specifically related to developmentally appropriate strategies for gifted and talented learners;
- 5.06(1)(a)(iii) recognize the unique characteristics of gifted, talented and creative students, preschool through grade 12, and seek opportunities for enhancing their achievement as well as social-emotional development;
- 5.06(1)(a)(iv) apply understanding of development and individual academic and affective differences to respond to the needs of individuals with gifts;
- 5.06(1)(a)(v) identify how families and communities contribute to the development of individuals with gifts and talents and support their roles in the development of individuals with gifts; and
- 5.06(1)(a)(vi) recognize the influence of social and emotional development on interpersonal relationships and learning of individuals with gifts and talents.
- 5.06(1)(b) learning traits, needs and differences in order to:
  - 5.06(1)(b)(i) evaluate the need for and draw upon multiple, appropriate gifted learner data, advanced learning plans (ALPs), evidence-based practices for differentiation including acceleration strategies, systemic support systems, strategies and specialized support services to assist with meeting the unique learning-related affective, social and cognitive needs of gifted and talented students related but not limited to:
    - 5.06(1)(b)(i)(A) various types of giftedness and talent, including creativity;
    - 5.06(1)(b)(i)(B) asynchronous development (i.e., the incongruences that may occur between a student's intellectual maturity and his/her social, emotional and physical development);
    - 5.06(1)(b)(i)(C) psychological support;
    - 5.06(1)(b)(i)(D) cognitive development and affective characteristics; and
    - 5.06(1)(b)(i)(E) social and behavioral characteristics and needs, impact of multiple exceptionalities and multi-potentialities on gifted students.
  - 5.06(1)(b)(ii) interpret gifted learner data to develop and monitor advanced learning plans (ALPs) and provide appropriate evidence-based practices for differentiation to support ongoing academic achievement and learning-related affective development of gifted and talented students; and
  - 5.06(1)(b)(iii) apply concepts and interrelationships of giftedness, intelligence, creativity and leadership.
- 5.06(1)(c) diversity in order to:

- 5.06(1)(c)(i) recognize how language, culture, economic status, family background and/or area of disability can influence the learning of individuals with gifts and talents;
  - 5.06(1)(c)(ii) appreciate influences of diversity factors, different beliefs, traditions and values across and within diverse groups as cognitive, social, emotional, cultural, linguistic and environmental effects that enhance or inhibit the development of giftedness; and
  - 5.06(1)(c)(iii) seek to understand how language, culture and family background interact with an individual's predispositions to impact academic and social behavior, attitudes, values and interests.
- 5.06(2) Learning environment and structures: An educator with a gifted education core endorsement creates safe, inclusive and culturally responsive learning environments so that individuals with gifts and talents become effective learners and develop social and emotional well-being. The gifted educator applies knowledge of:
- 5.06(2)(a) social-emotional aspects in order to:
    - 5.06(2)(a)(i) apply strategies for addressing specific social and emotional aspects that are unique to the gifted learner;
    - 5.06(2)(a)(ii) create a safe, nurturing classroom environment that encourages mutual respect and emotional well-being;
    - 5.06(2)(a)(iii) establish an environment in which creativity and giftedness can emerge and where students can feel safe to acknowledge, explore and express their uniqueness;
    - 5.06(2)(a)(iv) acknowledge the value of each gifted student's contributions to the quality of learning; and
    - 5.06(2)(a)(v) demonstrate understanding of the multiple environments that are part of a continuum of services for individuals with gifts and talents, including the advantages and disadvantages of various settings, by intentionally modifying classroom environments for different purposes.
  - 5.06(2)(b) diversity in order to create a classroom environment that values diversity and individuality and fosters understanding and features intercultural experiences.
  - 5.06(2)(c) skill development in order to:
    - 5.06(2)(c)(i) plan for the development of coping skills in individuals with gifts and talents to address personal and social issues including discrimination and stereotyping;
    - 5.06(2)(c)(ii) modify learning environments to enhance the independence, self-awareness and self-efficacy of gifted students;
    - 5.06(2)(c)(iii) support students as they adapt to changes in their learning environments; and
    - 5.06(2)(c)(iv) apply strategies for the development in gifted students of habits of mind, attitudes and skills needed for future success, such as the production of

knowledge; independent, lifelong learning; self-evaluation; interdependence and goal-setting (realistic, challenging goals for self, academics and school-to-career).

5.06(2)(d) relationships in order to:

5.06(2)(d)(i) establish a nurturing, respectful and caring relationship with each student and encourage relationships among students;

5.06(2)(d)(ii) plan for the development of social interaction that encourages positive relationships among students and that builds collaboration skills; and

5.06(2)(d)(iii) facilitate appropriate flexible grouping practices for educational reasons.

5.06(3) Instructional planning and strategies: An educator with a gifted education core endorsement selects, adapts and uses a repertoire of evidence-based instructional strategies to advance the learning of individuals with gifts and talents. The gifted educator applies knowledge of:

5.06(3)(a) curriculum in order to:

5.06(3)(a)(i) develop long-range plans anchored in both general and special curricula;

5.06(3)(a)(ii) apply theories and research models that form the basis of curriculum development and instructional practice for individuals with gifts and talents;

5.06(3)(a)(iii) design and prescribe appropriate differentiated gifted program and curriculum options that are based on research-supported instructional strategies which include conceptual depth, advanced technological skills, accelerated presentation and pace, and creativity;

5.06(3)(a)(iv) apply documented best practices for teaching gifted and talented students, including those practices for the design and delivery of curriculum and the assessment of student learning including varied options and methods for acceleration, modification of content, content extensions (for depth and complexity) and expanded learning opportunities for students in order to meet specialized needs that may include resources beyond the classroom (mentorships, internships, dual enrollment, etc.);

5.06(3)(a)(v) foster the development of leadership skills through structured group processes;

5.06(3)(a)(vi) create environments and communicate high expectations for gifted students through rigorous learning activities; and

5.06(3)(a)(vii) promote active engagement in meaningful and challenging activities that extend learning.

5.06(3)(b) diversity in order to:

5.06(3)(b)(i) demonstrate understanding of cultural and linguistic factors, as well as the implications of being gifted and talented;

5.06(3)(b)(ii) design differentiated learning plans for individuals with gifts and talents including twice-exceptional students and individuals from diverse backgrounds;

- 5.06(3)(b)(iii) integrate perspectives of diverse groups into planning instruction for individuals with gifts and talents; and
- 5.06(3)(b)(iv) select curriculum resources, strategies and product options that respond to cultural, linguistic and intellectual differences.
- 5.06(3)(c) social-emotional aspects in order to plan and implement strategies for addressing the unmet social and emotional strengths and needs facing gifted students that differ from those of the general population.
- 5.06(3)(d) data-driven decisions in order to:
  - 5.06(3)(d)(i) systematically translate shorter-range ALP academic and affective goals and objectives that take into consideration an individual's abilities and needs, the learning environment and cultural and linguistic factors; and
  - 5.06(3)(d)(ii) evaluate the match between the identified educational needs of the student and appropriate and relevant strategies, programs and services.
- 5.06(4) Curricular content knowledge: An educator with a gifted education core endorsement demonstrates mastery of and pedagogical expertise in the content taught and uses knowledge of general and specialized curricula to advance learning for individuals with gifts and talents. The gifted educator applies knowledge of:
  - 5.06(4)(a) differentiation in order to:
    - 5.06(4)(a)(i) provide needs-based intensive research-based literacy and numeracy skill development and integrate such skills into lessons and assignments as well as across subject areas;
    - 5.06(4)(a)(ii) implement cognitively engaging instruction intended to enhance student thinking, involve them in their own academic progress and create climates that encourage risk-taking, thinking outside the box and real-life scenarios;
    - 5.06(4)(a)(iii) interpret data in order to supplement or modify assessments to address learning needs of individuals with gifts and talents;
    - 5.06(4)(a)(iv) apply research-based effective differentiation strategies and instructional best practices to address all needs, including affective needs, of gifted learners; and
    - 5.06(4)(a)(v) select, adapt and create appropriate, challenging materials in order to differentiate instructional strategies through general and specialized curricula.
  - 5.06(4)(b) diversity in order to:
    - 5.06(4)(b)(i) apply understanding of diversity and individual learning differences to inform the selection, development and implementation of comprehensive curricula for individuals with exceptionalities; and
    - 5.06(4)(b)(ii) integrate perspectives of diverse groups into planning instruction for individuals with gifts and talents.
  - 5.06(4)(c) cross-disciplinary curriculum in order to:



- 5.06(4)(c)(i) develop lessons that reflect the interconnectedness of content areas/disciplines;
- 5.06(4)(c)(ii) understand the role of central key concepts and structures of the discipline in order to implement instructional strategies that ensure that instruction articulates content and interdisciplinary connections;
- 5.06(4)(c)(iii) use understanding of gifted learner needs to organize knowledge, integrate cross-disciplinary skills and apply meaningful learning progressions within and across grade levels; and
- 5.06(4)(c)(iv) accelerate learning by elaborating on current lesson with connections to prior lessons within the content area and/or with other disciplines.
- 5.06(4)(d) thinking skills in order to:
  - 5.06(4)(d)(i) implement tools of inquiry in content areas including higher-level thinking, critical-thinking and reasoning;
  - 5.06(4)(d)(ii) apply strategies of creativity, acceleration, depth and complexity in academic subject matter and specialized domains; and
  - 5.06(4)(d)(iii) facilitate in-depth studies, individual investigations and learner-directed experiences.

5.06(5) Assessment and evaluation: An educator with a gifted education core endorsement is knowledgeable about the identification and assessment of student needs and uses formative and summative information from data to incorporate appropriate planning, methods and processes to meet the needs of gifted and talented students in all domains. Advanced learning plans (ALPs) serve as a “road map” and are collaboratively developed specific to individual gifted learner needs and goals and are used to determine acceleration needs, differentiation of instruction and provisions for affective support. The gifted educator applies knowledge of:

- 5.06(5)(a) diversity in order to:
  - 5.06(5)(a)(i) understand factors inhibiting the recognition of the potential of students who are gifted from underserved populations (including, but not limited to, students who are female, disabled, racially or ethnically diverse, economically disadvantaged, underachieving, rural and/or highly gifted or twice-exceptional) and use multiple sources, portfolios and other data for a body of evidence when considering students for identification;
  - 5.06(5)(a)(ii) apply defensible methods for screening, identifying and assessing students who are gifted, including under-served populations;
  - 5.06(5)(a)(iii) demonstrate understanding of the unique and sophisticated means by which individuals with gifts and talents including those from culturally diverse backgrounds may demonstrate their learning; and
  - 5.06(5)(a)(iv) use assessment results to develop long- and short-range goals and objectives that take into consideration an individual's abilities and needs, the learning environment and other factors related to diversity.
- 5.06(5)(b) identification in order to:

- 5.06(5)(b)(i) understand the process of and procedures for identification, legal policies and ethical principles of measurement and assessment related to referral, eligibility, program planning, instruction and placement for individuals with gifts and talents;
- 5.06(5)(b)(ii) implement technically sound, valid and reliable qualitative and quantitative instruments that minimize bias in identifying students for gifted education programs and services;
- 5.06(5)(b)(iii) use multiple methods of assessment and data sources in making educational decisions about identification of individuals with gifts and talents; and
- 5.06(5)(b)(iv) assess social-emotional needs of the gifted student in order to develop ALP goals specific to affective needs of the individual.
- 5.06(5)(c) instruction in order to:
  - 5.06(5)(c)(i) use and interpret qualitative and quantitative assessments and information, aligned with Department of Education identification guidelines and procedures, to develop a profile of the strengths and weaknesses of each student with gifts and talents;
  - 5.06(5)(c)(ii) interpret results of relevant data to diagnose educational needs and align instruction with academic standards and student assessment results;
  - 5.06(5)(c)(iii) monitor and adjust instruction to enhance ongoing learning progress and modify learning plans based on ongoing assessment of individuals progress;
  - 5.06(5)(c)(iv) apply a variety of pre-, formative and summative assessment methods and evaluate student performance based on multiple measures, employing alternative assessments and technologies such as performance-based assessment, portfolios and computer simulations, differentiated product-based assessments and off-level standardized assessments;
  - 5.06(5)(c)(v) use assessment results to select, adapt and create materials to differentiate instructional strategies and general and specialized curricula to challenge individuals with gifts and talents at appropriate instructional levels. Use knowledge of measurement principles and practices to differentiate assessments and interpret results to guide educational decisions for individuals with gifts and talents;
  - 5.06(5)(c)(vi) understand the affective aspects of giftedness that may affect a learner's achievement (perfectionism, self-concept, etc.); and
  - 5.06(5)(c)(vii) use results from technically sound informal assessments (surveys, checklists, screening tools, observations, et.al.) to determine appropriate affective supports.
- 5.06(5)(d) communication in order to:
  - 5.06(5)(d)(i) provide and implement actionable, timely, specific and individualized feedback for growth, learning and challenge;
  - 5.06(5)(d)(ii) involve students in self-assessment and use formal and informal assessment feedback to monitor their learning;

- 5.06(5)(d)(iii) engage individuals with gifts and talents in evaluating the quality of their own learning and performance and in setting future goals and objectives; and
- 5.06(5)(d)(iv) communicate and interpret assessment information to students with gifts and talents and their parents/guardians.
- 5.06(5)(e) assessment of programming in order to:
  - 5.06(5)(e)(i) provide information and input for evaluation of gifted programming; and
  - 5.06(5)(e)(ii) evaluate implementation and effectiveness of strategies used to ensure delivery of program/service goals and objectives for all gifted learners, including those from diverse cultural and/or linguistic backgrounds.
- 5.06(6) Professional learning and ethical practice: An educator with a gifted education core endorsement applies foundational knowledge of the field and professional ethical principles and programming standards to inform gifted education practice, to engage in lifelong learning and to advance the profession. The gifted educator applies knowledge of:
  - 5.06(6)(a) foundations in order to demonstrate knowledge about the foundations of the education of the gifted and the talented student including, but not limited to, the history of the education of the gifted and talented; proven and documented theories of giftedness; the wide variety of curricular strategies that provide for the effective teaching of gifted and talented students to include the current and evolving discipline based on philosophies, evidence-based principles and theories, relevant laws and policies, and diverse and historical points of view; and human issues.
  - 5.06(6)(b) diversity in order to:
    - 5.06(6)(b)(i) demonstrate understanding of key issues and trends including diversity and inclusion that connect general, special and gifted and talented education;
    - 5.06(6)(b)(ii) respond appropriately to the impact of culture and language as it interacts with an individual's gifts and talents;
    - 5.06(6)(b)(iii) recognize and plan for the many aspects of diversity of individuals with gifts and talents and their families;
    - 5.06(6)(b)(iv) understand that personal and cultural frames of reference affect one's teaching of individuals with gifts and talents, including biases about individuals from diverse backgrounds and twice-exceptional learners; and
    - 5.06(6)(b)(v) assess and evaluate personal skills and limitations in regard to the impact of the dominant culture's role in shaping schools and recognize how differences in values, languages and customs between school and home may provide opportunities for adjustments.
  - 5.06(6)(c) ethical practice in order to:
    - 5.06(6)(c)(i) maintain confidentiality of student, family and fellow teacher interactions, as well as student data, while using professional ethical principles, ethical practices and specialized program standards with all individuals with exceptionalities by supporting and using linguistically and culturally responsive practices;

- 5.06(6)(c)(ii) act in compliance with laws, policies and standards of ethical practice by engaging in professional activities that promote growth in individuals with gifts and talents and update him/herself on evidence-based best practices; and
- 5.06(6)(c)(iii) support positive and productive work environments by creating and maintaining collegial and productive work environments that respect and safeguard the rights of individuals with exceptionalities and their families.
- 5.06(6)(d) professional growth in order to:
  - 5.06(6)(d)(i) view him/herself as a lifelong learner and regularly reflect on and adjust teaching practices, including self-evaluation of instruction by practice through continuous research-supported professional development;
  - 5.06(6)(d)(ii) reflect on personal practice to improve teaching and guide professional growth by involvement in professional development organizations, conferences, workshops and publications that are relevant to the field of gifted education; and
  - 5.06(6)(d)(iii) continuously broaden and deepen professional knowledge and expand expertise in regard to instructional technologies, curriculum standards, effective teaching strategies and assistive technologies that support access to and learning of challenging content by including current state standards, skills and local and state input.
- 5.06(7) Collaboration and communication: An educator with a gifted education core endorsement possesses skills in communicating, teaming and collaborating with diverse individuals and across diverse groups; demonstrates competence in interpersonal and technical communication skills as well as advanced oral and written skills; and applies knowledge of regulations and laws regarding confidentiality. The gifted educator applies knowledge of:
  - 5.06(7)(a) ethics in order to maintain confidential communication about individuals with gifts and talents.
  - 5.06(7)(b) cultural responsiveness in order to:
    - 5.06(7)(b)(i) provide guardians/parents with information in their native language regarding diverse behaviors and characteristics that are associated with giftedness and information that explains the nature and purpose of gifted programming options;
    - 5.06(7)(b)(ii) understand how the characteristics of one's own culture and use of standard English can differ from other cultures and uses of language;
    - 5.06(7)(b)(iii) adjust and match communication methods to an individual's language proficiency and cultural and linguistic differences; and
    - 5.06(7)(b)(iv) implement ways of behaving and communicating that lead to more accurate interpretation and greater understanding among all cultural and linguistic groups.
  - 5.06(7)(c) effective communication in order to:
    - 5.06(7)(c)(i) recognize the importance of using verbal, nonverbal and written language effectively;

- 5.06(7)(c)(ii) use communication strategies and resources to facilitate understanding of subject matter for individuals with gifts and talents who are English language learners;
- 5.06(7)(c)(iii) collaborate with families, professional colleagues and other educators to use data to make identification decisions and select, adapt and use evidence-based strategies that promote challenging learning opportunities in general and specialized curricula;
- 5.06(7)(c)(iv) implement strategies for advocating for students who are gifted and for enhancing community perceptions, interactions and involvement regarding gifted education;
- 5.06(7)(c)(v) facilitate school to career/life actions in a collaborative context that includes individuals with gifts and talents, families, professional colleagues and personnel from other agencies, as appropriate; and
- 5.06(7)(c)(vi) effect change by establishing a leadership role with parents, colleagues and other stakeholders through planned involvement and collaborative efforts that promote gifted student education.

5.06(8) An educator with a gifted education core endorsement is knowledgeable about professionalism and ethical practice and is able to:

- 5.06(8)(a) acquire the additional knowledge and skills necessary to effectively educate students with gifts and talents and to work successfully with their families, other professionals and interested stakeholders.
- 5.06(8)(b) participate in relevant professional and other organizations and remain current regarding publications and journals relevant to the field of educating students with gifts and talents.
- 5.06(8)(c) self-assess, design and implement an ongoing professional development plan relevant to being an effective educator of students with gifts and talents.

## **5.07 Gifted Education Specialist ( Ages 4-21)**

To be endorsed as a gifted education specialist, a candidate must hold an earned master's or higher degree in gifted education from an accepted institution of higher education; have completed an approved program for the preparation of gifted education specialists, including prescribed field experience and student teaching requirements; hold a Colorado initial or professional teacher license with a gifted education core endorsement or demonstrate through multiple performance measures the competencies required for a gifted education core endorsement:

5.07(1) Leadership and policy: The gifted education specialist provides leadership to formulate goals, set and meet high professional expectations, advocate for effective policies and evidence-based practices and is guided by professional ethics and practice standards. In this advanced role, the gifted educator has leadership responsibilities for promoting the success of individuals with exceptional learning needs, their families and colleagues. The gifted education specialist creates supportive environments that safeguard the legal rights of students, families and school personnel through policies and procedures that promote ethical and professional practice. The gifted education specialist applies knowledge of:

- 5.07(1)(a) accountability in order to:

- 5.07(1)(a)(i) articulate public policy as it relates to the development and implementation of programs and strategies for gifted and talented students that are consistent with and aligned to adopted policies and objectives of the school district;
- 5.07(1)(a)(ii) integrate gifted education into the school's and district's educational program design, the delivery of instruction and other educational processes, and the organization of the school day;
- 5.07(1)(a)(iii) understand legal issues impacting the field of gifted education;
- 5.07(1)(a)(iv) prepare budgets, grants and reports;
- 5.07(1)(a)(v) apply knowledge of theories, evidence-based practices, relevant laws and policies to advocate for programs, supports and a continuum of services for individuals with exceptionalities; and
- 5.07(1)(a)(vi) ensure privacy issues in regard to individual students and record-keeping.
- 5.07(1)(b) collaboration in order to:
  - 5.07(1)(b)(i) demonstrate effective leadership skills for designing and implementing programs for and delivering instruction to gifted students;
  - 5.07(1)(b)(ii) utilize effective leadership skills for designing and implementing programs for and delivering instruction to gifted students;
  - 5.07(1)(b)(iii) provide leadership to create procedures that respect all individuals and permit professionals to practice ethically;
  - 5.07(1)(b)(iv) create positive and productive work environments by sharing information regarding positive impacts with colleagues;
  - 5.07(1)(b)(v) implement strategies to promote collegial understanding of the academic and affective needs of gifted students among regular classroom teachers, administrators and boards of education; and
  - 5.07(1)(b)(vi) work with professional, governmental and/or community agencies to advocate for curricular, school and instructional improvements.
- 5.07(1)(c) advocacy in order to:
  - 5.07(1)(c)(i) communicate with policy makers and the general public about issues inherent in the education of gifted and talented students and about how to resolve concerns appropriately, effectively and practically;
  - 5.07(1)(c)(ii) discuss potential improvements to policies and procedures with administrators to better address student, family and school needs;
  - 5.07(1)(c)(iii) contribute to school and/or district committees to improve and align gifted services for students and their families;
  - 5.07(1)(c)(iv) promote appropriate programming regarding the education of gifted and talented students to external agencies and groups;

- 5.07(1)(c)(v) promote policies and practices that improve programs, services and outcomes for individuals with exceptionalities;
- 5.07(1)(c)(vi) seek allocation of appropriate resources for the preparation and professional development of all personnel who serve individuals with exceptionalities; and
- 5.07(1)(c)(vii) provide opportunities and support for acceleration for gifted students in content, process and/or product.
- 5.07(1)(d) professional development in order to:
  - 5.07(1)(d)(i) promote high professional self-expectations and help others understand the needs of individuals with exceptional learning needs within the context of an organization's mission;
  - 5.07(1)(d)(ii) plan, facilitate and/or provide professional development activities for increasing the knowledge and skills of regular classroom teachers in the areas of gifted identification methods and procedures, specific research-based instructional strategies and curriculum for gifted learners, and assessment methods and data-analysis to enhance the general improvement of the education of gifted and talented students;
  - 5.07(1)(d)(iii) structure, direct and supervise the activities of para-educators, volunteers and tutors; and
  - 5.07(1)(d)(iv) participate in self-evaluation and in organizations and activities that provide professional development opportunities and information that can increase professional competence and contribute to the advancement of the education of the gifted and talented student.
- 5.07(2) Collaboration, communication and coordination: The gifted education specialist has a deep understanding of the centrality and importance of consultation and collaboration to the roles within gifted education and uses this deep understanding to improve programs, services and outcomes for individuals with exceptional learning needs. The gifted education specialist understands the significance of the role of collaboration and promotes understanding, resolves conflicts and builds consensus among both internal and external stakeholders to provide services to individuals with exceptional learning needs and their families. The gifted education specialist possesses current knowledge of research on stages and models in both collaboration and consultation, and ethical and legal issues related to consultation and collaboration, and applies knowledge of:
  - 5.07(2)(a) diversity in order to recognize cultural factors that promote effective communication and collaboration and to respond respectfully to individuals, families, school personnel and specific communities/community members in order to enhance or improve opportunities for gifted students.
  - 5.07(2)(b) collaboration in order to:
    - 5.07(2)(b)(i) maximize opportunities to promote understanding, resolve conflicts and build consensus for improving programs, services and outcomes for individuals with exceptionalities;

- 5.07(2)(b)(ii) identify effective communication, collaboration, consultation and leadership skills and apply these skills to the effective implementation of education for gifted learners;
- 5.07(2)(b)(iii) apply effective models and strategies for consultation, conferencing and collaboration with families and individuals with gifts and talents;
- 5.07(2)(b)(iv) coordinate transitions between grade levels and buildings;
- 5.07(2)(b)(v) implement goals and expectations through the advanced learning plan (ALP) process; and
- 5.07(2)(b)(vi) identify stakeholders and develop an ongoing plan for including and communicating with all stakeholders including classroom teachers, special services providers, parents, community members and students.
- 5.07(2)(c) effective problem-solving in order to:
  - 5.07(2)(c)(i) use group problem-solving skills to develop, implement and evaluate collaborative activities;
  - 5.07(2)(c)(ii) identify potential problems or issues, brainstorm possible solutions, evaluate and select best alternatives, develop a plan for implementation, implement and reflect on the process and results; and
- 5.07(2)(c)(iii) implement strategic planning in collaboration with teachers and district or administrative unit personnel in order to improve gifted student services.
- 5.07(3) Research and inquiry: The gifted education specialist has a comprehensive knowledge of gifted education as an evolving and changing discipline based on philosophies, evidence-based principles and theories, relevant laws and policies, diverse and historical points of view and issues that have influenced and continue to influence gifted education and the education of and services for individuals with exceptionalities both in school and in society. The gifted education specialist applies knowledge of:
  - 5.07(3)(a) gifted education history and current theories in order to:
    - 5.07(3)(a)(i) demonstrate comprehensive understanding of the foundations of education of the gifted and the talented student including but not limited to the history of the education of the gifted and talented, as well as proven and documented theories of giftedness;
    - 5.07(3)(a)(ii) distinguish between theory and empirically proven research;
    - 5.07(3)(a)(iii) apply understanding of current literature related to gifted education;
    - 5.07(3)(a)(iv) recommend a variety of research-based curricular strategies that provide for the effective teaching of gifted and talented students; and
    - 5.07(3)(a)(v) identify, critique and utilize research and applicable theory of curricular strategies as a basis for decision-making and practice for gifted students.
  - 5.07(3)(b) data-analysis and measurement in order to:
    - 5.07(3)(b)(i) interpret data as a basis for decision-making;



- 5.07(3)(b)(ii) conduct action research in order to investigate an area of interest/s to effect change at a local level; and
  - 5.07(3)(b)(iii) evaluate identification procedures, curriculum and gifted programming policies and procedures to revise and improve gifted student education and opportunities.
- 5.07(4) Curriculum content: Curriculum and instructional planning is at the center of gifted and talented education. The gifted education specialist develops long-range plans anchored in both general and special curricula and systematically translates shorter-range goals and objectives that take into consideration an individual's abilities and needs, the learning environment and cultural and linguistic factors. Understanding of these factors, as well as the implications of being gifted and talented, guides the selection, adaptation and creation of materials and use of differentiated instructional strategies. Learning plans are modified based on ongoing assessment of the individual's progress. The gifted education specialist applies knowledge of:
- 5.07(4)(a) research in order to:
    - 5.07(4)(a)(i) use information from theories and research to revise and/or differentiate units, lesson plans and strategies for curriculum development and instructional practice for individuals with gifts and talents;
    - 5.07(4)(a)(ii) apply appropriate theoretical models, structures and systems to the development of gifted programs and services; and
    - 5.07(4)(a)(iii) evaluate and recommend program/services prototypes, grouping practices and educational principles that offer appropriate foundations for the development of a defensible program/service for gifted education.
  - 5.07(4)(b) general and specialized curricula in order to:
    - 5.07(4)(b)(i) develop long-range plans anchored in both general and special curricula, and systematically translate shorter-range goals and objectives that take into consideration an individual's abilities and needs, the learning environment and cultural and linguistic factors;
    - 5.07(4)(b)(ii) improve programs, supports and services at classroom, school, community and educational system levels;
    - 5.07(4)(b)(iii) apply pedagogical content knowledge to instructing learners with gifts and talents;
    - 5.07(4)(b)(iv) emphasize the development, practice and transfer of advanced knowledge and skills across environments throughout the lifespan leading to creative, productive careers in society for individuals with gifts and talents;
    - 5.07(4)(b)(v) develop scope and sequence plans for individuals with gifts and talents; and
    - 5.07(4)(b)(vi) provide opportunities for acceleration in content areas.
  - 5.07(4)(c) diversity in order to:

- 5.07(4)(c)(i) apply understanding of diversity and individual learning differences to inform the selection, development and implementation of comprehensive curricula for individuals with exceptionalities; and
- 5.07(4)(c)(ii) select curriculum resources, strategies and product options that respond to cultural, linguistic and intellectual differences among individuals with gifts and talents.
- 5.07(4)(d) differentiation in order to:
  - 5.07(4)(d)(i) recognize features that distinguish differentiated curriculum from general curricula for individuals with exceptional learning needs;
  - 5.07(4)(d)(ii) align differentiated instructional plans with local, state and national curricular standards;
  - 5.07(4)(d)(iii) select and adapt a variety of differentiated curricula that incorporate advanced, conceptually challenging, in-depth, distinctive and complex content; and
  - 5.07(4)(d)(iv) apply models for delivery of appropriately differentiated content, processes, products, affects and learning environments (i.e., unique, complex and abstract) designed to meet the unique cognitive and affective needs of gifted learners.
- 5.07(4)(e) standards in order to:
  - 5.07(4)(e)(i) use deep understanding of educational standards to help all individuals with exceptional learning needs access challenging curriculum; and
  - 5.07(4)(e)(ii) apply knowledge of common core standards and understand the levels of rigor embedded in the standards.
- 5.07(4)(f) individual differences in order to:
  - 5.07(4)(f)(i) emphasize curriculum for individuals with gifts and talents within cognitive, affective, aesthetic, social and linguistic domains;
  - 5.07(4)(f)(ii) integrate academic and career guidance experiences into the learning plan for individuals with gifts and talents; and
  - 5.07(4)(f)(iii) provide and/or facilitate social-emotional support to meet specific gifted student affective needs.
- 5.07(5) Assessment: Assessment is critical to the advanced role of the gifted education specialist. Underlying assessment is the knowledge of systems, theories and standards-related educational assessment, along with skills in examining the technical adequacy of instruments and the implementation of evidence-based practices in assessment. It is critical that assessments that minimize bias are used in the selection of instruments, methods and procedures for both programs and individuals. With respect to assessment of individuals with gifts and talents, the gifted education specialist applies knowledge and skill to all stages and purposes of assessment, including the identification of abilities, strengths and interests, and when monitoring and reporting learning progress in the general education curriculum as well as in the specialized curriculum in their gifted education placement. The gifted education specialist applies knowledge of:

- 5.07(5)(a) technical aspects in order to understand measurement theory and practices for addressing issues of validity, reliability, norms, bias and limitations as well as interpretation of assessment results.
- 5.07(5)(b) assessment for identification in order to:
  - 5.07(5)(b)(i) recommend and implement valid and reliable assessment practices and approaches to minimize bias for identifying students with gifts and talents;
  - 5.07(5)(b)(ii) review, select and use multiple psychometrically sound, nonbiased, equitable qualitative and quantitative instruments from a variety of sources to identify individuals with gifts and talents in order to assess their diverse abilities, strengths, talents and interests;
  - 5.07(5)(b)(iii) provide assessment tools in the child's native language or in nonverbal formats.
  - 5.07(5)(b)(iv) interpret multiple assessments in different domains and understand the uses and limitations of the assessments in identifying the needs of students with gifts and talents; and
  - 5.07(5)(b)(v) inform all parents/guardians about the identification process, obtain parental/ guardian permission for assessments, use culturally sensitive checklists and elicit evidence regarding the child's interests and potential outside of the classroom setting.
- 5.07(5)(c) assessment of instruction in order to:
  - 5.07(5)(c)(i) monitor the progress of individuals with gifts and talents in the general education and specialized curricula;
  - 5.07(5)(c)(ii) pre-assess the learning needs of individuals with gifts and talents in various domains and adjust instruction based on ongoing, continual assessment;
  - 5.07(5)(c)(iii) analyze student results in order to determine most effective practices and supports;
  - 5.07(5)(c)(iv) provide appropriate assessments that require higher-level thinking and application of skills to a final product or performance; and
  - 5.07(5)(c)(v) monitor and adjust expectations for student goals as stated on the advanced learning plan.
- 5.07(6) Professional and ethical practice: The gifted education specialist uses foundational knowledge of the field, professional ethical principles and program standards to inform gifted education practice, engage in lifelong learning, advance the profession and perform leadership responsibilities to promote the success of professional colleagues and individuals with exceptionalities. The gifted education specialist applies knowledge of:
  - 5.07(6)(a) professional development in order to:
    - 5.07(6)(a)(i) lead professional development efforts and facilitate learning communities to increase professional knowledge and expertise focused on addressing gifted student needs;

- 5.07(6)(a)(ii) align professional development initiatives with school and district initiatives that address gifted education instructional strategies based on current research;
- 5.07(6)(a)(iii) advocate for professional development that is evidence-based and targeted toward improving gifted student outcomes;
- 5.07(6)(a)(iv) plan, present and evaluate professional development focusing on effective and ethical practice at all organizational levels; and
- 5.07(6)(a)(v) collaborate with district personnel and teachers to develop and implement a long-term professional development plan focused on increasing educator knowledge in the area of gifted education.
- 5.07(6)(b) diversity in order to:
  - 5.07(6)(b)(i) demonstrate high professional expectations and ethical practice and create supportive environments that increase diversity at all levels of gifted and talented education;
  - 5.07(6)(b)(ii) model and promote respect for all individuals and facilitate ethical professional practice; and
  - 5.07(6)(b)(iii) understand and implement district and state policies designed to foster equity in gifted programming and services.
- 5.07(6)(c) professional responsibility in order to:
  - 5.07(6)(c)(i) actively facilitate and participate in the preparation and induction of prospective gifted educators;
  - 5.07(6)(c)(ii) promote the advancement of the gifted profession;
  - 5.07(6)(c)(iii) implement performance feedback from supervisor and/or colleagues to improve practice;
  - 5.07(6)(c)(iv) advocate for laws based on solid evidence-based knowledge to support high-quality education for individuals with exceptional learning needs;
  - 5.07(6)(c)(v) conduct applied work to contribute to field; and
  - 5.07(6)(c)(vi) ensure confidentiality of student information and records.
- 5.07(7) Programming services and program evaluation: The gifted education specialist facilitates the continuous improvement of general and gifted education programs, supports and services at the classroom, school and system levels for individuals with exceptionalities. The gifted education specialist applies knowledge of:
  - 5.07(7)(a) programming services in order to:
    - 5.07(7)(a)(i) apply knowledge of cognitive science, learning theory and instructional technologies to improve instructional programs at the school- and system-wide level;

- 5.07(7)(a)(ii) design and develop systematic program and curriculum models for enhancing talent development in multiple settings; and
- 5.07(7)(a)(iii) implement knowledge of program strategies, such as acceleration and enrichment, and research regarding effective instructional strategies to services for gifted and/or talented students.
- 5.07(7)(b) diversity in order to:
  - 5.07(7)(b)(i) apply knowledge of special populations of gifted and talented students in the development of appropriate program and instructional-delivery decisions based on the unique and varied characteristics and needs of such students including, but not limited to, early childhood students; twice-exceptional learners (i.e., gifted and talented students with disabilities); highly gifted students; underachieving, high-potential students; culturally and ethnically diverse students; students with unique affective needs and high-potential, economically disadvantaged students; and
  - 5.07(7)(b)(ii) apply understanding of the effects of cultural, social and economic diversity and variations of individual learners' differences to inform development of programs, supports and services for individuals with exceptional learning needs.
- 5.07(7)(c) program evaluation in order to:
  - 5.07(7)(c)(i) implement strategies to conduct program/service evaluation for continued improvement;
  - 5.07(7)(c)(ii) design and implement research activities to evaluate the effectiveness of instructional practices and to assess progress toward the organizational vision, mission and goals of their programs;
  - 5.07(7)(c)(iii) develop procedures for continuous improvement management systems;
  - 5.07(7)(c)(iv) design and implement evaluation activities to improve programs, supports and services for individuals with exceptionalities;
  - 5.07(7)(c)(v) evaluate progress toward achieving the vision, mission and goals of programs, services and supports for individuals with exceptionalities;
  - 5.07(7)(c)(vi) prepare for, participate in and evaluate results from the Colorado Gifted Education Review (CGER) process and develop goals and next steps as reflected in the CGER Timeline and the Unified Improvement Plan, Gifted Addendum (UIP-Gifted); and
  - 5.07(7)(c)(vii) ensure that the district's gifted definition, identification process, programming options based on individual ALPs and assessments are aligned and effective in meeting gifted learner needs.

## **5.08 Special Education Generalist (Ages 5-21)**

To hold an endorsement as a special education generalist, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed an approved program for the preparation of special education generalists, including prescribed field experience and student

teaching requirements; have passed the approved elementary education content and special education assessments; and have demonstrated the competencies specified below:

5.08(1) The special education generalist is knowledgeable about research-based student literacy and the development of reading, writing, communicating and listening skills in order to provide specially designed instruction and facilitate access to the general education curriculum in a variety of settings and is able to:

5.08(1)(a) plan and organize reading and writing instruction and interventions informed by a variety of ongoing student assessment.

5.08(1)(b) use knowledge of typical and atypical language and cognitive development to guide the choice of instructional strategies and interventions in meeting the learning needs of individual students.

5.08(1)(c) develop in students the phonological and linguistic skills related to reading, including, but not limited to, phonemic awareness, concepts of print, systematic explicit phonics and other word identification strategies to enhance vocabulary development and spelling instruction.

5.08(1)(d) develop reading comprehension skills in students, including, but not limited to, comprehension strategies within a variety of genres, literary response and analysis and content area literacy and the promotion of independent reading.

5.08(1)(e) increase oral and written English language arts skills and proficiency of students, including, but not limited to, the appropriate and correct use of vocabulary and standard English; punctuation; grammar; sentence structure and spelling; as well as an understanding of the relationship(s) between reading, writing and communicating and is further able to:

5.08(1)(e)(i) design instruction and interventions based on the unique strengths and needs of students with disabilities to assist them in their acquisition of reading, writing and communicating skills;

5.08(1)(e)(ii) apply a variety of effective evidence- and/or research-based instructional strategies and curricular approaches to the teaching of reading and writing skills; and

5.08(1)(e)(iii) match appropriate instructional strategies to student needs related to the acquisition of knowledge and skills in required content areas, such as reading, writing and communicating.

5.08(1)(f) incorporate Colorado Academic Standards into instructional strategies and interventions for teaching reading, writing and communicating.

5.08(2) The special education generalist is knowledgeable about mathematics and mathematics instruction and is able to collaborate and consult with content-area teachers in developing students' knowledge and skills in the use of number systems, number sense, geometry, measurement, statistics, probability, mathematical functions and the use of variables.

5.08(3) The special education generalist is knowledgeable about standards and assessment, instructional strategies and interventions, planning practices, assessment techniques and appropriate adaptations to ensure student learning within a standards-aligned curriculum and is able to:

- 5.08(3)(a) design short- and long-range standards-aligned instruction and intervention plans.
- 5.08(3)(b) develop valid and reliable assessment tools for the classroom.
- 5.08(3)(c) develop and utilize a wide variety of progress-monitoring tools.
- 5.08(3)(d) develop and utilize a wide variety of informal and formal assessments, including, but not limited to, rubrics, and can:
  - 5.07(3)(d)(i) develop and utilize adapted assessment of student performance; and
  - 5.07(3)(d)(ii) communicate the strengths and limitations of a wide variety of formal and informal assessment tools; select and use these instruments in screening, pre-referral, referral and eligibility determination for special education and to guide instruction.
- 5.08(3)(e) assess and evaluate the effects of a wide variety of teaching strategies and interventions on student performance related, but not limited to, academic standards as demonstrated by the special education generalist's ability to link appropriate adaptations of instructional strategies, interventions and assessments to student learner needs, based on evaluation(s) of those needs.
- 5.08(3)(f) interpret and utilize assessment data in planning for standards-aligned instruction and incorporating scores, including grade score versus standard score, percentile ranks, age/grade equivalents and stanines, and is able to interpret and summarize the educational implications of these to relevant stakeholders.
- 5.08(3)(g) provide effective and timely verbal and written feedback to students to guide and improve their academic performance related to meeting academic standards.
- 5.08(3)(h) prepare students for the Colorado Measures of Academic Success (CMAS) and any other formal and informal assessments of academic achievement.
- 5.08(3)(i) ensure that instruction is consistent with Colorado Academic Standards, Colorado accreditation requirements and school district and school priorities and objectives.
- 5.08(4) The special education generalist is knowledgeable about the general academic content of and basic concepts related to civics, economics, foreign language, geography, history, science, music, visual arts and physical education in order to collaborate with the general classroom teacher to provide the adaptations necessary for students to access and learn the content areas and is able to:
  - 5.08(4)(a) analyze, critically review and incorporate effective documented evidence and/or research-based strategies and interventions into collaborative and/or consultative roles with other professionals as related to planning for instructional delivery to students.
  - 5.08(4)(b) collaborate and consult with other school professionals, families and students to assist learners in gaining access to learning accommodations that may be required for them to meet academic standards.
  - 5.08(4)(c) assist in the adaptation of student content acquisition through general knowledge of the concepts incorporated in the Colorado Academic Standards and by:

- 5.08(4)(c)(i) identifying the unique strengths and needs of students with disabilities as related to acquisition of content, skills and knowledge;
- 5.08(4)(c)(ii) employing a wide variety of approaches to assist in the adaptation of the teaching of content areas to support students in meeting the academic standards;
- 5.08(4)(c)(iii) collaborating and consulting with content-area teachers in adapting curriculum and instruction to support students with disabilities in meeting Colorado Academic Standards; and
- 5.08(4)(c)(iv) collaborating and consulting with other professionals in the design and implementation of instruction to meet the needs of learners from a wide variety of cultures and socio-economic backgrounds.
- 5.08(4)(d) assist other educators in the enrichment and enhancement of content knowledge to extend student learning by demonstrating the ability to locate, analyze, select and apply evidence- and/or research-based best practices that have been proven to generate improved student outcomes.
- 5.08(4)(e) collaborate or consult with the general education classroom teacher with the incorporation of research-based literacy and mathematics across content areas.
- 5.08(5) The special education generalist is knowledgeable about classroom and instructional management and is able to demonstrate such practices as effective time management, communication and accurate and timely record-keeping in support of increased student learning and outcomes and is able to:
  - 5.08(5)(a) create a learning environment characterized by appropriate student behavior, efficient use of time and disciplined student acquisition of content knowledge, skills and the application thereof through:
    - 5.08(5)(a)(i) the provision of a safe and productive learning environment responsive to the physical, social, cognitive, academic, linguistic, cultural and functional needs of student learners;
    - 5.08(5)(a)(ii) the provision of information to general classroom teachers about effective classroom management practices and organizational techniques that address the needs of individual or groups of students with varying instructional needs;
    - 5.08(5)(a)(iii) the utilization of management and organizational techniques designed for students with differing needs and levels of needs;
    - 5.08(5)(a)(iv) evaluation to determine specific learner academic needs and to match student strengths with appropriate curriculum and instructional delivery strategies in an environment organized to encourage optimal learning;
    - 5.08(5)(a)(v) the design of behavior plans that incorporate evidence- and/or research-based instructional strategies into teaching about and the student acquisition of problem-solving, conflict resolution and social interaction skills; and
    - 5.08(5)(a)(vi) the creation of conditions and the teaching of skills that engage students as active participants in their own educational planning, including, but not limited to, goal-setting and goal attainment.



- 5.08(5)(b) apply consistent and fair disciplinary practices in the classroom and demonstrate the ability to:
  - 5.08(5)(b)(i) maintain adequate and appropriate data regarding student behavior to determine whether student actions are a manifestation of a disability and/or to address such implication(s) in the expulsion process.
  - 5.08(5)(b)(ii) match classroom management and organizational techniques to the needs of groups of students.
  - 5.08(5)(b)(iii) apply effective evidence- and research-based classroom management and organizational techniques, including the implementation of positive behavior intervention support systems.
  - 5.08(5)(b)(iv) conduct and interpret functional behavioral assessments.
  - 5.08(5)(b)(v) develop and implement collaborative behavior support plans in cooperation with other team members, students and parents.
  - 5.08(5)(b)(vi) interpret, design and implement positive behavioral and intervention support systems based on data drawn from functional behavioral assessments.
- 5.08(5)(c) apply appropriate intervention strategies and practices to ensure that an effective learning environment is maintained and is able to:
  - 5.08(5)(c)(i) provide information to general classroom teachers about how to evaluate and match specific learner needs and strengths with appropriate curriculum and instruction strategies to optimize student engagement and learning; and
  - 5.08(5)(c)(ii) implement a wide variety of effective research-based instructional strategies and explain the reasoning and purpose behind the implementation of specific teaching strategies.
- 5.08(5)(d) raise the academic performance level of a group of students to a higher level over time.
- 5.08(5)(e) teach strategies to improve cognitive processes associated with various kinds of learning, including but not limited to those related to critical and creative thinking; problem-structuring and problem-solving; invention; and memorization and recall and provide strategies to address each so that students are assisted in mastering academic standards through the educator's application of knowledge related to the 21st-century skills, cognitive, communication, physical, cultural, social, educational, self-determination, transitional and affective needs of all students, including those with disabilities.
- 5.08(5)(f) Collaborate with teacher-librarians and/or other library personnel and resource specialists to instruct students on how to gain access to, retrieve, analyze, synthesize and evaluate information and to incorporate information-gathering literacy skills into curriculum delivery and into the enhancements of standards-aligned learning.
- 5.08(5)(g) accurately assess, document and report ongoing student achievement in a timely and concise manner.
- 5.08(5)(h) communicate effectively with parents, families or guardians to involve them as participants and partners in student learning by providing them information about resources and by assisting and encouraging families in their efforts to support the

academic progress of the learner from within the home environment by addressing cultural, socio-economic and linguistic diversity issues and other life-affecting conditions.

5.08(5)(i) communicate about a variety of assessment results and their implications for and to students, parents, guardians, professionals, administrators and the community:

5.08(5)(i)(i) effectively interpret and communicate orally and in writing student assessment results to a variety of stakeholders, including, but not limited to, those involved in instructional and support services planning and delivery, students and their parents/guardians;

5.08(5)(i)(ii) assist students in transferring and applying acquired knowledge and skills to home, community and work life;

5.08(5)(i)(iii) assist students in their transition from one setting or level to another in collaboration with family, educators, other professionals and relevant community representatives as appropriate; and

5.08(5)(i)(iv) identify and utilize resources and strategies that promote effective partnerships between students, families, school, district and other programs and the community.

5.08(6) The special education generalist is knowledgeable about orientation of instruction toward meeting student need(s); responsive to the unique needs and experiences students bring to the classroom, including those based on culture, community, ethnicity, economics, linguistics, age-appropriateness and innate learning abilities; understands learning exceptionalities and conditions that affect the rate and extent of student learning and the adaptation of instruction for all learners and is able to:

5.08(6)(a) employ a wide variety of teaching techniques to match the intellectual, emotional, physical and social level of each student and is able to select a wide variety of age-appropriate teaching strategies and materials to achieve different curricular purposes by:

5.08(6)(a)(i) analyzing the unique strengths and needs of students with disabilities in relation to the learning process and life experience and planning and implementing instruction for appropriate student outcomes; and

5.08(6)(a)(ii) incorporating and utilizing strategies that mitigate the influence of diversity on assessment, eligibility, programming, accessibility and placement of students with exceptional learning needs.

5.08(6)(b) assist in the design and/or adaptation of standards-aligned instructional delivery in response to identified student need, including that of exceptional learners and of English language-acquisition learners, and can effectively collaborate and consult with other professionals to:

5.08(6)(b)(i) develop and provide appropriate curriculum, instruction and interventions that meet the unique needs of students with disabilities; and

5.08(6)(b)(ii) gain access to services that meet the needs of learners and families from a variety of cultures.

5.08(6)(c) incorporate knowledge about the effect of educational disabilities and giftedness on student learning to optimize and individualize instruction and to assist in planning for students' transition to post-school and work life.

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- 5.08(6)(d) follow procedures specified in state, federal and local regulation and policy and can:
    - 5.08(6)(d)(i) identify and provide pre-referral intervention(s) to determine the least restrictive learning environment for a student, whether in special or general education setting(s), as determined by the special education assessment process;
    - 5.08(6)(d)(ii) communicate to a variety of stakeholders about the applicable history and foundations of federal, state and local policy and the legal requirements that provide the basis for special education and its practice(s);
    - 5.08(6)(d)(iii) communicate effectively to a variety of stakeholders about the procedural safeguards inherent in due process rights as related to assessment, eligibility and placement;
    - 5.08(6)(d)(iv) communicate to a variety of stakeholders about the rights and responsibilities of parents, students with disabilities, teachers, other professionals and schools as related to special education;
    - 5.08(6)(d)(v) make ethical decisions with regard to identification, assessment, instructional and service delivery for students in special education; and
    - 5.08(6)(d)(vi) coordinate, schedule and supervise para-educators to ensure that students' education programs are implemented effectively.
  - 5.08(6)(e) develop and implement mandated and other individualized education programs related, but not limited, to:
    - 5.08(6)(e)(i) student education, behavior and transition in collaboration with parents and families, students and other education professionals; and
    - 5.08(6)(e)(ii) measurable goals, objectives and adaptations based on student need.
  - 5.08(6)(f) collect and utilize data on student achievement, incorporated into the development of individualized education plans (IEPs) and be able to:
    - 5.08(6)(f)(i) assess and report progress regarding student attainment of annual goals and/or objectives; and
    - 5.08(6)(f)(ii) modify student plans in a timely way based on student data.
  - 5.08(6)(g) collaborate and consult with other professionals on the development of a student education plan with regard to strategies that may be applied when a medical condition or medication must be considered in terms of its current or potential effect on a student's learning and/or behavior.
  - 5.08(7) The special education generalist is knowledgeable about and skilled in technology and its instructional applications, the use(s) of technology in support of instruction delivery and the enhancement of student learning and is able to:
    - 5.08(7)(a) collaborate and consult with the general education teacher with regard to the multiple use(s) of technology in the delivery of standards-aligned instruction.
    - 5.08(7)(b) incorporate technology to increase student achievement by utilizing:
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- 5.08(7)(b)(i) assistive technology to support communication in collaboration or consultation with, and utilizing the expertise of, other skilled/trained professionals; and
- 5.08(7)(b)(ii) current educational and assistive technologies to meet the instructional needs of students with disabilities.
- 5.08(7)(c) utilize technology to manage student education programs and to communicate relevant information to a wide variety of stakeholders.
- 5.08(7)(d) apply technology to data-driven assessment(s) of learning.
- 5.08(7)(e) instruct, or ensure instruction of, and support students with disabilities in their acquisition of technology skills according to need(s), level(s) of learning and requirements for assistive technology.
- 5.08(8) The special education generalist is knowledgeable about the relationship of education to democracy, including, but not limited to, the school's role in teaching and perpetuating a democratic system of government; educational governance; careers in teaching and the relationship(s) between the various governmental entities that create laws, rules, regulations and policies that determine education and special education practices and is able to:
  - 5.08(8)(a) model and articulate democratic ideals to students and other stakeholders as related, but not limited to:
    - 5.08(8)(a)(i) teaching about productive citizenship; and
    - 5.08(8)(a)(ii) teaching and perpetuating the principles of a democratic republic.
  - 5.08(8)(b) model for and develop in students positive and accepted behavior(s) to accepted standards and respect for the rights of others as necessary for successful personal, family and community involvement and well-being.
  - 5.08(8)(c) demonstrate respect for and effectively address in planning the influences that affect educational practice, including, but not limited to:
    - 5.08(8)(c)(i) federal and state constitutional provisions;
    - 5.08(8)(c)(ii) federal and state executive, legislative and legal policies;
    - 5.08(8)(c)(iii) the roles of elected officials in policy-making;
    - 5.08(8)(c)(iv) local board of education, school district and school administration policies and those of boards of cooperative services;
    - 5.08(8)(c)(v) the influence of nontraditional and nonpublic schools, including charter schools, private schools and home schooling; and
    - 5.08(8)(c)(vi) public sector input from business, advocacy groups and the public.
  - 5.08(8)(d) promote teaching as a worthy career and describe the wide variety of career paths in education.
  - 5.08(8)(e) self-evaluate performance and participate in professional development options and organizations that can improve that performance.

## 5.09 Early Childhood Special Education Endorsement (Ages Birth-8)

To be endorsed in early childhood special education, for ages birth-8, an applicant must hold a bachelor's or higher degree from a four-year accepted institution of higher education; have completed an approved program in early childhood special education, that includes student teaching and practicum; have demonstrated the competencies found at 9.00 of the rules for the Administration of the Educator Licensing Act of 1991; and have demonstrated the additional competencies specified below:

Colorado's Competencies for Early Childhood Educators and Administrators and Colorado Educator licensing rules at 4.01 for early childhood educators represent the universal level/foundational knowledge and skills necessary for working with young children.

The early childhood special education rules at 5.09 are at the targeted, intensive, specialized level for children with disabilities and exceptional needs. The Council for Exceptional Children (CEC) Specialty Set: Early Childhood and Early Intervention Special Education (ECSE) (2015) were adopted for 5.09 licensing rules.

5.09(1) Learner development and individual learning differences (builds upon rule 4.01(1)(b)): Beginning early childhood special education professionals understand how exceptionalities may interact with development and learning and use this knowledge to provide meaningful and challenging learning experiences for individuals with exceptionalities.

5.09(1)(a) Beginning early childhood special education professionals are knowledgeable of:

5.09(1)(a)(i) theories of typical and atypical early childhood development;

5.09(1)(a)(ii) biological and environmental factors that affect pre-, peri- and postnatal development and learning;

5.09(1)(a)(iii) specific disabilities, including the etiology, characteristics and classification of common disabilities in infants and young children, and specific implications for development and learning in the first years of life;

5.09(1)(a)(iv) impact of medical conditions and related care on development and learning;

5.09(1)(a)(v) factors that affect the mental health and social-emotional development of infants and young children;

5.09(1)(a)(vi) infants and young children develop and learn at varying rates;

5.09(1)(a)(vii) impact of child's abilities, needs and characteristics on development and learning;

5.09(1)(a)(viii) impact of language delays on cognitive, social-emotional, adaptive, play, temperament and motor development; and

5.09(1)(a)(ix) impact of language delays on behavior.

5.09(1)(b) Beginning early childhood special education professionals demonstrate the skills to:

5.09(1)(b)(i) develop, implement and evaluate learning experiences and strategies that respect the diversity of infants and young children and their families;

- 5.09(1)(b)(ii) develop and match learning experiences and strategies to characteristics of infants and young children;
  - 5.09(1)(b)(iii) support and facilitate family and child interactions as primary contexts for development and learning;
  - 5.09(1)(b)(iv) support caregivers to respond to a child's cues and preferences, establish predictable routines and turn-taking, and facilitate communicative initiations; and
  - 5.09(1)(b)(v) establish communication systems for young children that support self-advocacy.
- 5.09(2) Learning environments (builds upon rule 4.01(8)(a) and 4.01(4)(a): Beginning early childhood special education professionals create safe, inclusive, culturally responsive learning environments so that individuals with exceptionalities become active and effective learners and develop emotional well-being, positive social interactions and self-determination.
- 5.09(2)(a) Beginning early childhood special education professionals are knowledgeable of the impact of social and physical environments on development and learning.
  - 5.09(2)(b) Beginning early childhood special education professionals demonstrate the skills to:
    - 5.09(2)(b)(i) select, develop, and evaluate developmentally and functionally appropriate materials, equipment and environments;
    - 5.09(2)(b)(ii) organize space, time, materials, peers and adults to maximize progress in natural and structured environments;
    - 5.09(2)(b)(iii) embed learning opportunities in everyday routines, relationships, activities and places;
    - 5.09(2)(b)(iv) structure social environments, using peer models, proximity and responsive adults to promote interactions among peers, parents and caregivers;
    - 5.09(2)(b)(v) provide a stimulus-rich indoor and outdoor environment that employs materials, media and adaptive and assistive technology, responsive to individual differences;
    - 5.09(2)(b)(vi) implement basic health, nutrition and safety management procedures for infants and young children; and
    - 5.09(2)(b)(vii) use evaluation procedures and recommend referral with ongoing follow-up to community health and social services.
- 5.09(3) Curricular content knowledge (builds upon rule 4.01(8)): Beginning early childhood special education professionals use knowledge of general and specialized curricula to individualize learning for individuals with exceptionalities.
- 5.09(3)(a) Beginning early childhood special education professionals are knowledgeable of:
    - 5.09(3)(a)(i) concepts of universal design for learning;

- 5.09(3)(a)(ii) theories and research that form the basis of developmental and academic curricula and instructional strategies for infants and young children; and
- 5.09(3)(a)(iii) developmental and academic content.
- 5.09(3)(b) Beginning early childhood special education professionals demonstrate the skills to:
  - 5.09(3)(b)(i) apply current research to the five developmental domains, play and temperament in learning situations;
  - 5.09(3)(b)(ii) plan, implement and evaluate developmentally appropriate curricula, instruction and adaptations based on knowledge of individual children, the family and the community;
  - 5.09(3)(b)(iii) implement and evaluate preventative and reductive strategies to address challenging behaviors; and
  - 5.09(3)(b)(iv) plan and implement developmentally and individually appropriate curriculum.
- 5.09(4) Assessment (builds upon rule 4.01(2)): Beginning early childhood special education professionals use multiple methods of assessment and data-sources in making educational decisions.
  - 5.09(4)(a) Beginning early childhood special education professionals are knowledgeable of the:
    - 5.09(4)(a)(i) role of the family in the assessment process;
    - 5.09(4)(a)(ii) legal requirements that distinguish among at-risk, developmental delay and disability;
    - 5.09(4)(a)(iii) alignment of assessment with curriculum, content standards and local, state and federal regulations; and
    - 5.09(4)(a)(iv) connection of curriculum to assessment and progress monitoring activities.
  - 5.09(4)(b) Beginning early childhood special education professionals demonstrate the skills to:
    - 5.09(4)(b)(i) assist families in identifying their concerns, resources and priorities;
    - 5.09(4)(b)(ii) integrate family priorities and concerns in the assessment process;
    - 5.09(4)(b)(iii) assess progress in the five developmental domains, play and temperament;
    - 5.09(4)(b)(iv) select and administer assessment instruments in compliance with established criteria;
    - 5.09(4)(b)(v) use informal and formal assessment to make decisions about infants' and young children's development and learning;

- 5.09(4)(b)(vi) gather information from multiple sources and environments;
  - 5.09(4)(b)(vii) use a variety of materials and contexts to maintain the interest of infants and young children in the assessment process;
  - 5.09(4)(b)(viii) participate as a team member to integrate assessment results in the development and implementation of individualized plans;
  - 5.09(4)(b)(ix) emphasize child's strengths and needs in assessment reports;
  - 5.09(4)(b)(x) produce reports that focus on developmental domains and functional concerns; and
  - 5.09(4)(b)(xi) conduct ongoing formative child, family and setting assessments to monitor instructional effectiveness.
- 5.09(5) Instructional planning and strategies (builds upon rule 4.01(8)): Beginning early childhood special education professionals select, adapt, and use a repertoire of evidence-based instructional strategies to advance learning of individuals with exceptionalities.
- 5.09(5)(a) Beginning early childhood special education professionals demonstrate the skills to:
- 5.09(5)(a)(i) facilitate child-initiated development and learning;
  - 5.09(5)(a)(ii) use teacher-scaffolded and -initiated instruction to complement child-initiated learning;
  - 5.09(5)(a)(iii) link development, learning experiences and instruction to promote educational transitions;
  - 5.09(5)(a)(iv) use individual and group guidance and problem-solving techniques to develop supportive relationships with and among children;
  - 5.09(5)(a)(v) use strategies to teach social skills and conflict resolution;
  - 5.09(5)(a)(vi) use a continuum of intervention strategies to support access of young children in the general curriculum and daily routines;
  - 5.09(5)(a)(vii) develop, implement and evaluate individualized plans with family members and other professionals as a member of a team;
  - 5.09(5)(a)(viii) design intervention strategies incorporating information from multiple disciplines;
  - 5.09(5)(a)(ix) implement developmentally and functionally appropriate activities, using a variety of formats, based on systematic instruction;
  - 5.09(5)(a)(x) align individualized goals with developmental and academic content;
  - 5.09(5)(a)(xi) develop individualized plans that support development and learning as well as caregiver responsiveness;
  - 5.09(5)(a)(xii) develop an individualized plan that supports the child's independent functioning in the child's natural environments; and



5.09(5)(a)(xiii) make adaptations for the unique developmental and learning needs of children, including those from diverse backgrounds.

5.09(6) Professional learning and ethical practice (builds upon rule 4.01(6)): Beginning early childhood special education professionals use foundational knowledge of the field and the their professional ethical principles and practice standards to inform early childhood special education practice, to engage in lifelong learning, and to advance the profession.

5.09(6)(a) Beginning early childhood special education professionals are knowledgeable of:

5.09(6)(a)(i) historical, philosophical foundations and legal basis of services for infants and young children both with and without exceptional needs;

5.09(6)(a)(ii) trends and issues in early childhood education, early childhood special education and early intervention;

5.09(6)(a)(iii) legal, ethical and policy issues related to educational, developmental and medical services for infants, young children and their families; and

5.09(6)(a)(iv) advocacy for professional status and working conditions for those who serve infants, young children and their families.

5.09(6)(b) Beginning early childhood special education professionals demonstrate the skills to:

5.09(6)(b)(i) recognize signs of emotional distress, neglect and abuse, and follow reporting procedures;

5.09(6)(b)(ii) integrate family systems theories and principles into professional practice;

5.09(6)(b)(iii) respect family choices and goals;

5.09(6)(b)(iv) participate in activities of professional organizations relevant to early childhood special education and early intervention;

5.09(6)(b)(v) apply evidence-based and recommended practices for infants and young children including those from diverse backgrounds;

5.09(6)(b)(vi) advocate on behalf of infants, young children and their families; and

5.09(6)(b)(vii) implement family services consistent with due process safeguards.

5.09(7) Collaboration (builds upon rule 4.01(3)): Beginning early childhood special education professionals collaborate with families, other educators, related service providers, individuals with exceptionalities and personnel from community agencies in culturally responsive ways to address the needs of individuals with exceptionalities across a range of learning experiences.

5.09(7)(a) Beginning early childhood special education professionals are knowledgeable of structures supporting interagency collaboration, including interagency agreements, referral and consultation.

5.09(7)(b) Beginning early childhood special education professionals demonstrate the skills to:

- 5.09(7)(b)(i) apply models of team process in early childhood;
- 5.09(7)(b)(ii) collaborate with caregivers, professionals and agencies to support children's development and learning;
- 5.09(7)(b)(iii) support families' choices and priorities in the development of goals and intervention strategies;
- 5.09(7)(b)(iv) implement family-oriented services based on the family's identified resources, priorities and concerns;
- 5.09(7)(b)(v) provide consultation in setting serving infants and young children;
- 5.09(7)(b)(vi) involve families in evaluation of services;
- 5.09(7)(b)(vii) participate as a team member to identify and enhance team roles, communication and problem-solving;
- 5.09(7)(b)(viii) employ adult learning principles in consulting and training family members and service providers;
- 5.09(7)(b)(ix) assist the family in planning for transition; and

5.09(7)(b)(x) implement processes and strategies that support transitions among settings for infants and young children.

## **6.0 Graduate Endorsements**

The following shall serve as standards for endorsements requiring the completion of graduate-level academic degrees and/or programs. All endorsement standards must be reviewed as needed for continuing appropriateness, applicability and benefit to Colorado students and schools.

### **6.01 (Rule number reserved.)**

### **6.02 Teacher-Librarian (grades K-12)**

To be endorsed as a teacher-librarian, an applicant must hold an earned bachelor's degree from an accepted institution of higher education; hold a Colorado initial or professional teacher license; have completed an approved program in library science or the equivalent, including field work in diverse K-12 settings and grade levels and a supervised practicum or internship that includes both elementary and secondary school library experience (the practicum or internship may be waived by the accepted institution upon comparable teacher-librarian experience as determined by the educator preparation program); and have demonstrated knowledge and performance competency, including, but not limited to, those listed below:

- 6.02(1) Quality standard 1: mastery and pedagogical instruction – A teacher demonstrates mastery of and pedagogical expertise in the content area(s) taught. The elementary teacher is an expert in research-based literacy and mathematics and is knowledgeable in all other content areas taught (e.g., science, social studies, the arts, physical education or world languages). The secondary teacher has knowledge of research-based literacy and mathematics and is an expert in specific content area(s) (CDE Model Teacher Evaluation System). A candidate for a teacher librarian endorsement demonstrates skills to implement the principles of effective teaching and learning that contribute to an active, inquiry- and standards-based approach to learning. The candidate develops lessons that reflect the interconnectedness of content areas/disciplines and makes use

of a variety of instructional strategies and assessment tools to design and develop learning experiences in partnership with classroom teachers and other educators (AASL).

- 6.02(1)(a) Instructional pedagogy – The candidate employs inquiry-based instructional design including differentiated instruction to reach all learners. The candidate is also knowledgeable in designing and delivering learning instruction along with technology literacy, information literacy and digital citizenship that empowers K-12 students to be workforce ready.
- 6.02(1)(b) Instructional design – The candidate is knowledgeable about leadership techniques for facilitating a standards-based backward design process for authentic, active learning lessons and units. The candidate provides an environment where students can practice and learn new strategies and receive feedback while learning content and demonstrating understanding.
- 6.02(1)(c) Children’s and young adult literature reading promotion – The candidate promotes reading for children, young adults and other education professionals through the use of high-quality, high-interest literature in print and digital formats that reflect diverse developmental, cultural, social and linguistic needs of K-12 students and communities. The candidate is aware of current trends in literature and displays the ability to work within the school-wide culture to foster curiosity in student and staff learners. The candidate is knowledgeable about a variety of innovative formats to teach, enrich and expand critical, creative and independent thinking.
- 6.02(1)(d) Research-based Literacy strategies – The candidate demonstrates knowledge of research-based reading strategies including reading fluency and reading comprehension to increase students’ reading levels, developmental abilities and personal interests. The candidate demonstrates the importance of systematic and explicit reading development tied to the overall school goals for literacy development in students.
- 6.02(2) Quality standard 2: safe, inclusive, respectful environment – A teacher establishes safe, inclusive and respectful learning environments for a diverse population of students.
- 6.02(2)(a) Respect for diversity – The candidate demonstrates the ability to develop a collection of reading and information materials in print and digital formats that support the diverse developmental, cultural, social and linguistic needs of K-12 students and their communities.
- 6.02(2)(b) Equitable access – The candidate demonstrates the ability to develop solutions for addressing physical, social and intellectual barriers to equitable access to resources and services. The candidate works with the school administration team to allow for collaboration and flexibility to be able to teach at point of need. The candidate allows for and supports flexibility so that the library is available during and after school hours for students, teachers, parents and the community. The candidate demonstrates the ability to develop and support 24/7 access to learning resources.
- 6.02(3) Quality standard 3: plan and deliver effective instruction – A teacher plans and delivers effective instruction and creates environments that facilitate learning for students (CDE Model Teacher Evaluation System).
- 6.02(3)(a) Collaboration in planning and teaching -- The candidate demonstrates the ability to work with other teachers from a variety of disciplines and grade levels to systematically integrate Colorado Academic Standards skills. The candidate develops a collaborative culture and demonstrates the ability to model for students how to work collaboratively with one another and provide evidence of new thinking and learning.

- 6.02(3)(b) Technology integration – The candidate is knowledgeable in recommending current and meaningful use of technology and is part of school-level technology discussions. The candidate models a classroom that integrates skills from the Colorado Academic Standards (i.e., critical thinking, invention, information literacy and digital citizenship) through the use of innovative technology strategies. The candidate demonstrates the ability to utilize a variety of current technology tools in the classroom and to incorporate emerging tools as they become available, as well as the ability to have a digital presence within their schools and learning communities.
- 6.02(3)(c) Assessment of learning – The candidate demonstrates the ability to develop consistent means of assessing how well students are acquiring essential skills and knowledge through the use of formative or summative assessments such as rubrics, checklists and journaling.
- 6.02(3)(d) Learning environment – The candidate demonstrates the ability to create and maintain a flexible, dynamic learning environment with the goal of producing successful learners skilled in multiple literacies.
- 6.02(3)(e) Collection development – The candidate demonstrates the ability to develop and implement policies in collaboration with district and appropriate school personnel for collection development/selection, weeding criteria and the reconsideration of challenged resources, with procedures used to defend the challenged material, that is consistent with the mission, goals and objectives of the school building and school district, through:
- 6.02(3)(e)(i) materials acquisition and organization – The candidate demonstrates the ability to select a balanced collection of digital and print resources that meet the diverse curricular, personal and professional needs of students, teachers and administrators. The candidates demonstrates the ability to organize collections for easy access, one that aligns to curriculum, meets independent reading needs and reflects diverse points of view;
- 6.02(3)(e)(ii) resource review – The candidate identifies and provides support for diverse student information needs. The candidate models multiple strategies for students, other teachers and administrators to locate, evaluate and ethically use information for specific purposes. The candidate collaborates with students, other teachers and administrators to efficiently access, interpret and communicate information; and
- 6.02(3)(e)(iii) materials deselection – The candidate regularly weeds the collection to create a viable and current collection for an aesthetically pleasing environment designed to meet the diverse curricular, personal and professional needs of students, teachers and administrators.
- 6.02(3)(f) Program management – The candidate designs strong library programs with resources, services, policies, procedures and programming that are aligned with the school's goals. The candidate demonstrates the ability to practice the ethical principles of their profession, advocate for intellectual freedom and privacy, and promote and model digital citizenship and responsibility. The candidate educates the school community on the ethical use of information and ideas.
- 6.02(3)(g) Supervision – The candidate demonstrates knowledge of the ability to recruit, supervise and evaluate library staff and volunteers.
- 6.02(3)(h) Budget management – The candidate demonstrates the ability to prepare, justify and maintain the school library program budget to ensure funding for the continuous

acquisition of standards-based curriculum materials and services. The candidate displays the knowledge to pursue school-aligned alternative funding sources (such as grants or sponsorships) at the local, state and national level to enhance library funding and general program support.

6.02(3)(i) Program analysis/advocacy – The candidate uses evidence-based action research to collect data. The candidate interprets and uses data to create and share new knowledge to improve practice in school libraries. The candidate shows the ability to manage, organize and evaluate school library physical resources (facilities), fiscal resources (budgets) and human resources (personnel) to ensure the school library program recognizes, celebrates and advocates for the curricular, personal and professional needs of all stakeholders.

6.02(4) Quality standard 4: reflect on practice –A teacher reflects on personal teaching practice (CDE Model Teacher Evaluation System).

6.02(4)(a) Strategic planning – The candidate displays the leadership skills to develop school-aligned yearly goals (growth plans, action plans, etc.) as a guide to creating a library program and instruction that positively impacts student achievement and helps students thrive in today's society. The candidate demonstrates the ability to effectively use feedback and data to measure implementation of yearly growth plan goals. The candidate makes effective use of data and information to assess how the library program addresses the needs of diverse communities.

6.02(4)(b) Lifelong learning – The candidate plans for ongoing professional growth and know-how to articulate a personal learning network:

6.02(4)(b)(i) instructional/digital coach – The candidate displays the ability to work directly and indirectly with teachers, staff and the building principal(s) to improve the effectiveness of classroom instruction and increase student learning, performance and overall achievement especially in the areas of technology skills and digital literacy (information literacy, technology literacy and digital citizenship); and

6.02(4)(b)(ii) professional development – The candidate demonstrates the ability to be an instructional leader who develops and leads a variety of technology professional development opportunities (aligned with school's goals) for staff.

6.02(5) Quality standard 5: leadership and professional learning – A teacher demonstrates leadership (CDE Model Teacher Evaluation System).

6.02(5)(a) Development and/or leading professional learning networks (PLN's) –The teacher-librarian educator shall self-assess effectiveness based on student achievement and pursue continuous professional development in a variety of ways (e.g. digitally, in-person and networking) through appropriate activities, coursework and participation in relevant professional organizations.

6.02(5)(b) Family and community engagement – The candidate understands the importance of partnering with families to coordinate learning between home and school and advocates for the inclusion of teachers and families in education and government decision-making processes.

### **6.03 Reading Teacher (Grades K-12)**

To be endorsed as a reading teacher, an applicant must hold or be eligible to hold a Colorado initial or professional teacher license; must have completed two or more years of teaching experience while holding an initial or professional teacher license; must have completed an approved graduate program in reading at an accepted institution of higher education, including a supervised practicum or internship as a reading teacher; must be knowledgeable about research-based literacy instruction as outlined in rule 4.02(5) – 4.02(13) of these rules and the Colorado Academic Standards in reading, writing and communicating as outlined in rule 2.01(7), and must have demonstrated the competencies described below:

6.03(1) The reading teacher is knowledgeable about reading and reading instruction and is able to:

- 6.03(1)(a) effectively diagnose, prescribe and evaluate teaching techniques appropriate to the age and grade level(s) of the student.
- 6.03(1)(b) instruct students about the basics of reading by applying effective methodology, techniques and materials appropriate to the age, assessed reading level(s) and learning issues of students.
- 6.03(1)(c) incorporate psychological and cognitive processes as specifically related to the effective teaching of reading.
- 6.03(1)(d) provide diagnostic and remedial teaching of reading including, but not limited to, applying appropriate and effective methods and techniques for instructional delivery and utilizing appropriate and relevant instructional materials.
- 6.03(1)(e) identify and acquire appropriate and relevant resources to improve student achievement.
- 6.03(1)(f) organize and manage reading instruction and communicate and work effectively with other instructional staff to meet the academic needs of students.
- 6.03(1)(g) incorporate into planning federal and state policies related to literacy including, but not limited to, those related to formal assessments.
- 6.03(1)(h) effectively evaluate and implement reading programs based on the needs of the students and scientifically based, applicable, proven and appropriate reading research.

6.03(2) The reading teacher is knowledgeable in a minimum of three of the following supporting areas: testing and measurement; exceptional children; child and adolescent development; speech and hearing; guidance and counseling; child and adolescent literature; language development; curriculum; developmental and advanced reading skills; and reading difficulties among students with diverse learning characteristics and backgrounds.

6.03(3) The reading teacher shall self-assess the effectiveness of instruction and assistance to staff and students based on the achievement of students and shall pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organization.

#### **6.04 Reading Specialist (Grades K-12)**

To be endorsed as a reading specialist, an applicant must hold a Colorado initial or professional teacher license with an endorsement in an approved content area; hold a master's degree or higher; have completed an approved graduate program for the preparation of reading specialists at an accepted institution of higher education, including a supervised practicum or internship as a reading specialist; have three or more years of full-time, demonstrated classroom teaching experience; must be knowledgeable

about research-based literacy instruction as outlined in rule 4.02(5) – 4.02(13) and the Colorado Academic Standards in reading, writing and communicating as outlined rule in 2.01(7), and must have demonstrated the competencies described below:

6.04(1) The reading specialist must have knowledge of dyslexia and other learning disorders and:

6.04(1)(a) understand the most common intrinsic differences between good and poor readers (i.e., cognitive, neurobiological and linguistic).

6.04(1)(b) recognize the tenets of the NICHD/IDA definition of dyslexia.

6.04(1)(c) recognize that dyslexia and other reading difficulties exist on a continuum of severity.

6.04(1)(d) identify the distinguishing characteristics of dyslexia and related reading and learning disabilities (including developmental language comprehension disorder, attention deficit hyperactivity disorder, disorders of written expression or dysgraphia, nonverbal learning disorders, etc.).

6.04(1)(e) identify how symptoms of reading difficulty may change over time in response to development and instruction.

6.04(1)(f) understand federal and state laws that pertain to reading disabilities including dyslexia.

6.04(2) The reading specialist must have successfully completed graduate-level studies in a minimum of three of the following relevant supporting areas: testing and measurement; the teaching of exceptional students including, but not limited to, those who have been identified as gifted; child and adolescent development; speech and hearing; school counseling; child and adolescent literature; language development; curriculum; initial and advanced reading skills development; the identification of, planning for and instructional delivery of the curriculum to students with reading problems the identification of, planning for and instructional delivery of the curriculum to those students for whom English is not their native language.

6.04(3) The reading specialist is knowledgeable about and able to effectively articulate the methods, issues and resources involved in support of student instruction to a wide variety of audiences including but not limited to staff, parents and students.

6.04(4) The reading specialist shall self-assess the effectiveness of instruction, direction and/or supervision based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

#### **6.05 Director of Special Education (Grades K-12)**

The director of special education must hold an earned master's or higher degree in special education or a graduate degree that demonstrates knowledge and application of standards for the specialist (as determined by the Department) from an accepted institution of higher education; have completed a minimum of two years of experience working with students with disabilities; have completed an approved program for the preparation of special education directors, including a supervised field-based experience or have completed an approved program for school administrators and an approved master's program in special education; and meet the standards for professional competency outlined in rule 1 CCR 301-37 6.11-6.19 for the initial administrator license with a director of special education endorsement.

#### **6.06 Director of Gifted Education (Grades K-12)**

The director of gifted education must hold an earned master's or higher degree in gifted education from an accepted institution of higher education or a graduate degree that demonstrates knowledge and application of standards for the specialist (as determined by the Department); have completed a minimum of two years of experience working with students with exceptional academic and talent aptitude (gifted students); have completed an approved program for the preparation of gifted education directors, including a supervised field-based experience; and meet the standards for professional competency outlined in rule 1 CCR 301-37 6.20-29 for the initial administrator license with a director of gifted education endorsement.

#### **6.07 Instructional Technology Specialist (Grades K-12)**

To be endorsed as an instructional technology specialist, an applicant must hold a Colorado initial or professional teacher license endorsed in an approved endorsement area; have completed an approved course of study for the preparation of instructional technology specialists at an accepted institution of higher education, including a supervised practicum or internship as an instructional technology specialist; and have three or more years of teaching experience.

6.07(1) The instructional technology specialist is knowledgeable about technology operations and concepts and is able to assist teachers in:

6.07(1)(a) effectively teaching students about technology concepts and skills at all developmental levels.

6.07(1)(b) utilizing technology and information literacy resources and strategies in teaching students in all content areas.

6.07(2) The instructional technology specialist is able to plan design, organize and implement learning environments and experiences and is able to assist teachers in:

6.07(2)(a) identifying and applying instructional technology and information literacy principles associated with the development and implementation of long- and short-term instructional plans.

6.07(2)(b) developing and maintaining engaging learning environments that include hands-on technology experiences for students in individual, small group, classroom and lab settings.

6.07(2)(c) providing guidance as requested regarding the purchasing of school- and district-based technology tools.

6.07(2)(d) identifying, recommending and assisting in the procurement and implementation of appropriate adaptive/assistive hardware and software for learners with special needs.

6.07(2)(e) applying current research with regard to facilities- and technology-planning issues.

6.07(3) The instructional technology specialist is knowledgeable about teaching, learning and the curriculum and is able to assist teachers in:

6.07(3)(a) designing and delivering a standards-based curriculum enhanced by teacher and student use of technology.

6.07(3)(b) incorporating technology and information literacy resources that enhance higher order thinking skills and creativity in students.



- 6.07(3)(c) designing instructional technology methods, techniques and instructional materials for learners with diverse backgrounds, characteristics and abilities.
  - 6.07(3)(d) evaluating student progress related to instructional technology and to students' ages and grade levels, content, language and other developmental challenges.
  - 6.07(3)(e) assisting students in overcoming barriers to using technology for learning.
  - 6.07(3)(f) organizing and managing instructional technology.
- 6.07(4) The instructional technology specialist is knowledgeable about assessment and evaluation and is able to assist educators in:
- 6.07(4)(a) selecting and applying data-collection tools to determine the effectiveness of instructional strategies.
  - 6.07(4)(b) using technology resources to collect and analyze data, interpret results and communicate findings to improve instructional practice and maximize student learning.
  - 6.07(4)(c) using technology appropriately and effectively to improve learning, based upon evaluation and assessment data.
  - 6.07(4)(d) applying multiple methods of evaluation to improve and increase student use of technology resources, for learning, communication and productivity.
- 6.07(5) The instructional technology specialist is knowledgeable about productivity and professional practice related to technology and is able to assist educators in:
- 6.07(5)(a) integrating technology-based tools into practice related but not limited to productivity, delivery of instruction, information research, school management and evaluation of computer-based instructional tools into instructional and administrative settings.
  - 6.07(5)(b) applying technology to enhance and improve productivity and professional practice.
  - 6.07(5)(c) using technology resources for ongoing professional development.
  - 6.07(5)(d) reviewing professional practice on an ongoing basis to insure informed decision-making with regard to the use(s) of technology in support of student learning.
  - 6.06(5)(e) professional development, utilizing proven, effective and documented adult learning theory.
- 6.06(6) The instructional technology specialist is knowledgeable about and able to inform teachers about social, ethical, legal and human issues related to technology, and is able to:
- 6.06(6)(a) apply technology resources to enable learners with diverse backgrounds, characteristics and abilities to receive an optimal education.
  - 6.06(6)(b) be an active advocate for providing equitable access to technology resources for all students.

- 6.06(6)(c) develop and implement strategies to inform school and other relevant personnel about social, ethical and legal issues related to technology and provide support to educators and administrators with regard to the responsible use(s) of technology.
  - 6.06(6)(d) be knowledgeable about current copyright laws and able to assist others in adhering to those laws in the delivery of instruction and in related planning processes.
  - 6.06(6)(e) model and teach legal, ethical and safe practices related to technology use.
- 6.06(7) The instructional technology specialist is knowledgeable about communication and is able to:
- 6.06(7)(a) assist teachers in effectively communicating and collaborating with peers, parents and interested others in developing school/community support for technology and its multiple uses in education settings.
  - 6.06(7)(b) assist teachers in the effective use of telecommunication and media tools and resources for information sharing, remote information access, publishing and related activities.
  - 6.06(7)(c) effectively present information about technology and its issues to a variety of stakeholders including, but not limited to, staff, parents and students and to include effective strategies for increasing the use of technology resources in support of student instruction.
  - 6.06(7)(d) demonstrate strategies to educators about how to incorporate effective research findings in the instructional delivery of required content and in support of technology and information-literacy standards.
- 6.06(8) The instructional technology specialist shall self-assess the effectiveness of instruction, direction and/or supervision based on the achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

## **7.00 Special services endorsements**

The following shall serve as standards for special services endorsements on an initial or professional special services provider license.

### **7.01 School Audiologist (Ages Birth-21)**

To be endorsed as a school audiologist, an applicant must hold an earned master's or higher degree from an accepted institution of higher education or, for candidates who graduate after 2007, hold a clinical doctorate from an accepted institution of higher education; have successfully completed an approved program in audiology; have successfully completed a practicum or internship in a school setting equivalent to a minimum of eight weeks, full-time, under the supervision of a professionally licensed or masters-level licensed audiologist; and have passed an approved national audiology exam. The school audiologist is knowledgeable about and able to demonstrate the competencies specified below:

- 7.01(1) The school audiologist is knowledgeable about the procedures necessary to identify hearing loss in children/students including, but not limited to, the following and is able to:
- 7.01(1)(a) perform identification audiometric procedures including pure tone audiometric screening, immittance measurements, otoacoustic emissions and other electrophysiological measurements.

- 7.01(1)(b) establish, administer and coordinate hearing and/or auditory processing disorders (APD) identification programs.
- 7.01(1)(c) train and supervise audiology support or other personnel as appropriate to screening for hearing loss and/or APD.
- 7.01(1)(d) maintain accurate and accountable records for referral and follow-up of hearing screenings.
- 7.01(2) The school audiologist is knowledgeable about and is able to effectively implement the procedures necessary to assess hearing loss in children/students including but not limited to:
  - 7.01(2)(a) performing comprehensive audiologic evaluations including pure tone air and bone conduction measures; speech reception and word recognition measures, such as situational functional hearing measures; immittance measures; otoscopy and other tests including interpretation of electrophysiological measures; and differential determination of auditory disorders and/or APD to determine the range, nature and degree of hearing loss and communication function.
  - 7.01(2)(b) performing comprehensive educationally and developmentally relevant audiologic assessments of children/students ages birth to 21 using bias-free procedures appropriate to receptive and expressive ability and behavioral functioning.
  - 7.01(2)(c) providing recommendations for appropriate medical, educational and community referral for other services as necessary for the identification and management of children/students with hearing loss and/or APD and their families/guardians.
  - 7.01(2)(d) interpreting in writing and verbally audiologic assessment results, functional implications and management recommendations to educational personnel, parents/guardians and other appropriate individuals including physicians and professionals, as part of a multidisciplinary process.
  - 7.01(2)(e) selecting, maintaining and calibrating audiologic equipment.
  - 7.01(2)(f) providing access to assessment information through interpreters/translators.
- 7.01(3) The school audiologist is knowledgeable about procedures of evaluation and provision of amplification instrumentation to children/students in school and is able to:
  - 7.01(3)(a) determine children's/students' needs for and the appropriateness of hearing aids, cochlear implants and other hearing-assistance technology.
  - 7.01(3)(b) perform the appropriate selection, verification and maintenance of hearing-assistance technology, including ear mold impressions and modifications.
  - 7.01(3)(c) evaluate situational functional communication performance to validate amplified or electrically stimulated hearing ability.
  - 7.01(3)(d) plan and implement orientation and education programs to assure realistic expectations and to improve acceptance of, adjustment to and benefit from hearing aids, cochlear implants and hearing-assistance technology.
  - 7.01(3)(e) assess whether hearing aids, cochlear implants and other hearing-assistance technology, as used in school, are functioning properly.

7.01(3)(f) notify parent/guardian when a repair and/or maintenance of personal hearing-assistance devices is required.

7.01(4) The school audiologist is knowledgeable about and able to:

7.01(4)(a) identify appropriate intervention methods, necessary levels of service and vocational and work-study programming as part of a multidisciplinary team process that integrates:

7.01(4)(a)(i) auditory skill development, aural rehabilitation and listening-device orientation and training;

7.01(4)(a)(ii) speech skill development including phonology, voice and rhythm;

7.01(4)(a)(iii) visual communication systems and strategies including speech-reading, manual communication and cued speech;

7.01(4)(a)(iv) language development, i.e. expressive and receptive oral, signed, cued and/or written language including pragmatics;

7.01(4)(a)(v) the selection and use of appropriate instructional materials and media;

7.01(4)(a)(vi) the structuring of learning environments including acoustic modifications;

7.01(4)(a)(vii) case management and care coordination with family/parent/guardian, school and medical and community services;

7.01(4)(a)(viii) habilitative and compensatory skill training to reduce academic deficits related but not limited to reading and writing;

7.01(4)(a)(ix) social skills, self-esteem and self-advocacy support and training;

7.01(4)(a)(x) the transition between, but not limited to, levels, schools, programs and agencies; and

7.01(4)(a)(xi) support for a variety of education options for children/students with hearing loss and/or APD.

7.01(4)(b) develop and implement treatment plans that facilitate communication competence and which may include, but need not be limited to, speech-reading, auditory/aural development, communication strategies and visual-communication systems and strategies.

7.01(4)(c) provide and/or make recommendations with regard to assistive technology such as, but not limited to, hearing aids and hearing-assistance technology, to include radio/television, telephone, pager and alerting convenience.

7.01(4)(d) provide developmentally appropriate aural rehabilitation services including, but not limited to, programming in the child's natural environment, if appropriate, in the areas of speech-reading, listening, communication strategies, use and care of hearing aids, cochlear implants, hearing-assistance technology and self-management of hearing needs.

7.01(4)(e) provide information and training to teachers, administrators, children/students, parents/guardians and other appropriate professionals and individuals regarding hearing

and auditory development; hearing loss and/or APD and implications for communication, learning, psychosocial development and the setting and meeting of vocational goals; hearing aids, cochlear implants and hearing assistance devices; effective communication strategies; effects of poor classroom acoustics and other environmental barriers to learning; and EHDI (early hearing loss detection and intervention) programs and resources.

7.01(4)(f) apply appropriate instructional modifications and classroom accommodations to curricula delivery and academic methodology, materials and facilities.

7.01(4)(g) conduct analyses of classroom acoustics and make recommendations for improvement of the listening environment using principles of classroom acoustics, acoustical measurement and acoustical modifications.

7.01(5) The school audiologist is knowledgeable about the parameters of information counseling and advocacy and is able to:

7.01(5)(a) counsel families/guardians and children/students with hearing loss and/or APD to provide emotional support, information about hearing loss and the implications thereof, and strategies to maximize communication, academic success and psycho-social development.

7.01(5)(b) assure that parents/guardians receive comprehensive, unbiased information regarding hearing loss, communication options, educational programming and amplification options, including cochlear implants in cases of severe to profound hearing loss.

7.01(5)(c) demonstrate sensitivity to cultural diversity and other differences in characteristics including those found among individuals and within family/guardian systems and deaf culture.

7.01(5)(d) demonstrate effective interpersonal communication skills in a variety of settings for a variety of circumstances.

7.01(6) The school audiologist is knowledgeable about the parameters associated with hearing conservation and is able to:

7.01(6)(a) develop, implement and/or manage programs for the prevention of hearing loss.

7.01(6)(b) provide education, when appropriate, as related to and regarding access to hearing protection devices.

7.01(7) The school audiologist is knowledgeable about ethical conduct and is able to:

7.01(7)(a) comply with federal and state laws, regulations and policies including local district and school policies and relevant case law regarding referral, assessment, placement, related processes and the delivery of service(s).

7.01(7)(b) effectively articulate the role of the school audiologist as part of the special education team within the learning community.

7.01(7)(c) incorporate knowledge of school systems, multidisciplinary teams and community, national and professional resources into planning.

- 7.01(7)(d) effectively collaborate with teachers, parents and related personnel in case management with flexibility and in a professional manner.
- 7.01(7)(e) utilize a range of interpersonal communication skills such as, but not limited to, consultation, collaboration, counseling, listening, interviewing and teaming, as appropriate, in the identification of, prevention of harm to, assessment of and/or intervention with children/students suspected of or identified as having auditory disabilities.
- 7.01(7)(f) mentor and supervise audiology support personnel so that the auditory needs of children/students are effectively addressed.
- 7.01(7)(g) maintain accurate records and data relevant to the planning, management and evaluation of programs.
- 7.01(7)(h) educate other professionals and the community about implications of hearing loss.
- 7.01(7)(i) initiate requests or network to acquire support when needed.

## **7.02 School Occupational Therapist (Ages Birth-21)**

To be endorsed as a school occupational therapist, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have successfully completed an American Occupational Therapy Association-accredited college or university program in occupational therapy; have successfully completed a practicum or internship, as required by the school of occupational therapy attended, which may be held in a variety of settings; hold a valid occupational therapy license issued by the Colorado Department of Regulatory Agencies and have passed the occupational therapy national registration examination administered by the national board for certification in occupational therapy. The school occupational therapist is knowledgeable about and is able to demonstrate the competencies specified below:

- 7.02(1) The school occupational therapist is knowledgeable about the legal framework of occupational therapy within the public school system and is able to:
  - 7.02(1)(a) articulate the letter and intent of federal, special education and state laws and policies related to school-based occupational therapy, including issues related to potential safety and liability.
  - 7.02(1)(b) articulate to a variety of audiences the role of school-based occupational therapy for ages birth-21 including, but not limited to, the school occupational therapist's contribution to:
    - 7.02(1)(b)(i) students' individualized education plans and programs (IEP) and individualized family service plan (IFSP);
    - 7.02(1)(b)(ii) students' participation within the general education curriculum including, but not limited to, academic, non-academic and extracurricular activities and in the community including, but not limited to, vocational and independent living training; and
    - 7.02(1)(b)(iii) early intervention for children ages birth-2 and preschoolers ages 3-5, including working with families and caregivers and with consideration for natural environments.

- 7.02(2) The school occupational therapist is knowledgeable about processes for determining eligibility for special education services, the need for related services and the design and implementation of IEPs. The school occupational therapist, working with other educational professionals and interdisciplinary team members, is able to:
- 7.02(2)(a) consult with team on pre-referral strategies in support of a student's participation and performance within the educational context.
  - 7.02(2)(b) evaluate student eligibility for early intervention or special education services and to make referrals when pre-referral interventions prove ineffective or inadequate.
  - 7.02(2)(c) adhere to all established confidentiality and due process policies and procedures.
  - 7.02(2)(d) advocate for student access to and participation in the general curriculum and in the least restrictive environment.
- 7.02(3) The school occupational therapist is knowledgeable about appropriate and accurate assessment of a student's occupational and physical abilities and how to determine the need for adaptive equipment, and is able to:
- 7.02(3)(a) complete and evaluate observations and/or screenings of a student's strengths, problems and potential issues within the educational setting.
  - 7.02(3)(b) coordinate data-gathering from record reviews, interviews, checklists, specific observations and/or collaboration or consultation to avoid duplication of service(s) and/or assessment(s), including interpretation of medical records and prescriptions as applied to the educational environment.
  - 7.02(3)(c) identify and select appropriate, valid and reliable assessments to measure contextual factors, activity demands and student factors related to academic achievement.
  - 7.02(3)(d) assess a student's occupational performance during activities of daily living including, but not limited to, hygiene, functional mobility, eating, dressing, toileting, communication and meal preparation.
  - 7.02(3)(e) assess a student's performance skills; motor skills including, but not limited to, posture, mobility, coordination, strength and effort, and energy; process skills, including but not limited to, energy, knowledge, temporal organization, organizing space and objects and adaptation; and communication/interaction skills including, but not limited to, body language, information exchange and relations with others.
  - 7.02(3)(f) assess the student's performance context related to cultural, physical, social, personal, temporal and virtual aspects.
  - 7.02(3)(g) assess factors internal to the student including, but not limited to, those physical, cognitive and psycho-social factors that influence development and performance and those which interact with illness, disease and disability.
  - 7.02(3)(h) identify environmental factors that can either support or hinder a student's academic performance.
  - 7.02(3)(i) interpret assessment data to develop and refine hypotheses about the student's academic performance and effectively communicate, both verbally and in writing,

assessment results to a variety of audiences including, but not limited to, educators paraprofessionals, parents and students, as appropriate.

- 7.02(3)(j) within the context of an IEP or IFSP team, use clinical experience, clinical observation and professional judgment, as well as assessment data to plan and develop appropriate and targeted student objectives to be measured regularly for systematic comparisons of current and past student performance.
- 7.02(3)(k) report regular progress in attainment of the student's goals and objectives and make appropriate modifications, as needed, to the student's IEP or IFSP.
- 7.02(4) The school occupational therapist is knowledgeable about how to promote student engagement in everyday educational occupations and activities and how to support student participation in education and community contexts, and is able to:
  - 7.02(4)(a) provide appropriate classroom and environmental modifications and accommodations.
  - 7.02(4)(b) adapt curriculum, curriculum materials and presentation style to the unique fine, visual, sensor and gross motor needs of each student.
  - 7.02(4)(c) integrate appropriate equipment and/or devices, including low and high technology, to facilitate functional and independent skills and minimize deficiencies and increased deformity.
  - 7.02(4)(d) participate in program or curriculum development representing the needs of diverse learners to provide building level interventions, as needed and as appropriate.
  - 7.02(4)(e) identify and utilize intervention approaches based on documented evidence of research-based best practices.
  - 7.02(4)(f) provide school occupational therapy reports to students and families on a regular basis, coinciding with the school district's progress reporting schedule and format
- 7.02(5) The school occupational therapist is knowledgeable about how to create, communicate and sustain effective collaborative relationships with relevant individuals, families, schools and communities and is able to:
  - 7.02(5)(a) communicate effectively with students, families, teachers and other professionals including, but not limited to, those in the private sector to appropriately plan for meeting a student's needs and to avoid duplication of service(s).
  - 7.02(5)(b) communicate respectfully and sensitively to students and adults.
  - 7.02(5)(c) teach, facilitate, coordinate, schedule and supervise paraprofessionals, other staff members and family members/guardians to ensure that IEPs are effectively implemented.
  - 7.02(5)(d) facilitate and/or assist in transition of students from one setting to another in collaboration with students, their families, other educational staff, support-related professionals and/or community organization representatives, as appropriate.
  - 7.02(5)(e) identify and utilize resources and strategies that promote effective partnerships with individuals, families, school personnel and appropriate community entities.



- 7.02(5)(f) demonstrate the skills needed for the design and application of therapeutic strategies based on the defined needs, motivational levels, interests, preferences and individual backgrounds and characteristics of students.

7.02(6) The school occupational therapist is knowledgeable about ethical and legal standards of the practice of occupational therapy in the state of Colorado and is able to:

- 7.02(6)(a) address ethical considerations in all student- and occupation-related practices.
- 7.02(6)(b) recognize cultural and other biases and modify IEPs and IFSPs accordingly.
- 7.02(6)(c) interpret literature and apply documented, successful, evidence-based research and practice related to school occupational therapy.
- 7.02(6)(d) deliver occupational therapy services in accordance with the American Occupational Therapy Association's standards and policies and those of the state of Colorado.
- 7.02(6)(e) demonstrate compliance with the most current occupational therapy code of ethics for the American Occupational Therapy Association.

### **7.03 School Orientation and Mobility Specialist (Ages Birth-21)**

To be endorsed as a school orientation and mobility specialist, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have successfully completed an approved preparation program for school orientation and mobility specialists; have successfully completed a practicum or internship in a school setting, equivalent to a minimum of 320 hours, full-time, under the supervision of an Academy of Certification of Vision Rehabilitation and Education Professionals (ACVREP)-licensed orientation and mobility specialist; have passed the ACVREP examination and hold a current and valid ACVREP orientation and mobility certificate. The orientation and mobility specialist must have demonstrated the competencies specified below:

7.03(1) The school orientation and mobility specialist is knowledgeable about the legal framework, historical and auricular foundations and cultural social-economic factors affecting students with visual impairments and other concomitant disabilities, and about systems of orientation and mobility and is able to:

- 7.03(1)(a) articulate the history and philosophy of instructional practices as related to orientation and mobility instruction for children and youth with visual impairments.
- 7.03(1)(b) incorporate and address in planning variations in beliefs, traditions and values across cultures and their potential effect on attitudes toward and expectations for individuals with visual impairments.
- 7.03(1)(c) research, identify and apply for appropriate and relevant federal entitlements that provide specialized equipment and materials for individuals with visual impairments.
- 7.03(1)(d) communicate effectively with regard to current educational definitions, identification criteria, labeling issues and incidence and prevalence figures for individuals with visual impairments to a variety of audiences, as needed and appropriate.
- 7.03(1)(e) describe the use of the long cane as a mobility system; the different types of long canes, adapted canes and adaptive mobility devices and their strengths and limitations as travel tools in consideration of individual travel needs and travel environments; and

articulate and utilize prescription techniques for canes, adapted canes and adaptive mobility devices.

- 7.03(1)(f) describe the dog guide as a mobility system; the methods and strategies for providing orientation assistance to a dog guide user; and the process for making referrals to dog guide training centers.
  - 7.03(1)(g) describe the use and application of electronic travel aids (ETAs) as a supplementary mobility system; how ETAs are classified and the basic principles of operating commercially available ETAs.
  - 7.03(1)(h) explain the uses and applications of optical and non-optical devices as a supplementary mobility system; the classification and basic principles of operation of optical and non-optical devices and the various ways in which persons with visual impairments may use these devices in travel environments.
  - 7.03(1)(i) describe the use of ambulatory aids such as, but not limited to, support canes, walkers, crutches and wheelchairs, and the manner in which these devices may be used by individuals who are blind or visually impaired.
  - 7.03(1)(j) articulate the correlation between and the advantages and disadvantages of mobility systems for persons with a range of visual impairment, including those with concomitant disabilities, and communicate this information effectively to students and their families.
- 7.03(2) The school orientation and mobility specialist is knowledgeable about human development and the implications of blindness/visual impairment and deaf-blindness upon development, and orientation and mobility skill acquisition. The school orientation and mobility specialist is able to:
- 7.03(2)(a) explain the structure, function and normal development of the human visual system and the impact on development of other sensory systems when vision is or becomes impaired.
  - 7.03(2)(b) describe and interpret basic terminology, manifestations, movement and travel implications of diseases and disorders of the human visual system.
  - 7.03(2)(c) explain the classification and quantification of hearing loss; the special auditory needs of persons with visual impairments; the use of hearing aids by persons with visual impairments and the uses of audiometric data for traffic interpretation.
  - 7.03(2)(d) describe the role of perception as it pertains to cognition, sensation, attention, memory, cognitive mapping, orientation and the utilization of information as conveyed through sensory means.
  - 7.03(2)(e) articulate the effects of medications on the functioning of the sensory systems and on general mobility.
  - 7.03(2)(f) describe the impact of and needs generated by hearing loss on an individual's modes of communication, movement and travel.
  - 7.03(2)(g) explain the effects of visual impairment, with and without additional disabilities, on early development of motor and cognition abilities, self-esteem, social/emotional interaction, self-help, communication, travel safety and orientation and mobility skill(s) acquisition.

- 7.03(2)(h) describe the impact of vision loss on the family and the strategies available to family members, caregivers and support systems in encouraging and supporting independence.
  - 7.03(2)(i) describe the similarities and differences between the sensory, cognitive, physical, cultural, social, emotional and travel needs of students with and without visual impairments.
  - 7.03(2)(j) discuss the role and function of incidental learning when vision is impaired as related to concept development and travel skills.
  - 7.03(2)(k) recommend adaptations across student travel environments that can address and accommodate individual sensory and physical needs.
- 7.03(3) The school orientation and mobility specialist is knowledgeable about the accurate assessment of students' sensory, developmental and orientation and mobility performance and is able to:
- 7.03(3)(a) interpret and apply specialized terminology as used in medical diagnoses of eye reports, low vision evaluation reports, orientation and mobility assessment(s) of individuals with visual impairments and those with concomitant disabilities.
  - 7.03(3)(b) articulate the rudimentary practices used for screening hearing function(s) and ensure that hearing is screened prior to assessment of orientation and mobility knowledge and skills.
  - 7.03(3)(c) gather background information and family history relevant to the individual student's visual status and orientation and mobility needs.
  - 7.03(3)(d) utilize in planning data from specific and appropriate orientation and mobility assessments to measure functional vision and orientation and mobility knowledge and skills, including, but not limited to, concept development, sensory-motor function and informal and formal mobility techniques.
  - 7.03(3)(e) address in planning ethical considerations, legal provisions, regulations, policies and guidelines for the valid orientation and mobility assessment of individuals with visual impairments, including those with concomitant disabilities.
  - 7.03(3)(f) adapt and implement a variety of orientation and mobility assessment procedures when evaluating individuals with visual impairments, including those with concomitant disabilities.
  - 7.03(3)(g) incorporate into planning the interpretation and application of assessment results from related professional fields in conjunction with orientation and mobility assessments of individuals with visual impairments, including those with concomitant disabilities.
  - 7.03(3)(h) implement appropriate strategies to assess environments for accessibility and safety.
  - 7.03(3)(i) analyze and utilize assessment information in the development of the individualized family service plans (IFSP) and individualized education programs (IEP) for individuals with visual impairment, including those with concomitant disabilities.
  - 7.03(3)(j) write behaviorally stated goals and objectives that are realistic, measurable, appropriately sequenced and based on assessment findings.

- 7.03(3)(k) apply strategies and methods for using assessment information to the ongoing evaluation of student progress and implement appropriate program adaptations and remediation strategies, accordingly.
- 7.03(3)(l) create and accurately maintain required school records with regard to orientation and mobility assessments for individuals with visual impairments, including those with concomitant disabilities.
- 7.03(4) The school orientation and mobility specialist is knowledgeable about specialized instruction and appropriate modifications and accommodations for learners with visual impairment and is able to:
  - 7.03(4)(a) establish appropriate and effective communication, interaction and rapport with children/students of all ages and their families or others who may be accountable.
  - 7.03(4)(b) counsel students regarding the setting of high but achievable mobility goals; choosing a mobility system and related matters involving the use of mobility skills in daily living; and recognize and incorporate into planning students' evolving attitudes toward orientation and mobility instruction.
  - 7.03(4)(c) identify resources and/or acquire and utilize and/or design and produce appropriate media and materials that support orientation and mobility instruction including, but not limited to, visual, tactile and auditory maps, models, graphic aids and recorded information.
  - 7.03(4)(d) apply observational techniques appropriate to orientation and mobility instruction.
  - 7.03(4)(e) implement instructional strategies that can enable person(s) with visual impairments to use sensory information in travel environments.
  - 7.03(4)(f) design and implement instructional programs using the optical and non-optical devices recommended by eye care professionals for use in travel environments.
  - 7.03(4)(g) evaluate and select environments for the introduction, development and reinforcement of orientation and mobility knowledge and skills.
  - 7.03(4)(h) demonstrate the construction, assembly and maintenance of the long cane and other adaptive mobility devices; articulate the nomenclature related to the cane and its parts; use appropriate resources for procuring long canes and other devices and demonstrate proficiency in maintaining and repairing canes and other adaptive mobility devices.
  - 7.03(4)(i) provide student instruction and support to address sensory skills, body image concept development, directionality, environmental concepts, address systems, interpretation of traffic patterns and related orientation and mobility concepts.
  - 7.03(4)(j) modify and provide instruction related to techniques of trailing, upper and lower body protection, squaring off, search, room familiarization, use of landmarks and cues, solicitation of assistance and human guides.
  - 7.03(4)(k) modify and provide instruction related to appropriate cane techniques and their applications in indoor and outdoor environments including but not limited to diagonal cane and touch technique; touch technique modifications, including three-point touch, touch and slide, touch and drag; constant contact technique and the use of the cane for shore-lining.

- 7.03(4)(l) provide instruction on techniques for using adaptive mobility devices in indoor and outdoor environments.
- 7.03(4)(m) provide instruction with regard to orientation and travel skills including, but not limited to, route planning; direction taking; distance measurement and estimation; utilization of compass directions; recovery techniques; analysis and identification of intersections and traffic patterns; use of traffic control devices; negotiation of public conveyance systems, such as elevators and escalators; techniques for crossing streets; and techniques for travel in indoor, outdoor, residential, small business, business district, mall and rural area environments.
- 7.03(4)(n) select appropriate distances and positioning relative to the student for safe and effective instruction as the student advances through the orientation and mobility program, which may best facilitate progress as skills relevant to a wide variety and complexity of environments are introduced.
- 7.03(4)(o) select, design, implement and utilize “drop-off” lessons for the assessment of orientation and mobility skills.
- 7.03(4)(p) instruct students on how to address travel needs when the distance between the instructor and the student is remote, and develop and facilitate “solo” lessons and independent travel experiences.
- 7.03(4)(q) articulate the role of regular and special education personnel and related service professionals who may be involved in interdisciplinary, multidisciplinary or trans-disciplinary instruction of the child/student.
- 7.03(4)(r) develop appropriate lesson plans and record pertinent anecdotal lesson notes concisely.
- 7.03(5) The school orientation and mobility specialist is knowledgeable about effective communication and successful collaboration with students, their families and relevant education and community personnel and is able to:
  - 7.03(5)(a) describe and respond to movement and travel-related concerns of parents of individuals with visual impairments with varied and appropriate strategies to assist them in addressing such concerns.
  - 7.03(5)(b) articulate the roles of individuals with visual impairments to parents and other family members, educational service providers and relevant community personnel, in planning for students' individualized orientation and mobility programs.
  - 7.03(5)(c) describe the roles of and be able to provide direction for paraprofessionals or para-educators who assist with the orientation and mobility instruction of students with visual impairments.
  - 7.03(5)(d) utilize appropriate strategies for assisting families and other team members in planning for level-transitioning of students with visual impairments.
  - 7.03(5)(e) provide resources for service, networking and organization specifically oriented to students with visual impairments and deaf-blindness to families, related professionals and other support personnel.
  - 7.03(5)(f) advocate for the necessity of role models for students with visual impairments and deaf-blindness.

- 7.03(5)(g) utilize appropriate and effective communication, consultation and collaboration skills and strategies in working with students with visual impairment, parents, regular and special education staff and community personnel regarding students' orientation and mobility needs and program(s).
  - 7.03(5)(h) initiate and coordinate respectful and beneficial relationships between and among families and relevant professionals, where appropriate, to encourage and assist families in becoming informed and active participants in students' orientation and mobility programs.
  - 7.03(5)(i) plan and conduct conferences with families or primary caregivers as required and/or necessary.
  - 7.03(5)(j) manage and direct the activities of para-educators or peer tutors who work with individuals with visual impairments.
- 7.03(6) The school orientation and mobility specialist is knowledgeable about adhering to ethical and appropriate professional practices in contributing to the orientation and mobility skill development of children/students and is able to:
- 7.03(6)(a) apply the ethical considerations governing the profession of orientation and mobility to the education of the learner who is visually impaired, recognizing the importance of the orientation and mobility specialist as a role model for students with visual impairment(s).
  - 7.03(6)(b) recognize cultural and other biases to assure that instruction of students is discrimination-free.
  - 7.03(6)(c) articulate and address in planning concerns related to student safety and potential liability and keep current on national and local environmental accessibility standards.
  - 7.03(6)(d) engage in the activities of professional organizations which represent and advocate for the field of visual impairment, whenever relevant.
  - 7.03(6)(e) keep current on literature and documented effective research applicable to individuals with visual impairments and orientation and mobility needs and apply relevant information to planning and objectives setting for students.
  - 7.03(6)(f) practice professional self-assessment and seek out professional development activities that support the advancement of personal skills and knowledge and which can benefit students with visual impairments, their families and/or colleagues, and to maintain ACVREP certification.

#### **7.04 School Physical Therapist (Ages Birth-21)**

To be endorsed as a school physical therapist, an applicant must hold an earned bachelor's or higher degree from an accepted institution of higher education; have completed a physical therapy program accredited by the American Physical Therapy Association's (APTA) Commission on the Accreditation of Physical Therapy Education (CAPTE); have successfully completed an appropriate practicum or internship as required by the physical therapy program attended; hold a valid physical therapy license issued by the Colorado Department of Regulatory Agencies and have demonstrated the competencies specified below:

- 7.04(1) The school physical therapist is knowledgeable about the legal framework of physical therapy within the public school system and is able to:
- 7.04(1)(a) articulate the letter and intent of state and federal special education law, rule and policy, including local education agency policy, as related to school-based physical therapy and including, but not limited to, issues related to safety and liability.
  - 7.04(1)(b) describe the etiology of various physical and medical conditions that impact the functional ability of the student within the school, home and community environments.
  - 7.04(1)(c) articulate the difference between medically based physical therapy management and general physical therapy management as a related service under IDEA, and adapt physical therapy management strategies from the medical model to the educational model.
  - 7.04(1)(d) utilize strategies that consider the influence of diversity on assessment, eligibility determination, intervention planning and placement of individuals with exceptional learning needs.
- 7.04(2) The school physical therapist is knowledgeable about the process of determining eligibility for special education services and/or related services; designing and implementing Individualized Educational Programs (IEPs) and/or Individualized Family Service Plans (IFSPS) and is able to:
- 7.04(2)(a) implement pre-referral interventions as part of a special education team that supports the student's participation and performance within the educational context.
  - 7.04(2)(b) refer students for special education when the education team determines that pre-referral interventions have been ineffective or inadequate.
  - 7.04(2)(c) participate as needed on an interdisciplinary team to evaluate student eligibility for early intervention or special education services.
  - 7.04(2)(d) adhere to all established confidentiality and due process guidelines and procedures.
  - 7.04(2)(e) advocate for student access to and participation in the general curriculum and the least restrictive environment.
- 7.04(3) The school physical therapist is knowledgeable about completing accurate assessments of a student's physical abilities and needs for adaptive equipment, and is able to:
- 7.04(3)(a) complete and evaluate observations and/or screenings to assess a student's strengths and challenges within the educational setting.
  - 7.04(3)(b) provide gross motor and fine motor screenings to determine if a child is in need of a complete evaluation.
  - 7.04(3)(c) coordinate data-gathering from record reviews, interviews, checklists, specific observations, interpretation of medical records and identification of prescriptions and medications taken, as each applies to the educational environment, and to collaborate or consult with others, when indicated, in order to avoid duplication of services and/or assessment.
  - 7.04(3)(d) identify and select valid and reliable assessment methods to measure contextual factors, activity demands and student factors that may be affecting school performance.

- 7.04(3)(e) where appropriate, conduct tests and measures of the following areas and evaluate for performance within the educational setting: muscle strength, force, endurance and tone; reflexes and automatic reactions, movement skill and accuracy; joint motion, mobility and stability; sensation and perception; peripheral nerve integrity; locomotor skill, stability and endurance; activities of daily living; cardiac, pulmonary and vascular functions; fit, function and comfort of seating and positioning equipment, prosthetic, orthotic and other assistive devices; posture and body mechanics; limb length, circumference and volume; thoracic excursion and breathing patterns; vital signs and physical home and school environments.
- 7.04(3)(f) incorporate strategies that consider the influence of diversity on assessment, eligibility, programming and placement of individuals with exceptional learning needs.
- 7.04(3)(g) identify and address in planning environmental factors that may support or hinder a student's performance.
- 7.04(3)(h) interpret assessment data to develop and refine hypotheses about the student's performance.
- 7.04(3)(i) interpret and communicate verbally and in writing the results of the assessment process for a variety of audiences including, but not limited to, teachers, paraprofessionals, related service professionals, students and parents/guardians, as appropriate.
- 7.04(3)(j) use proven documented evidence of clinical experience, clinical observation, professional judgment, test results and evidence in relevant literature within the context of IEPs or IFSPs to plan and develop appropriate and measurable student-targeted outcomes.
- 7.04(3)(k) report progress in the attainment of annual goals and objectives and make appropriate modifications, as needed, to the student's IEP or IFSP.
- 7.04(4) The school physical therapist is knowledgeable about developing and providing related-service support to special education communities for students with disabilities and is able to:
  - 7.04(4)(a) apply current proven effective practice appearing in the literature related to the practice of physical therapy in the school environment and to the development of strategies that can gain maximum access for and participation in a free and appropriate public education by all students.
  - 7.04(4)(b) provide appropriate classroom and environmental modifications and accommodations to facilitate students' ability to receive and participate in an appropriate public education.
  - 7.04(4)(c) reinforce functional behavior(s) as related to the cognitive, communicative, social/emotional and physical needs of students.
  - 7.04(4)(d) integrate appropriate equipment and/or devices including low and high technology to facilitate more functional and independent skills within the educational environment.
  - 7.04(4)(e) identify safety concerns and appropriate interventions for both the student and the provider, in the case of providing physical assistance to the student, to prevent injury.



- 7.04(4)(f) identify appropriate strategies and interventions to assist the student in obtaining improved functional academic performance through consultation and direct and/or indirect intervention(s).
- 7.04(4)(g) identify and utilize intervention approaches based on established best practices and documented research-based evidence including remediation and/or appropriate adaptations for positioning needs, and adaptive/assistive equipment needs and/or the need for physical or manual assistance to perform functional life skills within the educational environment, home or community.
- 7.04(4)(h) provide school physical therapy reports to students and families on a regular basis that coincide with the school district's progress reporting schedule and format.
- 7.04(4)(i) directly supervise unlicensed persons at school locations, in accordance with Colorado's Physical Therapy Practice Act, to facilitate a student's ability to participate in the educational process.
- 7.04(5) The school physical therapist is knowledgeable about how to create, communicate in and sustain effective collaborative relationships with relevant individuals, families, schools and communities and is able to:
  - 7.04(5)(a) communicate respectfully and sensitively to students and adults.
  - 7.04(5)(b) communicate effectively with students, families, teachers and other professionals including those from the private sector to appropriately plan for a student's services and to avoid duplication of service(s).
  - 7.04(5)(c) communicate with relevant providers and educators about the functional impact of students' disabilities on the ability to perform within the school environment.
  - 7.04(5)(d) identify resources and strategies that promote effective partnerships with individuals, families, school personnel and community representatives.
  - 7.04(5)(e) teach, facilitate, coordinate, schedule and provide supervision to paraprofessionals, other staff members and family members/guardians, as appropriate, to ensure that the IEP and/or IFSP is effectively implemented.
  - 7.04(5)(f) serve as an advocate for student's right to the least restrictive environment in an appropriate public education.
  - 7.04(5)(g) collaborate with colleagues and the school team to establish, write and measure appropriate and relevant student outcomes that are consistent with the functional skills that must be acquired by students so that they become as independent as possible within the educational environment, at home and/or in the community.
  - 7.04(5)(h) facilitate and/or assist in the development of the effective transition of students from one setting to another in collaboration with the students, their families/guardians or other professionals including community representatives to promote a continued level of functional performance at the new setting.
- 7.04(6) The school physical therapist is knowledgeable about the ethical and legal standards of physical therapy practice in the state of Colorado and is able to:
  - 7.04(6)(a) recognize and address in planning the effect of cultural bias on practice.

- 7.04(6)(b) evaluate and apply current effective evidence-based practice related to school physical therapy.
- 7.04(6)(c) practice within the ethical and legal standards of the practice of physical therapy according to Colorado's Physical Therapy Practice Act and the American Physical Therapy Association's standards and policies, and demonstrate compliance with the most current physical therapy code of ethics of the American Physical Therapy Association.
- 7.04(6)(d) routinely evaluate and measure personal performance as a physical therapist to ensure therapeutic efficacy and achievement of appropriate outcomes, and participate in professional development and professional organizations which lead to increased knowledge and growth in skills and abilities.

#### **7.05 School Nurse (Ages Birth–21)**

To be endorsed as a school nurse, an applicant must hold an earned bachelor's or higher degree in nursing from an accepted institution of higher education or have successfully completed 3 years of practical experience working with school aged children and completed a nursing education program for a Registered Nurse (RN) or Bachelor's of Science in Nursing (BSN) program recognized by the U.S. Secretary of Education as a specialized accrediting agency, such as but not limited to the Commission on Collegiate Nursing Education (CCNE) or the Accreditation Commission for Education in Nursing (ACEN); have successfully completed the requirements for and hold a license to practice professional nursing in Colorado pursuant to the provisions of the Colorado Nurse Practice Act (section 12-38-101, et. seq., C.R.S.) or hold a license in another state and be practicing in Colorado pursuant to the nurse licensing compact (section 24-60-3202, C.R.S.); have successfully completed field experiences and a supervised practicum as prescribed by the preparing institution, including experiences with school age children in a community health/public health or school setting. The initially licensed school nurse must participate in an approved induction program that will enable the nurse to be knowledgeable about and able to demonstrate the competencies specified below, which have been endorsed by the American Nurses' Association and the National Association of School Nurses as standards of care and the standards of professional performance for school nurses.

- 7.05(1) The school nurse is knowledgeable about the standards of care of school nursing practice and is able to:
  - 7.05(1)(a) assess student health status using data collected from the student, parent, school staff and other relevant health care providers.
  - 7.05(1)(b) conduct basic screening programs to identify potential health issues that may affect a child's ability to learn.
  - 7.05(1)(c) conduct physical assessments and specific screening tests, counseling and conferencing to determine the physical, social and mental status of the student.
  - 7.05(1)(d) assess the school environment and program(s) to determine modifications that are necessary to address student health and safety needs.
- 7.05(2) The school nurse has the knowledge to make nursing diagnoses and is able to:
  - 7.05(2)(a) validate student, family and group assessment data.
  - 7.05(2)(b) interpret health history information, medical reports, nursing observations and test results using educational terminology.
  - 7.05(2)(c) establish student and school health care priorities.

7.05(3) The school nurse has the knowledge of how to set health priorities in the school setting and is able to:

7.05(3)(a) evaluate health outcomes of school environment and program changes and create situation-specific methods of results-measurement.

7.05(3)(b) assess the cultural health beliefs of students to determine the impact on health care delivery, health care compliance and on education in the classroom.

7.05(3)(c) identify resources needed to achieve objectives and establish time frames and criteria to measure results.

7.05(4) The school nurse is knowledgeable about planning and is able to:

7.05(4)(a) review assessment information and relate findings to functioning levels and needs of students within the school setting.

7.05(4)(b) develop a school health care plan to meet students' individual health needs within the school setting.

7.05(4)(c) develop a plan to promote health and wellness and reduce risk factors within the school setting.

7.05(4)(d) collaborate with school personnel, community professionals and other resources to plan health-related and informational activities for students, educational staff and relevant others.

7.05(5) The school nurse is knowledgeable about plan implementation and is able to:

7.05(5)(a) manage health care plans for students with identified special health needs within the school setting.

7.05(5)(b) provide direct delivery of health services for students, when and if appropriate.

7.05(5)(c) delegate to, train and supervise appropriate school personnel to implement specific health care procedures.

7.05(5)(d) help clients to obtain resources and services.

7.05(5)(e) adhere to professional standards and state regulations.

7.05(5)(f) coordinate care to meet the health needs of students, their families and related vulnerable populations.

7.05(6) The school nurse is knowledgeable about evaluation for purposes of plan updating and is able to:

7.05(6)(a) monitor progress toward meeting student health care plan outcomes and revise plans as needed to meet identified ongoing or emerging needs of the student.

7.05(6)(b) evaluate school or district health care policies and procedures, counseling and classroom teaching outcomes.

7.05(6)(c) evaluate health care delivery models.

7.05(6)(d) monitor health outcomes of school environment and program changes.

7.05(7) The school nurse is knowledgeable about what constitutes quality of care and is able to:

- 7.05(7)(a) develop recommendations to enhance the school environment and/or to modify a school program to meet student health and safety needs.
- 7.05(7)(b) evaluate school staff trained to carry out designated health care procedures.
- 7.05(7)(c) participate in quality assurance activities, such as the development of relevant policies and procedures.

7.05(8) The school nurse is knowledgeable about performance appraisal and is able to:

- 7.05(8)(a) effectively appraise performance through constructive comments from peers and supervisors, self-assessment and adherence to relevant regulations.
- 7.05(8)(b) develop personal goals for professional development.

7.05(9) The school nurse is knowledgeable about professional development and participates in relevant continuing education programs.

7.05(10) The school nurse is knowledgeable about the necessity for collegiality in the school setting to meet the health needs of students and relevant needs of their families related to student achievement, and is able to:

- 7.05(10)(a) collaborate with school personnel, students, parents, primary health care providers and relevant others to establish an effective reciprocal referral system.
- 7.05(10)(b) participate as a member of an interdisciplinary school health and/or relevant education team to positively affect student well-being.
- 7.05(10)(c) participate in appropriate and relevant professional and community organizations.

7.05(11) The school nurse is knowledgeable about the ethics of the profession and is able to:

- 7.05(11)(a) demonstrate through application an understanding and incorporation of professional standards and state regulations in an education and/or health care setting.
- 7.05(11)(b) recognize the need for and maintain confidentiality.
- 7.05(11)(c) recognize and demonstrate respect for students' and families' cultural health care beliefs and student and family autonomy and rights.

7.05(12) The school nurse is knowledgeable about the positive aspects of collaboration and is able to:

- 7.05(12)(a) articulate clearly the value and role of the nurse in the school setting.
- 7.05(12)(b) work within the organizational structures that influence the delivery of school health services and be an advocate for the health and well-being of students within the school setting.
- 7.05(12)(c) act as liaison between school, community health agencies, care providers, parents and students to meet the objectives of student health care plans.

- 7.05(13) The school nurse is knowledgeable about applicable research and is able to:
- 7.05(13)(a) base practice on current knowledge, theory and research on which there is documented evidence of effectiveness.
  - 7.05(13)(b) participate in ongoing relevant research activities.
- 7.05(14) The school nurse is knowledgeable about resource utilization and is able to:
- 7.05(14)(a) assess the economic, legal and political factors that influence health care delivery in schools and communities and constructively address applicable factors within the school setting.
  - 7.05(14)(b) collaborate with community agencies to reduce duplication and expand resources.
- 7.05(15) The school nurse is knowledgeable about communication, including non-verbal communication, and its effect, and is able to:
- 7.05(15)(a) articulate issues clearly to a wide variety of audiences in a wide variety of situations and settings.
  - 7.05(15)(b) interpret health history information, medical reports, nursing observations and test results, and communicate clearly to appropriate staff and/or students and/or their families.
  - 7.05(15)(c) document interventions accurately in a timely way and in a retrievable and understandable format.
  - 7.05(15)(d) effectively use technology to acquire up-to-date information and to expand skills and resources.
- 7.05(16) The school nurse is knowledgeable about program management and is able to:
- 7.05(16)(a) develop effective community partnerships and a wide range of accessible resources.
  - 7.05(16)(b) design disease prevention and health promotion strategies and programs for students, their families, when appropriate, and other relevant staff.
  - 7.05(16)(c) implement and oversee recommended modifications of the school environment and programs to meet identified student health and safety needs and to reduce injuries.
  - 7.05(16)(d) provide health consultation, health education and health promotion for students, families, where appropriate, and staff to improve school attendance.
  - 7.05(16)(e) advise and consult with other relevant health care providers as appropriate to address the needs of students within the school setting.
  - 7.05(16)(f) evaluate health care delivery models and apply relevant elements within the school setting.
- 7.05(17) The school nurse is knowledgeable about of health education and is able to:

- 7.05(17)(a) develop and effectively implement lesson plans pertinent to identified health education needs.
- 7.05(17)(b) assess student and staff education needs for relevant health information and provide staff with health education programs, information, resources and materials, developmentally appropriate for the student population being served, to promote health/wellness and to prevent illness and injury.
- 7.05(17)(c) inform students and parents of patient rights.
- 7.05(18) The school nurse shall self-assess the effectiveness of practice, direction and/or supervision based on the well-being, needs and achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

#### **7.06 School Psychologist (Ages Birth-21)**

To be endorsed as a school psychologist, an applicant must have:

- (a) completed an approved specialist-level program with a minimum of 60 graduate semester hours or a doctoral program for the preparation of school psychologists, serving children/students, ages birth-21, at an accepted institution of higher education;
  - (b) passed the national school psychology examination;
  - (c) successfully completed practicums (consisting of a sequence of closely supervised on-campus or field-based activities, designed to develop and evaluate a candidate's mastery of distinct professional skills, consistent with program and/or course goals);
  - (d) successfully completed an internship (consisting of a full-time experience over one year, or half-time over two consecutive years, with a minimum of 1200 clock-hours, of which at least 600 hours must be in a school setting which requires a candidate to demonstrate, under supervision, the ability to integrate knowledge and skills in all the professional practice standards, and to provide a wide range of outcome-based school psychological services; and may include, beyond the 600 hours in the school setting, other acceptable internship experiences including in private, state-approved educational programs or in other appropriate mental health or education-related programs); and
  - (e) a valid National Certified School Psychologist (NCSP) credential, issued by the national school psychology certification board; or
  - (f) if an applicant holds a valid license issued by the Colorado State Board of Psychologist Examiners per department of regulatory agencies rules, or is eligible to sit for licensure examinations, that applicant must provide an institutional recommendation from the professional education unit of an accepted institution of higher education with an approved school psychology program, verifying that the applicant has acquired the specified competencies listed in these rules, including completion of an appropriate internship and have achieved a passing score on the national school psychology examination.
- 7.06(1) The school psychologist is knowledgeable about human learning processes from infancy to young adulthood, techniques to assess these processes, and direct and indirect services applicable to the development of cognitive and academic skills; and is able to:

- 7.06(1)(a) apply learning, motivation and developmental theories to improve learning and achievement for all children/students.
  - 7.06(1)(b) utilize developmentally appropriate practices that support the education of children/students ages birth-21 with disabilities or delays in development.
  - 7.06(1)(c) use results from ongoing assessment(s) in the development of appropriate cognitive and academic goals for children/students with differing abilities, disabilities, strengths and needs.
  - 7.06(1)(d) implement interventions such as consultation, behavioral assessment/intervention and counseling to achieve student goals.
  - 7.06(1)(e) evaluate the effectiveness of interventions and modify as necessary and appropriate.
- 7.06(2) The school psychologist is knowledgeable about a wide variety of models and methods of informal and formal assessment across ages birth-21 that can identify strengths and needs, and measure progress and functioning, in school, home and community environments, and is able to:
- 7.06(2)(a) select evaluation methods and instruments that are most appropriate and based upon effective up-to-date measurement theory and research.
  - 7.06(2)(b) implement a systematic process to collect data including, but not limited to, test administration; interviews and observations; behavioral, curriculum- and play- based assessments and ecological or environmental evaluations.
  - 7.06(2)(c) translate assessment results into empirically based decisions about service delivery to promote child/student achievement.
  - 7.06(2)(d) evaluate the outcomes of programs and services incorporating appropriate and relevant research design, statistics and methodology.
- 7.06(3) The school psychologist is knowledgeable about typical and atypical human developmental processes from birth to adulthood; the techniques to assess these processes; and the application of direct and indirect services for individuals, groups and families and, in collaboration with others, is able to:
- 7.06(3)(a) develop appropriate behavioral, affective, adaptive, social and transition goals for students of varying abilities, disabilities, strengths and needs.
  - 7.06(3)(b) implement interventions and services including, but not limited to, consultation, behavioral assessment and intervention, counseling and interagency collaboration based on identified goals.
  - 7.06(3)(c) evaluate the intervention(s) and modify as needed and appropriate to increase and assure effectiveness.
- 7.06(4) The school psychologist is knowledgeable about individual diversity, abilities and disabilities, and the influence of social, cultural, ethnic, socio-economic, gender-related and linguistic factors on development, learning and behavior, and is able to:
- 7.06(4)(a) identify biological, cognitive, affective, developmental, social and cultural bases that contribute to individual differences.

- 7.06(4)(b) identify risk and resiliency factors.
  - 7.06(4)(c) recognize psychopathology and articulate its potential influence on school functioning.
  - 7.06(4)(d) demonstrate the sensitivity, skills and respect necessary to work with diverse types of individuals and families.
  - 7.06(4)(e) display respect for diversity in social and cultural backgrounds and linguistic differences when working with families, school personnel and community agencies.
  - 7.06(4)(f) select and/or adapt prevention and intervention strategies based on individual characteristics, strengths and needs to improve learning, achievement and adaptive functioning for all children/students.
- 7.06(5) The school psychologist is knowledgeable about general education, special education, other educational and related services, the importance of multiple systems and their interactions, and organizational practices that maximize learning, and is able to:
- 7.06(5)(a) develop and implement policies and practices that create and maintain safe, supportive and effective learning environments.
  - 7.06(5)(b) participate in and facilitate school reform efforts.
  - 7.06(5)(c) translate federal and state law, state rules and regulations and local policy into building- and district-level practice.
- 7.06(6) The school psychologist is knowledgeable about models of effective evidence-based programs as related to health promotion; school safety; and primary, secondary and tertiary intervention, and is able to:
- 7.06(6)(a) implement school-wide prevention and intervention programs which may include, but are not limited to, individual and group counseling, affective education and positive behavior interventions and supports to promote the mental health, physical well-being and the achievement of children/students of all ages.
  - 7.06(6)(b) participate in risk assessments and crisis response planning, to promote and maintain school safety.
  - 7.06(6)(c) respond effectively to crisis situations.
- 7.06(7) The school psychologist is knowledgeable about collaboration and consultation models and methods and their applications in school, family and community systems, and is able to:
- 7.06(7)(a) consult and collaborate effectively with children/students, school personnel, families and community professionals to promote and provide comprehensive services to children and families and to advance student achievement.
  - 7.06(7)(b) communicate information that is readily understandable to students, families, educators and community members during meetings, in-services and consultations.
  - 7.06(7)(c) promote family involvement in education and service delivery.
  - 7.06(7)(d) collaborate with families and other service providers to meet the needs of infants, toddlers and preschoolers in home and community settings.



- 7.06(7)(e) link community resources that serve infants, toddlers, children, adolescents, young adults and their families and facilitate children's/students' transitions across various service delivery systems.
- 7.06(8) The school psychologist is knowledgeable about the history and foundations of school psychology, standards for legal and ethical practice, evidence-based service models and methods and public policy, and is able to:
  - 7.06(8)(a) demonstrate professional leadership that exemplifies a personal and professional commitment to ethical, professional and legal standards.
  - 7.06(8)(b) practice in accordance with all applicable federal and state statutes, rules, regulations and local policies, especially those concerning due process, informed consent, privacy rights and confidentiality.
  - 7.06(8)(c) integrate information sources and current technology to enhance quality of service.
  - 7.06(8)(d) utilize data-based decision-making in all aspects of professional practice.
  - 7.06(8)(d) maintain professional preparation, development and supervision as related to the population served.
  - 7.06(8)(e) contribute professionally to the advancement of school psychology.
- 7.06(9) The school psychologist shall self-assess the effectiveness of practice, direction and/or supervision based on the well-being and achievement of students and pursue continuous professional development through appropriate activities, coursework and participation in relevant professional organizations.

#### **7.07 School Social Worker (Ages Birth-21)**

To be endorsed as a school social worker, the candidate must hold an earned master's or higher degree in social work from an accepted institution of higher education; have documented evidence of completion of coursework in the areas of school and special education law, including content covering Functional Behavior Assessment (FBA) and the development of behavior intervention plans; have successfully completed one of the following – the Colorado Assessment for Licensed Clinical Social Workers or the Colorado State Board of Education-adopted assessment for school social workers; have successfully completed a supervised, 900 clock-hour practicum of in the field of social work, which must have been completed in a school, social service agency, mental health clinic or facility and/or hospital setting; and have successfully completed at least one field experience with school age children/students and which should: enable the social worker to synthesize and apply a broad range of relevant knowledge and skills; include opportunities to analyze, intervene and evaluate in ways that are highly differentiated, discriminating and self-critical; and differentially refine the candidate's communication skills with a variety of client populations, colleagues and members of the community.

- 7.07(1) The school social worker is knowledgeable about the history and foundations of school social work; standards for legal and ethical practice; proven-effective evidenced-based models and methods and public policy; and is able to:
  - 7.07(1)(a) demonstrate professional leadership and ethical practice in accordance with federal, state and local legislation, regulations and policies.

- 7.07(1)(b) demonstrate personal and professional commitment to the values and ethics of the social work profession through application of the national association of social workers professional standards and code of ethics in ethical decision-making.
  - 7.07(1)(c) remain current regarding effective evidence-based practice.
  - 7.07(1)(d) apply federal, state and local legislation, regulations and policies to ethical and legal interventions.
  - 7.07(1)(e) establish priorities and models for the delivery of school social work services that include individual and group counseling, advocacy, case management, consultation and crisis intervention to meet the needs of all learners.
  - 7.07(1)(f) conduct in-services for faculty and staff on child protection and school attendance issues and develop other training and educational programs in collaboration with local community agencies and other pertinent entities in support of the goals and mission of the educational institution.
  - 7.07(1)(g) counsel parents and students about due process rights, as mandated by special education legislation, and advise school personnel so that they are knowledgeable about and able to meet their legal responsibilities to all students.
  - 7.07(1)(h) comply with the legal mandates of confidentiality and maintain adequate safeguards to protect the privacy and confidentiality of student and family information.
- 7.07(2) The school social worker is knowledgeable about systems change and is able to:
- 7.07(2)(a) acquire or gain access to resources which can eliminate service deficiencies in the local education agency or in the community which negatively affect the ability of children/students to benefit from the educational system.
  - 7.07(2)(b) identify and collaborate with individuals who function as formal or informal leaders in their communities to develop and enhance networks that can complement the services of the local education and community agencies.
  - 7.07(2)(c) identify areas of need not being addressed by the local education agency and community and work to initiate those services.
  - 7.07(2)(d) document problems and recommend solutions to appropriate decision-makers in the local education agency or community.
  - 7.07(2)(e) advocate for appropriate change among educators, other professionals and citizens and provide leadership on committees and advisory boards at local, state, regional and national level to assure that the needs of all learners are met.
  - 7.07(2)(f) use mediation and conflict-resolution strategies to resolve children's/students' educational and parental concerns.
  - 7.07(2)(g) document the need and advocate for policy change at the local, state, regional and national level that can empower children/students and their families to gain access to and effectively use formal and informal community resources.
- 7.07(3) The school social worker is knowledgeable about communication, consultation and collaboration and is able to:

- 7.07(3)(a) act as a consultant to personnel and others in the local education agency, including members of school boards and representatives of the community, to promote understanding and effective utilization of school social work services.
  - 7.07(3)(b) act as a consultant to teachers, parents and others to facilitate understanding of how factors in the home, local education agency and community affect children's/students' educational experience(s).
  - 7.07(3)(c) act as a consultant on policy matters including but not limited to such issues as, discipline, suspension, expulsion, attendance, confidentiality, multicultural factors and child abuse and neglect.
  - 7.07(3)(d) work collaboratively to develop cooperative service arrangements and to mobilize the resources of local education agencies and the community to meet the needs of children/students and families, and to serve as liaison between parents, community and school(s).
  - 7.07(3)(e) as an effective member of an interdisciplinary team, bring unique skills, abilities and a systems perspective to the assessment and diagnosis of children's/students' needs.
  - 7.07(3)(f) initiate and support activities that can assist in overcoming institutional barriers and gaps in service.
  - 7.07(3)(g) demonstrate the professional skills, values and abilities necessary to facilitate the meeting of the objectives set by the interdisciplinary team to ensure student success.
  - 7.07(3)(h) provide appropriate case planning and management services and coordinate service planning with school and/or district and community personnel.
  - 7.07(3)(i) through modeling and coaching teach individuals to be effective group members, in therapeutic groups or in task-oriented work groups.
  - 7.07(3)(j) effectively advocate for children/students and their families in a variety of circumstances which may have a negative effect on learning including, but not limited to, those related to suspension and expulsion, discrimination, immigration, homelessness, chronic, acute and communicative diseases and other health issues; substance abuse and other at-risk conditions.
- 7.07(4) The school social worker is knowledgeable about educational planning and is able to:
- 7.07(4)(a) ensure that children's/students' educational plans are based on assessments relevant to the concerns raised in the referral and include goals, objectives and interventions to achieve desired outcomes, methods of evaluation and outcome criteria.
  - 7.07(4)(b) ensure that plans are designed to enhance children's/students' positive educational experiences and involve the family, other team members and school and community resources, as appropriate.
  - 7.07(4)(c) provide services to children/students that build on individual strengths and maximize opportunities to participate in the planning process and in directing the learning experience.

- 7.07(4)(d) develop and implement an intervention plan or, when the most suitable types of intervention are not available, design an alternative plan intended to enhance children's/students' ability to benefit from their educational experience.
  - 7.07(4)(e) conduct culturally sensitive assessments and participate in IEP planning for and service delivery to all learners.
  - 7.07(4)(f) incorporate into the educational planning process appropriate curricula and approaches to teaching and learning acceptable in the context of the local education agency.
- 7.07(5) The school social worker is knowledgeable about prevention and intervention and is able to:
- 7.07(5)(a) use basic helping skills including, but not limited to, interviewing, questioning and counseling to assist children/students and/or families in addressing problems they are experiencing with social functioning and the effects of such actions on student achievement, by working with them to develop alternative strategies based on clearly defined, evidence-based treatment modes or models.
  - 7.07(5)(b) counsel students and parents about actions which interfere with effective education and student achievement.
  - 7.07(5)(c) conduct small group activities which can serve as environments for teaching children/students effective daily living skills and as conduits for communicating information intended to enhance social functioning or the facilitation of problem resolution.
  - 7.07(5)(d) conduct classroom programs, when indicated, that can provide students with affective knowledge and skills.
  - 7.07(5)(e) conduct parent groups, as appropriate and indicated, relevant to their support of student achievement.
  - 7.07(5)(f) implement appropriate school intervention and prevention programs in response to demonstrated need to ensure a safe and civil learning environment for all students, which may include, but need not be limited to, crisis intervention, conflict resolution and substance abuse prevention.
  - 7.07(5)(g) complete in-depth psychosocial assessments of children/students and of family functioning as related to planning for the improvement of student achievement.
  - 7.07(5)(h) develop measurable and appropriate behavioral, affective, adaptive, social and academic objectives for students with varying abilities, disabilities, strengths and needs.
  - 7.07(5)(i) treat those in need or in crisis situations with respect, empathy, dignity and a consistently positive approach to problem resolution.
  - 7.07(5)(j) utilize family strengths and structure(s) to enable families to function as advocates for themselves and for their children's education and well-being.
- 7.07(6) The school social worker is knowledgeable about social and cultural foundations and is able to:
- 7.07(6)(a) apply proven theories of human growth and development related to students, ages birth-21 including, but not limited to, learning systems, communications, social learning and behavioral theory in working with children/students.

- 7.07(6)(b) incorporate diversity factors and the special educational needs of culturally and linguistically different populations into the planning process for students.
  - 7.07(6)(c) ensure that children and their families are provided services within the context of multicultural understanding and with consideration given to addressing the sensitivities that enhance families' support of children's learning experiences.
  - 7.07(6)(d) conduct culturally sensitive assessments of problem learning areas and recommend interventions to meet needs and to promote student achievement.
  - 7.07(6)(e) demonstrate the ability to select and/or adapt strategies based on the needs of at-risk children/students and those with identified disabilities.
  - 7.07(6)(f) address in planning biological and environmental factors which affect children's/students' ability to function effectively and to achieve in school.
  - 7.07(6)(g) identify racial and ethnic barriers within the local education agency and develop strategies to lessen and overcome the negative effects of such barriers on children/students and on the learning climate of the local education agency.
  - 7.07(6)(h) create opportunities for students and staff to recognize diversity in positive ways and to facilitate the understanding and acceptance of cultural and other influencing differences.
- 7.07(7) The school social worker is knowledgeable about assessment and is able to:
- 7.07(7)(a) assist local education agencies in the identification of students needing specialized and or support services.
  - 7.07(7)(b) perform need-assessments as the foundation of effective program planning for children/students and families that include, but are not limited to:
    - 7.07(7)(b)(i) a study of bio-psychosocial factors that may interfere with the children's/students' adjustment to and performance in school and which may involve assessment(s) of the student's physical, cognitive and emotional development and adaptive behavior as manifested in the family's related history;
    - 7.07(7)(b)(ii) assessment of the student's behavior and attitudes in a variety of settings;
    - 7.07(7)(b)(iii) assessment of the patterns of the child's/student's interpersonal relationships as observed in the family, local education agency and community settings;
    - 7.07(7)(b)(iv) assessment of the aspects of the biological, medical, psychological, cultural, sociological, emotional, legal and environmental factors that affect reports on the student's behavior by teachers and other personnel in their roles with/within the local education agency;
    - 7.07(7)(b)(v) identification of formal and informal policies of the local education agency and other institutional factors that may affect the student's behavior;
    - 7.07(7)(b)(vi) assessment of patterns of achievement and adjustment at critical points in the child's/student's growth and development; and

- 7.07(7)(b)(vii) assessment of the existence of, accessibility to and utilization of community resources for children/students and families.
- 7.07(7)(c) incorporate students' needs-assessment information into and write a comprehensive, timely and appropriate social-developmental history.
- 7.07(7)(d) utilize appropriately administered formal and informal objective measures including but not limited to measures of adaptive and functional behavior, self-esteem, social skills, attitudes, emotional health and interests.
- 7.07(7)(e) consider placement and service options for students in a variety of contexts.
- 7.07(8) The school social worker is knowledgeable about current effective research and program evaluation and is able to:
  - 7.07(8)(a) maintain accurate data and records relevant to the planning, management and evaluation of the school social work program.
  - 7.07(8)(b) maintain ongoing assessments of evidenced-based, educationally related social programs implemented in the local education agency, related community and in the region, which address such issues as, but not limited to, students dropping out of school or having poor attendance, advocate for program changes to address such issues and participate in program development and implementation processes, as appropriate.
  - 7.07(8)(c) engage in critical self-evaluation to assess efficacy and to improve skills and service delivery.
  - 7.07(8)(d) collect, analyze and publish data and present technical information to a variety of audiences and in a variety of contexts, including the general public, public officials, elected and appointed, and/or other decision-makers and policymakers responsible for programs and for program changes that can effect public education and related child welfare matters.
  - 7.07(8)(e) assume responsibility for continuing to develop a knowledge base and the skills necessary to remain current in the field and to develop and gain access to support systems that enhance personal growth and professional identity.
  - 7.07(8)(f) participate in professional and community organizations as relevant and appropriate.

## **7.08 School Speech-Language Pathologist (Ages Birth-21)**

To be endorsed as a school speech-language pathologist, an applicant must hold an earned master's or higher degree in communication disorders or speech-language pathology from an accepted institution of higher education; have completed a school speech-language pathology program accredited by the Council on Academic Accreditation (CAA) in the audiology and speech-language pathology of the American Speech-Language-Hearing Association (ASHA); have passed a national state-approved speech-language pathologist specialty-area test; have successfully completed a practicum or internship with children/students ages birth-21 in a school setting, equivalent to a minimum of eight weeks full-time, under the supervision of a professionally licensed school speech-language pathologist; and must demonstrate the competencies specified below:

- 7.08(1) The school speech-language pathologist is knowledgeable about basic human communication, including swallowing processes, and biological, neurological, acoustic, psychological, developmental, linguistic and cultural bases, and must incorporate into planning for students:

- 7.08(1)(a) the analysis, synthesis and evaluation of information related to basic human communication and its processes.
  - 7.08(1)(b) utilization of knowledge about normal development in the identification of delayed/disordered speech and language skills.
  - 7.08(1)(c) information about the interrelated and interdependent components of communication as related to its impact on the learner across environments.
- 7.08(2) The school speech-language pathologist is knowledgeable about the principles and methods of prevention of communication and swallowing disorders for students (ages birth-21), including consideration of anatomical/physiological, psychological, developmental, and linguistic and cultural correlates of the disorders, and is able to:
- 7.08(2)(a) analyze, synthesize and evaluate the nature of speech, language, hearing and communication disorders, including swallowing disorders, and other differences including, but not limited to:
    - 7.08(2)(a)(i) the etiologies, characteristics and anatomical/physiological, acoustic, psychological, developmental and linguistic and cultural correlates, in each of the following:
      - 7.08(2)(a)(i)(A) articulation, fluency, and voice and resonance, including respiration and phonation;
      - 7.08(2)(a)(i)(B) receptive and expressive language including, but not limited to, phonology, morphology, syntax, semantics, and pragmatics, in speaking, listening, reading, writing and manual modalities;
      - 7.08(2)(a)(i)(C) hearing including its impact on speech and language;
      - 7.08(2)(a)(i)(D) swallowing including oral, pharyngeal, esophageal and related functions, and the oral function of feeding;
      - 7.08(2)(a)(i)(E) cognitive aspects of communication, such as attention, memory, sequencing, problem-solving and executive functioning;
      - 7.08(2)(a)(i)(F) the social aspects of communication, such as challenging behavior, ineffective social skills and lack of communication opportunities; and
      - 7.08(2)(a)(i)(G) communication modalities, such as oral, written, manual, augmentative and alternative communication techniques and assistive technologies.
  - 7.08(2)(b) articulate to a variety of stakeholders the role of oral language as a precursor to research-based literacy development, including information related to reciprocal spoken/written language relationships, and reading and writing as acts of communication and as tools of learning.
  - 7.08(2)(c) differentiate between classroom oral language content, form and use, and conversational language.
  - 7.08(2)(d) identify traits of normal reading and writing development in the context of the general education curriculum.

- 7.08(2)(e) act as a resource to schools, parents and the community regarding all aspects of communication.
  - 7.08(2)(f) model and articulate the overall importance of communication and its relationship to academic achievement.
  - 7.08(2)(g) collaborate with other professionals to identify risk factors related to communication development among students ages birth-21.
  - 7.08(2)(h) conduct screening, prevention and intervention procedures.
  - 7.08(2)(i) identify and monitor added literacy risks for students being treated for spoken language difficulties.
  - 7.08(2)(j) monitor classroom progress and other factors that justify formal referral for assessment.
- 7.08(3) The school speech-language pathologist is knowledgeable about principles and methods of evaluation of communication and communication disorders for students ages birth-21, and is able to:
- 7.08(3)(a) participate on child study teams as an active member of the decision-making process for special education referrals.
  - 7.08(3)(b) collaborate with assessment teams in the utilization of a broad repertoire of formal and informal assessment strategies to help identify students' strengths and challenges with the various aspects of communication.
  - 7.08(3)(c) evaluate the psychometric characteristics of formal and informal assessment instruments.
  - 7.08(3)(d) select developmentally, culturally and linguistically appropriate formal and informal assessment tools and procedures to identify needs of students suspected of having difficulties in communication.
  - 7.08(3)(e) analyze assessment data to determine students' specific communication needs and eligibility for services, and for incorporation into individual educational plans (IEPs).
  - 7.08(3)(f) interpret data clearly in verbal and written form for a wide range of audiences, including educators, related professionals, families and students, where appropriate.
  - 7.08(3)(g) integrate assessment information from other professionals in the eligibility decision-making process.
  - 7.08(3)(h) consult with government agencies, teachers, school administrators and other health professionals on indications, timing, need and use of diagnostic assessments.
  - 7.08(3)(i) collaborate with assessment teams regarding evaluation strategies to identify whether a language difference or disorder might be at the root of concerns related to difficulty in a student's acquisition of literacy and/or any of its essential skills.
- 7.08(4) The school speech-language pathologist is knowledgeable about state-of-the-art techniques, procedures and tools for intervention and remediation of communication disorders, including augmentative/alternative/assistive technology, and is able to:



- 7.08(4)(a) plan and implement an appropriate service-delivery model for each identified student based on assessment results.
  - 7.08(4)(b) comply with federal, state and local laws, rules, policies, guidelines procedures and relevant case law.
  - 7.08(4)(c) model and demonstrate the use of augmentative/alternative/assistive technology.
  - 7.08(4)(d) be accountable through the collection of timely and appropriate data and the maintaining of accurate and timely records.
  - 7.08(4)(e) identify and gain access to sources of, and synthesize and translate common principles of, research and documented evidence-based and proven best practices related to the planning for and the implementation of intervention plans and strategies.
  - 7.08(4)(f) implement current state-of-the-art technology to maximize students' communication skills.
  - 7.08(4)(g) adapt general and special education curriculum to meet the requirements of individual students with regard to Colorado Academic Standards and access skills.
  - 7.08(4)(h) work collaboratively with students, general education teachers, school personnel, families and the community to provide integrated communication services.
  - 7.08(4)(i) provide culturally and developmentally appropriate curriculum-relevant intervention based on identified needs and proven effective research and practice.
  - 7.08(4)(j) develop setting-appropriate intervention plans with measurable and achievable goals to meet identified students' need(s).
  - 7.08(4)(k) maintain a safe and effective learning environment conducive to student achievement.
- 7.08(5) The school speech-language pathologist is knowledgeable about ethical conduct and professional development and is able to:
- 7.08(5)(a) articulate the role of the speech-language pathologist as an integral part of the special education services team and the learning community.
  - 7.08(5)(b) collaborate with teachers, parents and related personnel in case management in a flexible and professional manner.
  - 7.08(5)(c) communicate effectively with families to maintain their involvement with the student's assessment and intervention team.
  - 7.08(5)(d) utilize a range of interpersonal communication skills including, but not limited to, consultation, collaboration, counseling, listening, interviewing and teaming as appropriate to identification, prevention, assessment and/or intervention with students with suspected or identified communication disabilities.
  - 7.08(5)(e) mentor and supervise speech-language pathology assistants, graduate student interns and other support personnel so that the communication needs of students are addressed effectively and confidentially.

- 7.08(5)(f) participate in professional development opportunities to improve skills, and educate other professionals regarding risk factors to students, involving all means of communication.
- 7.08(5)(g) conduct research, initiate requests or network with related professionals to acquire support as needed.
- 7.08(5)(h) routinely evaluate and measure personal performance as a speech/language pathologist to ensure professional efficacy and achievement of appropriate outcomes, and participate in professional development and professional organizations to increase knowledge and growth in skills and abilities.

## **7.09 School Counselor (PreK-12)**

To be endorsed as a school counselor, applicants must hold a master's or higher degree in school counseling from a regionally accredited institution of higher education; have successfully completed an approved program in school counseling as defined by accreditation by the Council for Accreditation of Counseling & Related Educational Programs or demonstrate equivalent coursework and training experiences; have passed a state-approved assessment in school counseling; have completed a minimum of 100 clock-hours of a practicum, scheduled throughout the program, and a 600 clock-hour internship, supervised by a licensed school counselor in a school setting with multiple grade levels of students. The internship must provide opportunities for the candidate, under the supervision of a licensed school counselor, to engage in a variety of activities that an effective school counselor would be expected to perform as identified in the 2016 Council for Accreditation of Counseling and Related Educational Programs Standards (Colorado School Counseling Standards) effective July 1, 2016 and accessible at [www.cacrep.org](http://www.cacrep.org).

A one-year interim license with a school counselor endorsement may be issued to applicants who have not completed a school counseling program and hold a master's or higher degree in a clinical counseling domain, inclusive of social work, from a regionally accredited institution of higher education; have successfully obtained a Colorado Department of Regulatory Authorities counseling license; have successfully completed three or more years of work experience as a licensed clinical counselor; and successfully pass the state-approved content assessment in school counseling within the one year interim license timeline. The interim licensed school counselor must participate in an approved induction program that will enable the counselor to be knowledgeable about and able to demonstrate the competencies specific to a school counselor, including knowledge of academic support and career counseling. Interim licensed school counselors will engage in a variety of activities that an effective school counselor would be expected to perform as identified in the Colorado School Counseling Standards.

The school counselor applicant must demonstrate the competencies listed below:

- 7.09(1) A school counselor demonstrates mastery of and expertise in the domain for which the counselor is responsible.
- 7.09(2) A school counselor supports and/or establishes safe, inclusive and respectful learning environments for a diverse population of students.
- 7.09(3) A school counselor plans, delivers and/or monitors services and/or specially designed instruction and/or creates environments that facilitate learning for students.
- 7.09(4) A school counselor reflects on personal practice.
- 7.09(5) A school counselor demonstrates collaboration, advocacy and leadership.

**Editor's Notes**

**History**

New rule eff. 08/14/2018.

**PHILIP J. WEISER**  
Attorney General  
**NATALIE HANLON LEH**  
Chief Deputy Attorney General  
**ERIC R. OLSON**  
Solicitor General  
**JUNE TAYLOR**  
Chief Operating Officer



**STATE OF COLORADO**  
**DEPARTMENT OF LAW**

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**Office of the Attorney General**

Tracking number: 2019-00077

**Opinion of the Attorney General rendered in connection with the rules adopted by the**

Colorado State Board of Education

**on 04/10/2019**

1 CCR 301-101

**RULES FOR THE ADMINISTRATION OF EDUCATOR LICENSE ENDORSEMENTS**

The above-referenced rules were submitted to this office on 04/22/2019 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

April 24, 2019 11:00:22

**Philip J. Weiser**  
Attorney General  
by Eric R. Olson  
Solicitor General

## **Permanent Rules Adopted**

**Department**

Department of Education

**Agency**

Colorado State Board of Education

**CCR number**

1 CCR 301-105

**Rule title**

1 CCR 301-105 Rules for the Review of Early College Designations 1 - eff 05/30/2019

**Effective date**

05/30/2019

## **DEPARTMENT OF EDUCATION**

### **Colorado State Board of Education**

#### **1 CCR 301-105**

### **RULES FOR THE REVIEW OF EARLY COLLEGE DESIGNATIONS**

#### **Statement of Basis and Purpose**

These Early College rules are promulgated under section 22-35-111(1), C.R.S., to implement section 22-35-103(10)(b), C.R.S.

#### **1.00 Definitions**

- 1.01 "Department" means the department of education created and existing pursuant to section 24-1-115, C.R.S.
- 1.02 "Early College" is defined in section 22-35-103(10)(a), C.R.S. A school that includes grades below the ninth grade may qualify if the secondary-school grade levels of the school meet the definition of an Early College.
- 1.03 "Local education provider" means a school district, a board of cooperative services, a district charter school, or an institute charter school.
- 1.04 "Postsecondary career and technical education program" means a career and technical education program that offers postsecondary courses and is approved by the state board for community colleges and occupational education pursuant to section 23-8-103, C.R.S.
- 1.05 "Postsecondary credential" means:
  - (a) a degree or credential conferred by an institution of higher education; or
  - (b) an industry-recognized certificate, materially similar to those identified under section 22-54-138(3), C.R.S.; or
  - (c) a certificate from a postsecondary career and technical education program.
- 1.06 "State Board" means the state board of education created pursuant to section 1 of article IX of the state constitution.

#### **2.00 Review of Early College Designations**

- 2.01 Schools designated as Early Colleges under subparagraphs 22-35-103(10)(a)(VI) and (VII), C.R.S. who wish to retain that designation, and any school seeking a new Early College designation, must submit a review application. The review application must include:
  - (a) The name of the school and the school's local education provider (or, if the school is itself a local education provider, the names of the school and the school's authorizer);
  - (b) A description of the school's four-year curriculum, under which students enroll in and complete secondary and postsecondary courses such that, upon successful completion of the curriculum, the student will have completed the requirements of a high school

diploma and either (1) an associate's degree or other postsecondary credential or (2) at least sixty credits toward the completion of a postsecondary credential;

- (c) A statement of the school's graduation requirements, requiring each student to complete said curriculum in order to receive a diploma;
  - (d) A description of the agreements in place with postsecondary partners that allow implementation of said curriculum (a copy of written agreements can be submitted in lieu of a description); and
  - (e) A description of the supports provided to students who appear unable to successfully complete said curriculum within four years.
- 2.02 The Department shall set a schedule for the review cycle, which must include deadlines for (1) schools to submit review applications, (2) CDE to submit recommendations to the State Board, (3) schools may submit responses to CDE's recommendations, and (4) the State Board to make determinations. The Department may revise such schedule as needed, but the schedule and any revisions must be publicly disseminated at least 60 days before the deadline for schools to submit review applications. The schedule need not be the same for initial applications as for applications to retain a designation.
- 2.03 In making Early College determinations, the State Board shall consider whether the secondary school offers only a curriculum compliant with section 22-35-103(10)(a), C.R.S. The rate at which students successfully complete the Early College curriculum within four years shall be relevant evidence for purposes of the State Board's determination for renewal applications.
- 2.04 Any secondary school determined to be an Early College must submit a review application under this section 2.00 of these rules to retain its Early College designation, no later than five years after its most recent State Board determination. The Department may recommend an early review for any Early College, and the State Board may review any Early College's designation at any time by voting to (a) request a review application under section 2.03 and (b) set a schedule therefor. A failure to submit a timely review application (either as due every five years or as requested by the State Board) shall be deemed an abandonment of the designation, and the Department will recommend to the State Board that it make a determination accordingly.

### **3.00 Effect of Early College Designations**

- 3.01 A secondary school that the State Board determines meets the curriculum requirements specified in 22-35-103(10)(a), C.R.S., qualifies for the exclusion in 22-35-110(4), C.R.S. The schools enumerated in subparagraphs 22-35-103(10)(a)(I)-(V), C.R.S., qualify for the exclusion in 22-35-110(4), C.R.S., without the need for a State Board determination.
- 3.02 A secondary school that the State Board determines does not meet the curriculum requirements specified in 22-35-103(10)(a), C.R.S., is no longer designated as an Early College. The provisions of the Concurrent Enrollment Programs Act, sections 22-35-101 et seq., C.R.S., shall apply to the school beginning with the following academic year. A school may apply or re-apply for early college designation through the State Board process.

## **DEPARTMENT OF EDUCATION**

### **Colorado State Board of Education**

#### **1 CCR 301-105**

### **RULES FOR THE REVIEW OF EARLY COLLEGE DESIGNATIONS**

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- 1.03 "Local education provider" means a school district, a board of cooperative services, a district charter school, or an institute charter school.
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- 1.05 "Postsecondary credential" means:
  - (a) a degree or credential conferred by an institution of higher education; or
  - (b) an industry-recognized certificate, materially similar to those identified under section 22-54-138(3), C.R.S.; or
  - (c) a certificate from a postsecondary career and technical education program.
- 1.06 "State Board" means the state board of education created pursuant to section 1 of article IX of the state constitution.

#### **2.00 Review of Early College Designations**

- 2.01 Schools designated as Early Colleges under subparagraphs 22-35-103(10)(a)(VI) and (VII), C.R.S. who wish to retain that designation, and any school seeking a new Early College designation, must submit a review application. The review application must include:
  - (a) The name of the school and the school's local education provider (or, if the school is itself a local education provider, the names of the school and the school's authorizer);
  - (b) A description of the school's four-year curriculum, under which students enroll in and complete secondary and postsecondary courses such that, upon successful completion of the curriculum, the student will have completed the requirements of a high school



diploma and either (1) an associate's degree or other postsecondary credential or (2) at least sixty credits toward the completion of a postsecondary credential;

- (c) A statement of the school's graduation requirements, requiring each student to complete said curriculum in order to receive a diploma;
  - (d) A description of the agreements in place with postsecondary partners that allow implementation of said curriculum (a copy of written agreements can be submitted in lieu of a description); and
  - (e) A description of the supports provided to students who appear unable to successfully complete said curriculum within four years.
- 2.02 The Department shall set a schedule for the review cycle, which must include deadlines for (1) schools to submit review applications, (2) CDE to submit recommendations to the State Board, (3) schools may submit responses to CDE's recommendations, and (4) the State Board to make determinations. The Department may revise such schedule as needed, but the schedule and any revisions must be publicly disseminated at least 60 days before the deadline for schools to submit review applications. The schedule need not be the same for initial applications as for applications to retain a designation.
- 2.03 In making Early College determinations, the State Board shall consider whether the secondary school offers only a curriculum compliant with section 22-35-103(10)(a), C.R.S. The rate at which students successfully complete the Early College curriculum within four years shall be relevant evidence for purposes of the State Board's determination for renewal applications.
- 2.04 Any secondary school determined to be an Early College must submit a review application under this section 2.00 of these rules to retain its Early College designation, no later than five years after its most recent State Board determination. The Department may recommend an early review for any Early College, and the State Board may review any Early College's designation at any time by voting to (a) request a review application under section 2.03 and (b) set a schedule therefor. A failure to submit a timely review application (either as due every five years or as requested by the State Board) shall be deemed an abandonment of the designation, and the Department will recommend to the State Board that it make a determination accordingly.

### **3.00 Effect of Early College Designations**

- 3.01 A secondary school that the State Board determines meets the curriculum requirements specified in 22-35-103(10)(a), C.R.S., qualifies for the exclusion in 22-35-110(4), C.R.S. The schools enumerated in subparagraphs 22-35-103(10)(a)(I)-(V), C.R.S., qualify for the exclusion in 22-35-110(4), C.R.S., without the need for a State Board determination.
- 3.02 A secondary school that the State Board determines does not meet the curriculum requirements specified in 22-35-103(10)(a), C.R.S., is no longer designated as an Early College. The provisions of the Concurrent Enrollment Programs Act, sections 22-35-101 et seq., C.R.S., shall apply to the school beginning with the following academic year. A school may apply or re-apply for early college designation through the State Board process.

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Attorney General  
**NATALIE HANLON LEH**  
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Tracking number: 2019-00079

**Opinion of the Attorney General rendered in connection with the rules adopted by the**

Colorado State Board of Education

**on 04/11/2019**

1 CCR 301-105

Rules for the Review of Early College Designations

The above-referenced rules were submitted to this office on 04/16/2019 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

April 24, 2019 10:54:42

**Philip J. Weiser**  
Attorney General  
by Eric R. Olson  
Solicitor General

## **Permanent Rules Adopted**

### **Department**

Department of Regulatory Agencies

### **Agency**

Public Utilities Commission

### **CCR number**

4 CCR 723-3

### **Rule title**

4 CCR 723-3 RULES REGULATING ELECTRIC UTILITIES 1 - eff 05/30/2019

### **Effective date**

05/30/2019

## **COLORADO DEPARTMENT OF REGULATORY AGENCIES**

### **Public Utilities Commission**

#### **4 CODE OF COLORADO REGULATIONS (CCR) 723-3**

#### **PART 3 RULES REGULATING ELECTRIC UTILITIES**

\* \* \*

[indicates omission of unaffected rules]

#### **SMALL POWER PRODUCERS AND COGENERATORS**

##### **3900. Scope and Applicability.**

Rules 3900 through 3954 apply to utilities which purchase power from small power producers and cogenerators. These rules also apply to small power producers and cogenerators which sell power to utilities. However, for qualifying facilities with a nameplate rating of 10MW or less, to the extent that rules 3900 through 3954 are inconsistent with rule 3667, rule 3667 shall control.

##### **3901. Definitions.**

The following definitions apply to rules 3900 through 3954, except where a specific rule or statute provides otherwise. In addition to the definitions stated here, the definitions found in the Public Utilities Law, in the Public Utility Regulatory Policies Act of 1978, and in the federal regulations which are incorporated by reference apply to these rules. In the event of a conflict between these definitions and a statutory definition, the statutory definition shall apply.

- (a) "Avoided cost" means the incremental or marginal cost to an electrical utility of electrical energy or capacity, or both, which, but for the purchase of such energy and/or capacity from qualifying facility or qualifying facilities, the utility would generate itself or would purchase from another source.
- (b) "Qualifying facility" means any small power production facility or cogeneration facility which is a qualifying facility under federal law.
- (c) "Rate" means any price, rate, charge, or classification made, demanded, observed, or received with respect to the sale or purchase of electrical energy or capacity; any rule or practice respecting any such rate, charge, or classification; and any contract pertaining to the sale or purchase of electrical energy or capacity.

##### **3902. Avoided Costs.**

- (a) Each utility shall pay qualifying facilities a rate for energy and capacity purchases based on the utility's avoided costs.

- (b) Each electric utility shall file tariffs setting forth standard rates for purchases from qualifying facilities with a design capacity of 100 KW or less.
- (c) A utility shall use a bid or an auction or a combination procedure to establish its avoided costs for facilities with a design capacity of greater than 100 KW.
- (d) If a utility can demonstrate to the Commission that a qualifying facility should receive a different rate from that established by these rules, the Commission may authorize such. The burden of establishing such different rate shall be on the utility, and the rate shall be based on the utility's system wide costing principles and other appropriate load and cost data.
- (e) Nothing in this rule requires a utility to pay more than its avoided costs of energy and capacity, of energy, or of capacity for purchases from qualifying facilities.

\* \* \*

[indicates omission of unaffected rules]

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Tracking number: 2018-00341

**Opinion of the Attorney General rendered in connection with the rules adopted by the**

Public Utilities Commission

**on 04/08/2019**

4 CCR 723-3

**RULES REGULATING ELECTRIC UTILITIES**

The above-referenced rules were submitted to this office on 04/09/2019 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

April 24, 2019 10:57:47

**Philip J. Weiser**  
Attorney General  
by Eric R. Olson  
Solicitor General

## **Permanent Rules Adopted**

### **Department**

Department of Agriculture

### **Agency**

Inspection and Consumer Services Division

### **CCR number**

8 CCR 1202-13

### **Rule title**

8 CCR 1202-13 RULES PERTAINING TO THE ADMINISTRATION AND  
ENFORCEMENT OF THE CUSTOM PROCESSING OF MEAT ANIMALS ACT 1 - eff  
05/30/2019

### **Effective date**

05/30/2019

# **COLORADO DEPARTMENT OF AGRICULTURE**

## **Inspection and Consumer Services Division**

### **Rules Pertaining to the Administration and Enforcement of the Custom Processing of Meat Animals Act**

#### **8 CCR 1202-13**

#### **PART 5. SANITARY REQUIREMENTS**

- 5.1. Except as provided in Part 4.9 above, all processing facilities licensed under the Act shall comply with the requirements of this Part 5.
- 5.2. The exterior premises of any processing facility, including, without limitation, loading docks and other areas where vehicles are loaded and unloaded, and any driveways, alleys, yards, and pens, shall be kept in a clean and orderly condition and drained to prevent the accumulation of standing water.
- 5.3. All catch basins and similar features of any waste disposal system shall be maintained in a clean and orderly condition to prevent the accumulation therein of waste products and avoid the creation of offensive odors.
- 5.4. All rooms and other interior areas shall be free from any condition that could result in contamination of the meat product, including, without limitation, dirt, dust, or odors from catch basins, livestock pens, hide cellars, or any other source.
- 5.5. All rooms and other interior areas shall be thoroughly cleaned after each day's use. All equipment and utensils used for meat processing shall be thoroughly cleaned and sanitized:
  - 5.5.1. each time there is a change in processing from raw pork to raw meat products or to other species, or a change in processing from raw meat products to ready-to-eat meat products;
  - 5.5.2. after four hours of operation if the room where such equipment and utensils are used is at any time maintained at an ambient temperature of more than 50° F; and
  - 5.5.3. after each working day's use. Any item of equipment or utensil must be thoroughly cleaned and sanitized after any event at or during which time contamination of such equipment or utensil may have occurred. All cleaned and sanitized equipment and utensils, when stored after use, shall be protected and stored so as to avoid contamination.
- 5.6. Meat product must be stored on racks or shelves elevated at least two inches from the floor in any freezer, and at least six inches from the floor in any cooler. Such racks and shelves must be constructed of durable, rust- and water-resistant materials that are capable of being readily and thoroughly cleaned. No meat product shall be placed beneath any carcass. Any non-food products or supplies shall be stored in a storage room or area separate from any room or area where meat product is processed or stored, on racks or shelves elevated from the floor at least 12 inches, and must be constructed of durable, rust and water resistant materials that are capable of being readily and thoroughly cleaned.
- 5.7. Before being placed in a cooler, any carcass must be cleaned and free from any hair, waste product, dirt, or anything else that could contaminate the meat.



- 5.8. If any large game animal is processed in any processing facility where other species of livestock is processed, all rooms, equipment, and utensils used in processing the large game animal shall be thoroughly cleaned and sanitized before they are used to process any such other livestock. The carcass and meat product of any large game animal shall at all times be kept separate and apart from the carcass and meat product of other species of livestock.
- 5.9. Every processing facility shall establish and maintain procedures for excluding and removing flies, rats, mice, and any other vermin from the interior premises of the processing facility.
- 5.10. All animals, other than those presented for processing, shall be excluded from the interior premises of a processing facility.

## **Part 7. DISPOSAL OF INEDIBLE WASTE**

- 7.1. All inedible waste shall be denatured and disposed of by a method approved by the Commissioner.
- 7.2. Acceptable methods of denaturing:
  - 7.2.1. FD&C green No. 3 coloring;
  - 7.2.2. FD&C blue No. 1 coloring;
  - 7.2.3. FD&C blue No. 2 coloring;
  - 7.2.4. Finely powdered charcoal; or
  - 7.2.5. Other proprietary substance approved by the USDA FSIS Administrator.
- 7.3. Before the denaturing agents are applied to articles in pieces more than 4 inches in diameter, the pieces shall be freely slashed or sectioned. If the articles are in pieces not more than 4 inches in diameter, slashing or sectioning will not be necessary. The application of any of the denaturing to the outer surface of molds or blocks of boneless meat, meat byproducts, or meat food products shall not be adequate. The denaturing agent must be mixed intimately with all of the material to be denatured, and must be applied in such quantity and manner that it cannot easily and readily be removed by washing or soaking. A sufficient amount of the appropriate agent shall be used to give the material a distinctive color, odor, or taste so that such material cannot be confused with an article of human food.
- 7.4. Any container used in the processing facility for the disposal of waste generated from processing, other than a disposable waste container that is discarded at the end of the work day, must be constructed and finished with durable, water-resistant materials that are capable of being readily and thoroughly cleaned. All waste containers, including, without limitation, disposable waste containers, shall be limited to and clearly marked for such use, and maintained in a clean and sanitary condition.
- 7.5. All waste products from processing shall be disposed of daily, or stored for later disposal in a manner that does not create any condition that could cause contamination, or otherwise adversely affect the wholesomeness or quality of any meat product, or generate offensive odors or other objectionable conditions.
- 7.6. Approved methods of disposal include:
  - 7.6.1. Disposal to a licensed rendering company;

- 7.6.2. Sanitation Landfill;
- 7.6.3. Composting, subject to approval by county and / or state health agency;
- 7.6.4. Burial on site, subject to approval by county and / or state health agency; or
- 7.6.5. Retail or wholesale sale under the following conditions:
  - 7.6.5.1. Waste products to be sold are limited to the hides, antler, and bones, of wild game only;
  - 7.6.5.2. The processor notifies the department prior to engaging in retail or wholesale sales of hide, antler, and bone products;
  - 7.6.5.3. The processor collects a signed disclosure from the owner of the animal carcass advising them that the hide, antler, or bone may be sold as a method of disposal. These records must be kept for a period of at least two years, and made available to the Commissioner upon request; and
  - 7.6.5.4. The bones must be decharacterized and kept segregated from all other edible and non-edible material in clean containers. Raw bone must be stored under refrigeration until delivered to buyer.

## **Parts 8-9. Reserved**

## **PART 10. STATEMENTS OF BASIS, SPECIFIC STATUTORY AUTHORITY AND PURPOSE**

### **10.1. Adopted July 16, 2009 – Effective August 30, 2009**

#### **STATUTORY AUTHORITY:**

The Commissioner's authority for the adoption of these Permanent Rule Amendments is set forth in § 35-33-104(1), C.R.S. (2008), and § 35-33-206(3), C.R.S., as enacted in SB 09-117.

#### **PURPOSE:**

The purpose of these Permanent Rule Amendments is to adopt new rules pertaining to the Colorado Slaughter, Processing, and Sale of Meat Animals Act to comply with the amendments to the Act set forth in SB 09-117.

#### **These Permanent Rule Amendments:**

- a. Incorporate the Act's new short title wherever cited in the rules.
- b. Modify the terms "processing facility" to read "custom processing facility."
- c. Establish a license expiration date of June 30.
- d. Amend references to sections in the Act to refer to amended section numbers.
- e. Delete obsolete rule definition of "processing" which is now defined in the Act.
- f. Add a section to contain the statements of basis, specific statutory authority and purpose.

- g. Remove the rule contained under the Animal Industry Division section of the CCR at 8 CCR 1201-14 to the Inspection and Consumer Services Division section of the CCR with a new number of 8 CCR 1202-13 and a new rule title.

#### FACTUAL AND POLICY BASIS:

The factual and policy issues pertaining to the adoption of these Permanent Rule Amendments are as follows:

1. The Department of Regulatory Agencies performed a Sunset Review in 2008 of the Colorado Slaughter, Processing and Sale of Meat Animals Act, which resulted in several legislative amendments to the Act enacted by SB 09-117, effective July 1, 2009, that:
  - a. Change the title of the Act to the Custom Processing of Meat Animals Act. These rules reflect the correct short title of the Act.
  - b. Specify that the Commissioner has jurisdiction only over meat processing facilities that perform custom processing. As used throughout the rules, the term "processing facility" is amended to read "custom processing facility" in order to clarify that jurisdiction is only over those facilities that perform custom processing.
  - c. Remove the license expiration date from the Act and require that the Commissioner establish the date in rule. These rules establish a license expiration date of June 30.
  - d. Amend some section numbers in the Act. These rules refer to the amended section numbers.
2. The Commissioner intends to adopt Emergency Amendments to the Rules on July 1, 2009 at 8 CCR 1201-14 in order to implement the changes to the Act made by the General Assembly in SB 09-117. These Permanent Rule Amendments will make permanent those Emergency Rule Amendments.

#### **10.2. Adopted April 9, 2013 – Effective July 1, 2014**

#### STATUTORY AUTHORITY:

The Commissioner's authority for the adoption of this permanent rule amendment is set forth in § 35-33-206(3) and § 35-1-107(5(a), C.R.S.

#### PURPOSE:

The purpose of this permanent rule amendment is to amend Part 6.1 to change the expiration date for a license to operate a custom processing facility from June 30 to December 31.

#### FACTUAL AND POLICY BASIS:

The factual and policy issues pertaining to the adoption of this permanent rule amendment are as follows:

1. This change is necessary to allow the Department to consolidate licensing functions to one time per year for all licenses issued by the ICS Division.
2. The Department of Agriculture is moving its licensing functions from a paper based system to an online system. To accommodate licensee's who hold multiple licenses with the Department of Agriculture, we are establishing a common licensing date so a licensee can obtain all their licenses in one transaction.

### **10.3. Adopted November 9, 2016-Effective December 30, 2016**

#### **STATUTORY AUTHORITY:**

The Commissioner's authority for the adoption of this permanent rule amendment is set forth in § 35-33-104(1) § 35-33-201(11), and § 35-33-202, C.R.S.

#### **PURPOSE:**

The purpose of this permanent rule amendment is to:

1. Add labeling and recordkeeping requirements for poultry processors and strike the word "custom" where applicable.
2. Update formatting to be consistent with other Rules within the Department.

#### **FACTUAL AND POLICY BASIS:**

The factual and policy issues pertaining to the adoption of this permanent rule amendment are as follows:

1. Senate bill 16-058 allows for poultry processors, licensed or exempt, to sell poultry to individuals so long as certain regulations regarding labeling and recordkeeping are followed. These regulations must be defined in rule by the Colorado Department of Agriculture. the poultry labeling requirements closely follow standard labeling requirements from the United States Department of Agriculture. Additional input from the Colorado Department of Public Health and Environment was incorporated to ensure requirements for poultry processors comport with state regulations for similar processing facilities.

### **10.4. Adopted September 20, 2017 – Effective November 30, 2017**

#### **Statutory Authority**

The Commissioner's authority for the adoption of this permanent rule amendment is set forth in § 35-33-104 C.R.S.

#### **Purpose:**

The purpose of this permanent rule amendment is to create a new Part 9 "Disposal of Inedible Waste" to establish requirements for disposal of inedible waste from wild game processing through retail and wholesale sales; and move Parts 2.6 and 5.6 that deal with the disposal of inedible waste generated by processing meat animals to Part 9.

#### **Factual and Policy Basis:**

1. The Department of Agriculture conducted a regulatory review of the Rules Pertaining to the Administration and Enforcement of the Custom Processing of Meat Animals Act - 8 CCR 1202-13. This regulatory review resulted in the recommendation that certain existing rules related to the disposal of inedible waste generated through the processing of meat animals be deleted and incorporated into a new comprehensive rule.
2. The industry representatives in our stakeholder review requested a change of existing policy regarding the disposal of large wild game inedible waste – specifically the disposal of hides, antlers, and bones from wild game and the possibility to allow for resale of these products by the processor. Part 9 – Disposal of Inedible Waste allows licensed large wild game processors to sell

the hides, antlers, and bones from wild deer and elk they process to a third party when certain conditions are met.

#### **10.5. Adopted April 10, 2019 – Effective May 30, 2019**

##### **Statutory Authority**

The Commissioner's authority for the adoption of these permanent rule amendments is set forth in §35-33-104(1), C.R.S.

##### **Purpose**

The purpose of these permanent rule amendments is to create two separate rules, one for the processing and sale of poultry and one for the processing of large animals. Previously, the record keeping and labeling rules applicable to the processing and sale of poultry were combined in the rules applicable to the processing of large animals. Separating the poultry rules from the large animal rules provides a clear distinction between two types of processing and will eliminate confusion regarding which rules are applicable for the two different types of processing.

These permanent rule amendments:

1. Remove the rules applicable to the processing and sale of poultry because those rules have already been codified in 8 CCR 1202-16 and are no longer necessary.

##### **Factual and Policy Issues**

The factual and policy issues pertaining to the adoption of these permanent rule amendments are as follows:

The amendments create two separate rule, one for the sale and processing of poultry and one for the processing of large animals. These separate rules account for the differences in processing procedures between poultry and large animals.

**PHILIP J. WEISER**  
Attorney General  
**NATALIE HANLON LEH**  
Chief Deputy Attorney General  
**ERIC R. OLSON**  
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Tracking number: 2019-00071

**Opinion of the Attorney General rendered in connection with the rules adopted by the**

Commissioner of Agriculture

**on 04/10/2019**

8 CCR 1202-13

**RULES PERTAINING TO THE ADMINISTRATION AND ENFORCEMENT OF THE CUSTOM  
PROCESSING OF MEAT ANIMALS ACT**

The above-referenced rules were submitted to this office on 04/11/2019 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

April 18, 2019 15:41:58

**Philip J. Weiser**  
Attorney General  
by Eric R. Olson  
Solicitor General

## **Permanent Rules Adopted**

**Department**

Department of Agriculture

**Agency**

Plant Industry Division

**CCR number**

8 CCR 1203-4

**Rule title**

8 CCR 1203-4 RULES AND REGULATIONS PERTAINING TO THE  
ADMINISTRATION AND ENFORCEMENT OF THE BEE AND BEE PRODUCTS ACT 1  
- eff 05/30/2019

**Effective date**

05/30/2019

# DEPARTMENT OF AGRICULTURE

## Plant Industry Division

### RULES AND REGULATIONS PERTAINING TO THE ADMINISTRATION AND ENFORCEMENT OF THE BEE AND BEE PRODUCTS ACT

#### 8 CCR 1203-4

**Adopted April 11, 2019 – Effective May 30, 2019**

#### Statutory Authority

The repeal of these Rules is proposed by the Commissioner of the Colorado Department of Agriculture (“Department”) pursuant to her authority under § 35-25-105, C.R.S., of the Colorado Bee and Bee Products Act.

#### Purpose

1. The Colorado Bee Act and its Rules were adopted in 1963. Between 1963 and 1987, the Department inspected beehives in Colorado to identify bee diseases and to prevent the spread of those diseases from one apiary to another, requiring treatment or destruction of any diseased bee hives.
2. In the mid 1980s, the General Assembly mandated that the Department's bee inspection program, which had been state-funded via the tax payer/general fund, be self-funded via registration/licensing fees paid by the owners of bee hives in Colorado. Given this change, the Bee Advisory Committee began advocating for the decrease in registration fees almost immediately. The Department discontinued routine bee inspections in 1987, and, by 1990, the registration requirements had been repealed, essentially defunding the bee inspection program and eliminating the Department's responsibilities with respect to bee hive inspection and disease control.
3. As a part of the Departments Regulatory Efficiency Review Process between 2014 and 2017 CDA initiated stakeholder meetings with various beekeeping groups (*i.e.*, the Colorado State Beekeepers Association, the Colorado Professional Beekeepers Association, the Colorado Commercial Beekeepers Association) and attended local bee club meetings to assess the need for bee health regulation and the desire of the beekeeping community to be regulated in a self-funded manner. CDA learned through these meetings that the majority of the beekeeping community did not want to be regulated by the Department, nor did it want to fund its own regulatory program.
4. Because the legislature determined that the bee inspection program should be self-funded, and because the funding mechanism (*i.e.*, registration and licensing fees) no longer exists, the Department cannot engage in or mandate treatment and control of bee diseases and parasites.
5. The most prevalent issue faced by beekeepers concerns the health of native and managed pollinators. Based upon its meetings with members of the beekeeping community, both large and small, the Department has determined that pollinator health can best be improved with proper education regarding forage planting, pollinator nutrition, disease control, and proper bee husbandry. A regulatory program is not a substitute for educational programming.
6. Pollinator health and bee husbandry is a crucial part of agriculture, and CDA will continue to



survey diseases, parasites, nutrition, and education of beekeepers in proper husbandry through grant acquisitions in partnership with Colorado State University, University of Colorado, and the federal Farm Bill.

7. The repeal of these Rules does not and will not prevent beekeepers from working with the legislature to re-establish a funding mechanism for a bee inspection and health program in the future. In addition, should such a legislative change occur, the repeal of these Rules does not affect the Department's ability to promulgate new rules in the future.

**PHILIP J. WEISER**  
Attorney General  
**NATALIE HANLON LEH**  
Chief Deputy Attorney General  
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Tracking number: 2019-00072

**Opinion of the Attorney General rendered in connection with the rules adopted by the**

Commissioner of Agriculture

**on 04/10/2019**

8 CCR 1203-4

**RULES AND REGULATIONS PERTAINING TO THE ADMINISTRATION AND ENFORCEMENT OF  
THE BEE AND BEE PRODUCTS ACT**

The above-referenced rules were submitted to this office on 04/11/2019 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

April 24, 2019 10:49:52

**Philip J. Weiser**  
Attorney General  
by Eric R. Olson  
Solicitor General

## **Permanent Rules Adopted**

### **Department**

Department of Agriculture

### **Agency**

Plant Industry Division

### **CCR number**

8 CCR 1203-7

### **Rule title**

8 CCR 1203-7 RULES AND REGULATIONS PERTAINING TO THE PROCEDURE FOR ESTABLISHING PEST CONTROL DISTRICTS AND FOR THE CONTROL OF GRASSHOPPERS, MORMON CRICKETS, OR RANGE CATERPILLARS 1 - eff 05/30/2019

### **Effective date**

05/30/2019

# **DEPARTMENT OF AGRICULTURE**

## **Plant Industry Division**

### **RULES AND REGULATIONS PERTAINING TO THE PROCEDURE FOR ESTABLISHING PEST CONTROL DISTRICTS AND FOR THE CONTROL OF GRASSHOPPERS, MORMON CRICKETS, OR RANGE CATERPILLARS**

#### **8 CCR 1203-7**

**Adopted April 11, 2019 – Effective May 30, 2019**

#### **Statutory Authority**

The repeal of these Rules is proposed by the Commissioner of the Colorado Department of Agriculture (“Department”) pursuant to her authority under §§ 35-5-103 and 123 C.R.S., of the Colorado Pest District Act.

#### **Purpose**

Consistent with the Department’s Regulatory Efficiency Review Process, the purpose of this rulemaking is to repeal, in their entirety, the “Rules and Regulations Pertaining to the Procedure for Establishing Pest Control Districts and for the Control of Grasshoppers, Mormon Crickets, or Range Caterpillars” (“Rules”) currently published at 8 CCR 1203-7.

#### **Factual and Policy Issues**

1. The last infestation in Colorado of grasshoppers, Mormon crickets, and/or range caterpillars (the “Pests”) that required mitigation occurred in 1985. Since that time, the Rules have not been utilized, nor has the Department engaged in control of the Pests.
2. The United States Department of Agriculture Animal and Plant Health Inspection Service (“USDA APHIS”) has conducted monitoring in Colorado, as well as in 16 other states, for rangeland grasshoppers each year.
3. USDA APHIS, and not the Department, enters into cost-sharing agreements with landowners to control grasshoppers when those insect populations exceed a threshold established by USDA APHIS.
4. The Department cannot assist with cost-sharing or control unless the relevant county commissioners provide the Commissioner of Agriculture with certification of the formation of a pest control district and unless the Governor has declared a state of emergency resulting from a major infestation of the grasshopper or range caterpillar.
5. There are only five pest control districts in the State of Colorado, and none of those districts is considered a grasshopper control district. In fact, grasshoppers are only listed as a pest of concern in one district, Yuma County.
6. Between 2010 and 2018 grasshopper populations in Colorado have remained low, with only a few instances of localized hot spots in select geographical rangeland areas.
7. Because the Rules have not been implemented in over 30 years; because there has never been a need for the Department to institute control or mitigation measures for the Pests; and because

USDA monitors for rangeland grasshoppers in Colorado, both the Department's role with respect to control/mitigation of the Pests and the Rules have become obsolete.

8. If, in the future, formation of a pest control district for the Pests is necessary, the authority to form and operate such a district remains intact at §§ 35-5-104 and 120, C.R.S. Repeal of the Rules will not change that authority, nor will it preclude any existing pest control district from identifying the Pests as insects of concern in the future.

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Tracking number: 2019-00073

**Opinion of the Attorney General rendered in connection with the rules adopted by the**

Commissioner of Agriculture

**on 04/10/2019**

8 CCR 1203-7

**RULES AND REGULATIONS PERTAINING TO THE PROCEDURE FOR ESTABLISHING PEST  
CONTROL DISTRICTS AND FOR THE CONTROL OF GRASSHOPPERS, MORMON CRICKETS, OR  
RANGE CATERPILLARS**

The above-referenced rules were submitted to this office on 04/11/2019 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

April 24, 2019 10:51:27

**Philip J. Weiser**  
Attorney General  
by Eric R. Olson  
Solicitor General

## **Permanent Rules Adopted**

### **Department**

Department of Human Services

### **Agency**

Income Maintenance (Volume 3)

### **CCR number**

9 CCR 2503-9

### **Rule title**

9 CCR 2503-9 COLORADO CHILD CARE ASSISTANCE PROGRAM 1 - eff  
07/01/2019

### **Effective date**

07/01/2019

## DEPARTMENT OF HUMAN SERVICES

### Income Maintenance (Volume 3)

## COLORADO CHILD CARE ASSISTANCE PROGRAM

### 9 CCR 2503-9

*[Editor's Notes follow the text of the rules at the end of this CCR Document.]*

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#### 3.900 COLORADO CHILD CARE ASSISTANCE PROGRAM (CCCAP)

##### 3.901 CCCAP MISSION AND APPROPRIATIONS

###### A. Mission

The purpose of CCCAP is to provide eligible households with access to high quality, affordable child care that supports healthy child development and school readiness while promoting household self-sufficiency and informed child care choices.

###### B. Appropriations

Nothing in these rules shall create a legal entitlement to child care assistance. Counties shall not be required to expend funds exceeding allocated state and federal dollars or exceeding any matching funds expended by the counties as a condition of drawing down federal and state funds.

When a county can demonstrate, through a written justification in its county CCCAP plan, that it has insufficient CCCAP allocations, a county is not required to implement a provision or provisions of rule(s) enacted under statutory provisions that are explicitly "subject to available appropriations." The county is not required to implement that or those rules or statutory provision(s) for which it has demonstrated through its annual CCCAP plan that it has insufficient CCCAP allocations to implement, except for the entry income eligibility floor referenced in Section 3.905.1, H.

As part of its demonstration, the county shall include a list of priorities reflecting community circumstance in its county CCCAP plan that prioritizes the implementation of the rules and/or provisions of statute that are "subject to available appropriations."

If the State Department determines the county CCCAP plan is not in compliance with these rules and/or provisions of statute, the State Department will first work with the county to address the concerns. If a resolution cannot be agreed upon, the State Department reserves the right to deny the county CCCAP plan. If the State Department denies the county CCCAP plan, the county and the state shall work together to complete a final approved county CCCAP plan that is in compliance with these rules and statute.

##### 3.902 PROGRAM FUNDING

- A. The Colorado Child Care Assistance Program will be funded through annual allocations made to the counties. Nothing in these rules shall create a legal entitlement to child care assistance. Counties may use annual allocation for child care services which includes direct services and administration.
- B. Each county shall be required to meet a level of county spending for the Colorado Child Care Assistance Program that is equal to the county's proportionate share of the total county funds set forth in the annual general Appropriation Act for the Colorado Child Care Assistance Program for



that State fiscal year. The level of county spending shall be known as the county's maintenance of effort for the program for that State fiscal year.

C. The CCCAP allocation formula shall be applied uniformly across all counties and must be based on the relative cost of the program. The allocation formula must take into consideration:

1. The eligible population for each county using the federal poverty level (FPL) as outlined in section 3.905.1(H); and,
2. Reimbursement rates set by the state as informed by the market rates study.
3. If not already taken into consideration in the initial allocation formula as stated in section 3.902(C)(1) and (2), the following factors must also be included:
  - a. A measure of cost of living, which may include market rates; and,
  - b. The cost of high quality child care programs.
4. If not already taken into consideration in the initial allocation formula, the formula may include the following factors:
  - a. A statewide adjustment to the allocation formula for geographic differences within counties or regional differences among counties in order to improve access.
  - b. A statewide adjustment to the allocation formula for drastic economic changes that may impact the ability of CCCAP to serve low-income families.
  - c. A statewide adjustment to mitigate significant decreases in county allocation amounts due to changes in the factors considered in the initial allocation formula.

### **3.903 DEFINITIONS**

“Additional care needs” means a child who has a physical and/or mental disability and needs a higher level of care on an individualized basis than that of his/her peers at the same age; or, who is under court supervision, including a voluntary out-of-home placement prior to or subsequent to a petition review of the need for placement (PRNP), and who has additional care needs identified by an individual health care plan (IHCP), individual education plan (IEP), physician’s/professional’s statement, child welfare, or individualized family service plan (IFSP).

“Adult caretaker” means a person in the home who is financially contributing to the welfare of the child and is the parent, adoptive parent, step-parent, legal guardian, or person who is acting in “loco parentis” and has physical custody of the child during the period of time child care is being requested.

“Adverse action” means any action by the counties or their designee which adversely affects the Adult caretaker or Teen parent’s eligibility for services, or the Child Care Provider’s right to payment for services provided and authorized under the Colorado Child Care Assistance Program.

“Affidavit” means a voluntary written declaration reflecting the personal knowledge of the declarant.

“Applicant” means the adult caretaker(s) or teen parent(s) who sign(s) the application form and/or the redetermination form.

“Application” is a State-approved form that may include, but is not limited to:

- A. An original application (valid for sixty (60) days), which is the first application for the Colorado Child Care Assistance Program filed by prospective program participant; or,
- B. A re-determination application filed by an enrolled program participant; or,
- C. Any application for some additional program benefit by an enrolled program participant.

“Application date” means the date that the county receives the signed application. Required supporting documents may be submitted up to sixty (60) days after receipt of the signed completed application.

“Application date for pre-eligibility determinations” means the date that the application is received from the Child Care Provider or Applicant by the county. Required supporting documents may be submitted up to thirty (30) days after receipt of the signed application.

“Application process” means all of the following:

- A. The State-approved, signed low-income child care application form completed by the Adult caretaker or Teen parent or his/her authorized representative, which includes appeal rights. Counties with Head Start programs may accept the Head Start application in lieu of the Low-Income child care application for those children enrolled in the Head Start program; and,
- B. The required verification supporting the information declared on the application form; and,
- C. As a county option, an orientation or interview for new applicants may be required. Counties shall ensure that, if the county chooses to incorporate an orientation or interview into their application process, the orientation or interview process is not burdensome to families by allowing a family to complete the process via phone or electronic tools or by offering extended office hours to hold the orientation or interview.

“Assets” include but are not limited to the following:

- A. Liquid resources such as cash on hand, money in checking or savings accounts, saving certificates, stocks or bonds, lump sum payments as specified in the section titled “nonrecurring lump sum payments”.
- B. Non-liquid resources such as any tangible property including, but not limited to, licensed and unlicensed automobiles and motorcycles, utility trailer, seasonal or recreational vehicles (such as any camper, motor home, boat, snowmobile, water skidoo, or airplane) and real property (such as buildings, land, and vacation homes). Primary home and automobile of the primary caretakers are excluded.

“Attestation of mental competence” means a signed statement from a Qualified Exempt Child Care Provider declaring that no one in the home where the care is provided has been determined to be insane or mentally incompetent by a court of competent jurisdiction; or specifically that the mental incompetence or insanity is not of such a degree that the individual cannot safely operate as a Qualified Exempt Child Care Provider.

“Attendance tracking system (ATS)” means the system used by adult caretakers, teen parents, or designees to access benefits and to record child attendance for the purposes of paying for authorized and provided child care.

“Authorized care” means the amount and length of time care is provided by licensed or qualified exempt child care providers to whom social/human services will authorize payment.

“Authorization start date” means the date from which payments for child care services will be paid by the county.

“Base reimbursement rate” means the regular daily reimbursement rate paid by the county to the child care provider. This does not include the increase of rates of reimbursement for high-quality early childhood programs. Base reimbursement rates do not include absences, holidays, registration fees, activity fees, and/or transportation fees.-

“Basic education” means participation in high school education programs working towards a high school diploma or high school equivalency; Adult Basic Education (ABE); and/or, English as a Second Language (ESL).

“Cash assistance” means payments, vouchers, and other forms of benefits designed to meet a household’s ongoing basic needs such as food, clothing, shelter, utilities, household goods, personal care items, and general incidental expenses. Cash assistance may include supportive services to households based on the assessment completed. All state diversion payments of less than four (4) consecutive months are not cash assistance. For the purpose of child care, county diversion payments are not cash assistance.

“Child care authorization notice” means a state prescribed form which authorizes the purchase of child care and includes the children authorized for care. The authorization notice will be given to the adult caretaker or teen parent and applicable child care provider(s) in order to serve as notice to the adult caretaker(s) or teen parent(s), and child care provider(s) of approval or change of child care services. Colorado’s child care authorization notice(s) are vouchers for the purposes of the Colorado Child Care Assistance Program.

“CHATS” means the Child Care Automated Tracking System.

“Child care provider” means licensed individuals or businesses that provide less than twenty-four (24) hour care and are licensed or qualified exempt child care providers including child care centers, preschools, and child care homes. Qualified exempt child care providers include care provided in the child’s own home, in the home of a relative, or in the home of a non-relative.

“Child Care Resource and Referral Agencies” (CCR&R) means agencies or organizations available to assist individuals in the process of choosing child care providers.

“Child care staff” means individuals who are designated by counties or their designees to administer all, or a portion of, the Colorado Child Care Assistance Program (CCCAP) and includes, but is not limited to, workers whose responsibilities are to refer children for child care assistance, determine eligibility, authorize care, process billing forms, and issue payment for child care subsidies.

“Child Welfare Child Care” means less than twenty-four (24) hour child care assistance to maintain children in their own homes or in the least restrictive out-of-home care when there are no other child care options available. See rule manual Volume 7, Section 7.302, Child Welfare Child Care (12 CCR 2509-4).

“Citizen/legal resident” means a citizen of the United States, current legal resident of the United States, or a person lawfully present in the United States pursuant to Title IV of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, Public Law 104-193; Federal Register notices 62 FR 61344 and 63 FR 41657-41686. (No later amendments or editions are incorporated. Copies of this material may be inspected by contacting the Colorado Department of Human Services (CDHS), 1575 Sherman Street, Denver, Colorado; or any state publications depository library.) . Since the child is the

beneficiary of child care assistance, the citizen/legal resident requirement only applies to the child who is being considered for assistance.

"Clear and convincing" means proof which results in a reasonable certainty of the truth of the ultimate fact in controversy. It is stronger than a preponderance of the evidence and is unmistakable or free from serious or substantial doubt.

"Colorado Child Care Assistance Program (CCCAP)" means a program of CDHS which provides child care subsidies to households in the following programs: Low-Income, Colorado Works, Protective Services, and Child Welfare. CDHS is responsible for the oversight and coordination of all child care funds and services.

"Colorado Works" is Colorado's Temporary Assistance for Needy Families (TANF) program that provides public assistance to households in need. The Colorado Works program is designed to assist adult caretaker(s) or teen parent(s) in becoming self-sufficient by strengthening the economic and social stability of households.

"Colorado Works households" means members of the same Colorado Works Assistance unit/household who meet requirements of the Colorado Works program, through receipt of basic cash assistance or state diversion payments while working toward achieving self-sufficiency through eligible work activities and eventual employment where the adult caretaker(s) or teen parent(s) is included in the assistance unit, as defined in The Colorado Works Program Rules (9 CCR 2503-6).

"Collateral Contact" means a verbal or written confirmation of a household's circumstances by a person outside the household who has first-hand knowledge of the information, made either in person, electronically submitted, or by telephone.

"Confirmed abuse or neglect" means any report of an act or omission that threatens the health or welfare of a child that is found by a court, law enforcement agency, or entity authorized to investigate abuse or neglect to be supported by a preponderance of the evidence.

"Consumer Education" means information relayed to adult caretaker(s) or teen parent(s) about their child care options and other available services.

"Cooperation with Child Support Services (county option)" means applying for Child Support Services for all children who are in need of care and have an absent parent, within thirty (30) calendar-days of the completion and approval of the CCCAP application and maintaining compliance with Child Support Services case unless a good cause exemption exists. The county IV-D administrator or designee determines cooperation with Child Support Services.

"County or Counties" means the county departments of social/human services or other agency designated by the Board of County Commissioners as the agency responsible for the administration of CCCAP.

"Discovery" means that a pertinent fact related to CCCAP eligibility was found to exist.

"Drastic economic change" means an economic impact on the county or state that has a strong or far-reaching effect on the Child Care Assistance Program.

"Drop in day" means a county-determined number of days that will generate an approval and payment for care utilized outside of the standard authorization.

“Early care and education provider” means a school district or child care provider that is licensed pursuant to Part 1 of Article 6 of this Title or that participates in the Colorado preschool program pursuant to Article 28 of Title 22, C.R.S.

“Eligible activity”, for the purpose of Low Income Child Care, means the activity in which the Teen parent(s) or adult caretaker(s) are involved. This may include job search; employment; training; or, post-secondary education. For Teen parents, training and teen parent education are approved activities for all counties.

“Eligible child” means a child, from birth to the age of thirteen (13) years who needs child care services during a portion of the day, but less than twenty four (24) hours, and is physically residing with the eligible adult caretaker(s) or teen parent(s); or a child with additional care needs under the age of nineteen (19) who is physically or mentally incapable of caring for himself or herself or is under court supervision and is physically residing with the eligible adult caretaker(s) or teen parent(s). Any child served through the Colorado Works program or the low-income child care program shall be a citizen of the United States or a qualified alien.

“Employment” means holding a part-time or full-time job for which wages, salary, in-kind income or commissions are received.

“Enrollment freeze” or “freeze” means when a county ceases enrollment of individuals due to being overspent or being projected to overspend.

“Entry income eligibility level” means the level set by the state department for each county above which an adult caretaker(s) or teen parent(s) is not eligible at original application.

“Equivalent full-time units” mean all part-time units times a factor of .55 to be converted to full-time units. The full-time equivalent units added to the other full-time units shall be less than thirteen (13) in order to be considered part-time for parent fees.

“Exit income eligibility level” is the income level at the twelve (12) month re-determination of eligibility above which the county may deny continuing eligibility and is eighty-five percent (85%) of the Colorado state median income

“Families experiencing homelessness” means families who lack a fixed, regular, and adequate nighttime residence and at least one of the following:

- A. Children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, or camping grounds due to the lack of alternative accommodations; are living in emergency or transitional shelters;
- B. Children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;
- C. Children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and,
- D. Migratory children who qualify as homeless for the purposes of this subtitle because the children are living in circumstances described in this definition A through C.

“Federal poverty level” (FPL) or “federal poverty guidelines” (FPG) refers to figures set by the department annually. These figures, based on gross monthly income levels for the corresponding household size, are included in the table in section 3.905.1 (H)(2).

“Fingerprint-based criminal background check” means a complete set of fingerprints for the qualified exempt provider and anyone eighteen (18) years of age and older residing in the qualified exempt provider's home; or, for the qualified exempt provider if care is provided in the child's home, taken by a qualified law enforcement agency, and submitted to the Colorado Department of Human Services, Division of Early Care and Learning, for subsequent submission to the Colorado Bureau of Investigations (CBI). The individual(s) will also be required to submit a background check with the Federal Bureau of Investigation (FBI). Costs for all investigations are the responsibility of the person whose fingerprints are being submitted unless noted otherwise in the county's plan, per section 3.913.1.

“Fiscal agreement” means a state-approved agreement between counties or their designees and child care provider(s), which defines the maximum rate possible based on county ceiling rates and quality rating tiers, defines provider rights and responsibilities, and defines responsibilities of the counties or their designees to the child care provider(s). The fully executed fiscal agreement includes noticing of county ceiling rates as well as a copy of the provider's CCCAP reimbursement rates. Fiscal agreements must be:

- A. One (1) year in length for qualified exempt child care providers
- B. Three (3) years in length for licensed child care providers

“Fraud/Fraudulent criminal act” means an adult caretaker(s), teen parent(s), or child care provider who has secured, attempted to secure, or aided or abetted another person in securing public assistance to which the adult caretaker(s) or teen parent(s) was not eligible by means of willful misrepresentation/withholding of information or intentional concealment of any essential facts. Fraud is determined as a result of any of the following:

- A. Obtaining a “waiver of intentional program violation”; or,
- B. An administrative disqualification hearing; or,
- C. Civil or criminal action in an appropriate state or federal court.

“Funding concerns” means a determination by the state department or a county that actual or projected expenditures indicate a risk of overspending of that county's available CCCAP allocation in a current fiscal year.

“Good cause exemption for child support” may include potential physical or emotional harm to the adult caretaker(s), teen parent(s) or child(ren); a pregnancy related to rape or incest; legal adoption or receiving pre-adoption services; or, when the county director or his/her designee has/have determined any other exemptions.

“Head Start” is a federally funded early learning program that provides comprehensive services to Low-Income pregnant women and households with children ages birth to five years of age through provision of education, health, nutrition, social and other services.

“High-quality early childhood program” means a program operated by a child care provider with a fiscal agreement through CCCAP; and, that is in the top three levels of the State Department's quality rating and improvement system, is accredited by a State Department-approved accrediting body, or is an Early Head Start or Head Start program that meets federal standards.

"Hold slots" means a county determined number of days when payment is allowed for unused care that is in addition to absences, holidays, and school breaks. Hold slots are intended to hold a child's slot with a provider.

"Household" includes: all children in the home who are under eighteen (18) years of age; all children under nineteen (19) years of age who are still in high school and the responsibility of the adult caretaker(s); and the adult caretaker(s) or teen parent(s).

"In loco parentis" means a person who is assuming the parent obligations for a minor, including protecting his/her rights and/or a person who is standing in the role of the parent of a minor without having gone through the formal adoption process. Parent obligations include, but are not limited to, attending parent teacher conferences, regularly picking up and dropping children at child care, and regularly taking the child to doctor appointments.

"Incapacitated" means a physical or mental impairment which substantially reduces or precludes the adult caretaker or teen parent from providing care for his/her child(ren). Such a condition shall be documented by a physician's statement or other medical verification which establishes a causal relationship between the impairment and the ability to provide child care.

"Income eligibility" means that eligibility for child care subsidies is based on and determined by measuring the countable household income and size against eligibility guidelines

"Intentional Program Violation (IPV)" means an act committed by an adult caretaker(s) or teen parent(s) who has intentionally made a false or misleading statement or misrepresented, concealed or withheld facts for the purpose of establishing or maintaining a Colorado Child Care Assistance Program household's eligibility to receive benefits for which they were not eligible; or has committed or intended to commit any act that constitutes a violation of the child care assistance program regulations or any state statute related to the use or receipt of CCCAP benefits for the purpose of establishing or maintaining the household's eligibility to receive benefits.

"Involuntarily out of the home" means when an adult caretaker or teen parent is out of the home due to circumstances beyond his/her immediate control to include, but not be limited to, incarceration, resolution of immigration issues, and/or restraining orders.

"Job search" is a low-income child care eligible activity that is to provide a minimum of thirteen (13) weeks of child care for each instance of non-temporary job loss or activity cessation.

"Low-Income Program" means a child care component within CCCAP for households with an adult caretaker(s) or teen parent(s) who is/are in an eligible activity, income eligible, and not receiving child care assistance through Colorado Works/TANF, Child Welfare or Protective Services.

"Manual Claim" means reimbursement to the child care provider for authorized and provided services that were not automatically paid through CHATS.

"Maternity and/or paternity leave" is a temporary period of absence from the adult caretaker or teen parent's employment, education, and/or training activity granted to expectant or new mothers and/or fathers for up to twelve (12) consecutive weeks for the birth and care of a newborn child.

"Negative licensing action" means a Final Agency Action resulting in the denial, suspension, or revocation of a license issued pursuant to the Child Care Licensing Act.; or the demotion of such a license to a probationary license.-

"New employment verification" means verification of employment that has begun within the last sixty (60) days. It is verified by a county form, employer letter or through collateral contact which includes a start

date, hourly wage or gross salary amount, hours worked per week, pay frequency, work schedule (if nontraditional care hours are requested at application or re-determination), and verifiable employer contact information.

“Non-traditional care hours” means weekend, evening, or overnight care.

“Originating county” means the county where child care assistance eligibility was initiated in instances where a family receiving low-income child care moves from one county to another during their eligibility period.

“Overpayment” means child care assistance received by the adult caretaker(s) or teen parent(s), or monies paid to a child care provider, which they were not eligible to receive.

“Parent” means a biological, adoptive or stepparent of a child.

“Parent fee or co-payment” means the household’s contribution to the total cost of child care paid directly to the child care provider(s) prior to any state/county child care funds being expended.

“Pay stubs” means a form or statement from the employer indicating the name of the employee, the gross amount of income, mandatory and voluntary deductions from pay (i.e. FICA, insurance, etc.), net pay and pay date, along with year-to-date gross income.

“Physical custody” means that a child is living with, or in the legal custody of, the adult caretaker(s) or teen parent(s) on the days/nights they receive child care assistance.

“Post eligibility stabilization period” means the time frame in which an adult caretaker or teen parent has to complete their job search activity if, at re-determination, they have not utilized their entire minimum thirteen (13) week time limited activity.

“Primary adult caretaker” means the person listed first on the application and who accepts primary responsibility for completing forms and providing required verification.

“Protective services” means children that have been placed by the county in foster home care, kinship foster home care or non-certified kinship care and have an open child welfare case.

“Prudent person principle” means allowing the child care worker the ability to exercise reasonable judgment in executing his/her responsibilities in determining CCCAP eligibility.

“Qualified exempt child care facilities” means a facility that is approved, certified, or licensed by any other state department or agency or federal government department or agency, which has standards for operation of the facility and inspects or monitors the facility; and, has been declared exempt from the child care licensing act as defined in rule manual 7, section 7.701.11 (12 CCR 2509-8).

“Qualified exempt child care provider” means a family child care home provider who is not licensed but provides care for a child(ren) from the same family; or an individual who is not licensed but provides care for a child(ren) who is related to the individual if the child’s care is funded in whole or in part with money received on the child’s behalf from the publicly funded CCCAP under rule manual Volume 7, Section 7.701.11, A, 1, b. (12 CCR 2509-8).

“Rate notification” means a notification of initial provider reimbursement rates and/or any amendment to existing provider reimbursement rates to reflect the child care provider’s CCCAP reimbursement based on the comparison of the provider’s private pay rates and the county ceiling rates, quality level or rate types. Signatures are not required on rate notifications.



“Receiving county” means the county where child care assistance eligibility is re-determined after a family receiving low-income child care moves from one county to another during their eligibility period.

“Recipient” means the person receiving the benefit. For the purposes of the Colorado Child Care Assistance Program, the recipient is the child.

“Recovery” means the act of collecting monies when an adult caretaker(s), teen parent(s) or child care provider has received childcare assistance benefits for which they were not eligible, commonly known as an “over payment”.

“Re-determination (Redet)” is the process to update eligibility for CCCAP. This process is completed no earlier than every twelve (12) months which includes completion of the State-approved form, and providing the verification needed to determine continued eligibility.

“Regionally accredited institution of higher education” means a community college, college, or university which is a candidate for accreditation or is accredited by one of the following regional accrediting bodies: Middle States, Association of Colleges and Schools, New England Association of Schools and Colleges, North Central Association of Colleges and Schools, Northwest Commission on Colleges and Universities, Southern Association of Colleges and Schools, Western Association of Schools and Colleges, Accrediting Commission for Community and Junior Colleges.

“Relative” means a blood or adoptive relative to include, but not limited to: a brother, sister, uncle, aunt, first cousin, nephew, niece, or persons of preceding generations denoted by grand, great, great-great, or great-great-great; a stepbrother, stepsister; or, a spouse of any person included in the preceding groups even after the marriage is terminated by death or divorce.

“Risk-based audit” means audit selection based on a combination of the likelihood of an event occurring and the impact of its consequences. This may include, but not be limited to, the number, dollar amounts and complexity of transactions; the adequacy of management oversight and monitoring; previous regulatory and audit results; review of the technician's accuracy; and/or reviews for separation of duty.

“Self-employment” means earned income for a person who is responsible for all taxes and/or other required deductions from income. A self-employed person shall show that his/her taxable income, divided by the number of hours worked, equals at least the federal minimum wage.

“Self-sufficiency standard” means the level of income adequate in each county for a given year to meet the cost of basic needs, exclusive of child care costs, based on a verifiable and statistically based third-party source.

“Slot contracts (county option)” means the purchasing of slots at a licensed child care provider for children enrolled in CCCAP in communities where quality care may not otherwise be available to county-identified target populations and areas or to incentivize or maintain quality.

“State established age bands” means the breakdown of child age ranges used when determining child care provider base reimbursement rates.

“State or local public benefit” means any grant, contract, loan, professional license, or commercial license provided by an agency of a state or local government, or by appropriated funds of a state or local government.

“Substantiated” means that the investigating party has found a preponderance of evidence to support the complaint.

“Target population” means a population whose eligibility is determined by criteria different than other child care populations, and has a priority to be served regardless of wait lists or freezes based upon appropriations. Current target populations include:

- A. Households whose income is at or below 130% of the current federal poverty guidelines;
- B. Teen parents;
- C. Children with additional care needs;
- D. Families experiencing homelessness; and,
- E. Segments of population defined by county, based on local needs.

“Teen parent” means a parent under twenty-one (21) years of age who has physical custody of his/her child(ren) for the period that care is requested and is in an eligible activity such as attending junior high/middle school, high school, GED program, vocational/technical training activity, employment or job search.

“Tiered reimbursement” means a pay structure that reflects increasing rates for high-quality early childhood programs that receive CCCAP reimbursement. These increases are made in addition to the base reimbursement rate.

“Timely written notice” means that any adverse action shall be preceded by a prior notice period of fifteen (15) calendar-days. “Timely” means that written notice is provided to the household and child care provider at least by the business day following the date the action was entered into the eligibility system. The fifteen (15) calendar-day prior notice period constitutes the period during which assistance is continued and no adverse action is to be taken during this time.

“Training and post-secondary education” means educational programs including regionally accredited post-secondary education for a Bachelor's degree or less or a workforce training program such as vocational, technical, or job skills training. Workforce training programs include educational activities after completing basic education.

“Transition families” means households ending their participation in the Colorado Works Program due to employment or job training, as defined in Colorado Works program rules 9 CCR 2503-6, who have verified eligibility for Low-Income Child Care Assistance.

“Units” or “unit of care” means the period of time authorized care is billed by a child care provider and paid for a household. (These units would be full-time, part-time, full-time/part-time, or full-time/full-time.)

“Up-to-date immunizations” means documentation of immunization status or exemption as required by Colorado Department of Public Health and Environment (CDPHE). Immunizations required for school entry are set by the board of health and based on recommendations of the Advisory Committee on Immunization Practices (ACIP).

“Voluntarily out of the home” means circumstances where an adult caretaker or teen parent is out of the home due to his/her choice to include, but not be limited to, job search, employment, military service, vacations, and/or family emergencies.

“Wait list” means a list maintained by a county that reflects individuals who have submitted a complete application for the CCCAP program for whom the county is not able to immediately enroll.

“Willful misrepresentation/withholding of information” means an understatement, overstatement, or omission, whether oral or written, made by a household voluntarily or in response to oral or written questions from the department, and/or a willful failure by a household to report changes in income, if the household’s income exceeds eighty-five percent (85%) of the State median income within ten (10) days, or changes to the qualifying eligible activity within four weeks of the change.

### **3.904 APPLICANT RIGHTS**

#### **3.904.1 ANTI-DISCRIMINATION**

Child care programs shall be administered in compliance with Title VI of the Civil Rights Act of 1964 (42 USC 2000(d)) located at [http://www.fhwa.dot.gov/environment/title\\_vi.htm](http://www.fhwa.dot.gov/environment/title_vi.htm); Title II of the Americans with Disabilities Act (42 USC 12132(b)).

- A. Counties or their designee shall not deny a person aid, services, or other benefits or opportunity to participate therein, solely because of age, race, color, religion, gender, national origin, political beliefs, or persons with a physical or mental disability.
- B. No otherwise qualified individual with a physical or mental disability shall solely, by reason of his/her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity provided by the counties or their designee(s).
- C. The county shall make services available to all eligible adult caretaker(s) and teen parents, subject to appropriations, including those with mental and physical disabilities and non-English speaking individuals, through hiring qualified staff or through purchase of necessary services.

#### **3.904.2 CONFIDENTIALITY**

The use or disclosure of information by the counties or their designee(s) concerning current or prior applicants and recipients shall be prohibited except for purposes directly connected with the activities listed below:

- A. The administration of public assistance programs, Child Welfare, Head Start and Early Head Start programs, and related State Department activities.
- B. Any investigation, recovery, prosecution, or criminal or civil proceeding in connection with the administration of the program.
- C. The adult caretaker(s) or teen parent(s) applying for CCCAP may authorize a licensed child care provider or head start provider to assist them with the completion of a CCCAP application, including collection and organization of supporting documentation and submission of the application and supporting documents to a county. Authorization for application assistance and release of information shall be obtained on a department-approved form and included with the CCCAP application.

#### **3.904.3 TIMELY WRITTEN NOTICE OF ADVERSE ACTION**

A decision to take adverse action concerning an applicant or a child care provider for assistance payments will result in a written notice mailed to the applicant or child care provider within one (1) business day of the decision. The written notice is considered mailed when it is faxed, emailed, sent via other electronic systems, hand-delivered, or deposited with the postal service. Fifteen (15) calendar-days will follow the date of mailing the notice before adverse action is taken with the following exceptions, which require no prior notice:

- A. Facts indicate an overpayment because of probable fraudulent behavior or an intentional program violation and such facts have been verified to the extent possible.
- B. The proposed adverse action is based on a written or verbal statement from the adult caretaker(s) or teen parent(s) who state(s) that he/she no longer wishes to receive assistance or services.
- C. The proposed adverse action is requested by another county or state department.
- D. The counties or their designee(s) have confirmed the death of a recipient or of Adult Care Taker or Teen parent.
- E. The county has exercised its right to terminate a fiscal agreement with any child care provider because a child's health or safety is endangered or the child care provider is under a negative licensing action.

#### **3.904.4 ADULT CARETAKER OR TEEN PARENT AND CHILD CARE PROVIDER APPEAL RIGHTS**

Counties' or designee(s)' staff shall advise adult caretakers or teen parents in writing of their right to a county dispute resolution conference or state level fair hearing pursuant to Sections 3.840 and 3.850 of Income Maintenance Volume 3 (9 CCR 2503-1).

Child care providers shall be given written notice of their right to an informal county conference when they are given their copy of the fiscal agreement.

#### **3.905 LOW INCOME CHILD CARE**

Eligible Colorado Child Care Assistance Program participants shall be an adult caretaker(s) or teen parent(s) of a child, meet program guidelines, and are low income adult caretakers or teen parents who are in an eligible activity, and need child care assistance.

##### **3.905.1 LOW INCOME CHILD CARE ELIGIBILITY**

In order to be eligible for child care assistance the following criteria shall be met:

- A. All adult caretakers and teen parents shall be verified residents of the county from which assistance is sought and received at the time of application and re-determination. Adult caretaker(s) or teen parent(s) shall remain eligible for the duration of the eligibility period if they report that they are no longer residents of the county in which they are actively receiving assistance per section 3.911 (CC).
- B. The adult caretaker(s) or teen parent(s) shall meet the following criteria:
  - 1. Is actively participating in an eligible activity; and,
  - 2. Meets the income eligibility guidelines set by the state department; and,
  - 3. Shall have physical custody of the child for the period they are requesting care.
- C. The application process shall be completed and the primary adult caretaker or teen parent shall sign the required application forms. This includes:

1. The State Low Income Child Care Assistance Program application signed and completed by the applicant or their authorized representative, which includes appeal rights.
  - a. Counties with Head Start programs may accept the Head Start application in lieu of the Low-Income Child Care application for those children enrolled in the head start program and are encouraged to work with local Head Start programs to coordinate this effort.
  - b. Families enrolled in a Head Start or Early Head Start program at the time they apply for CCCAP, shall have a re-determination date that aligns with the Head Start or Early Head Start program year.
2. The required verification supporting the information declared on the application form; including:
  - a. Proof of current residence;
  - b. Citizenship and identity of the child(ren);
  - c. Age of the child(ren) for which they are requesting care;
  - d. Up-to-date immunizations if applicable;
  - e. Eligible activity;
  - f. Schedule (if non-traditional care hours are requested at application or re-determination);
  - g. Income;
  - h. Incapacitation if applicable;
  - i. Custody arrangement and/or parenting schedule if applicable;
  - j. Child care provider; and,
  - k. Other verifications as determined by approved county plan.
3. An orientation or interview for new applicants as a county option. Counties shall ensure that the orientation or interview process is not burdensome to families by allowing a family to complete the process via phone or electronic tools or by offering extended office hours to hold the orientation or interview.

D. Eligible Households

1. The following household compositions qualify as eligible households:
  - a. Households with one adult caretaker or teen parent, where the adult caretaker or teen parent is engaged in an eligible activity, meets low-income eligibility guidelines, has physical custody of the child and needs child care.

- b. Households with two adult caretakers or teen parents, when one-adult caretaker or teen parent is involuntarily out of the home. Such a household shall be considered a household with one adult caretaker or teen parent.
  - c. Households with two adult caretakers or teen parents that need child care, where:
    - 1) Both adult caretakers or teen parents are engaged in an eligible activity; or,
    - 2) One adult caretaker or teen parent is voluntarily absent from the home, but both adult caretakers or teen parents are in an eligible activity; or,
    - 3) One adult caretaker or teen parent is engaged in an eligible activity and the other adult caretaker or teen parent is incapacitated such that, according to a physician or licensed psychologist, they are unable to care for the child(ren).
  - d. Protective services households refer to households where the child(ren) have been placed, by the county, in foster home care, kinship foster home care, or non-certified kinship care and that have an open child welfare case (county option).
- 2. Households are considered households with two adult caretakers or teen parents when two adults or teen parents contribute financially to the welfare of the child and/or assume parent rights, duties and obligations similar to those of a biological parent, even without legal adoption.
- 3. Two separate adult caretakers or teen parents who share custody but live in separate households may apply for the same child through separate applications, during periods that they have physical custody.
- 4. All adult caretakers or teen parents who are engaged in an eligible activity, have physical custody of the child and meet low-income eligibility guidelines.
- 5. Any unrelated individual who is acting as a primary adult caretaker for an eligible child, is required to obtain verification from the child's biological or adoptive parent, legal guardian, or a court order which identifies the unrelated individual as the child's adult caretaker.
- 6. An adult caretaker or teen parent, caring for children who are receiving basic cash assistance through the Colorado Works Program may be eligible for Low-Income Child Care if the adult caretaker or teen parent is not a member of the Colorado Works assistance unit; and, she/he meets all other Low-Income program criteria.
- 7. Adoptive parents (including those receiving adoption assistance) are eligible if they meet the low-income program requirements.
- 8. Adult caretaker(s) or teen parent(s) with an open and active CCCAP case who are participating in an eligible activity and go on verified maternity/paternity leave. Not to exceed twelve (12) weeks in an eligibility/re-determination period.
- 9. Adult caretaker(s) or teen parent(s) with an open and active CCCAP case who are participating in an eligible activity and go on verified medical leave and are unable to care

for his/her children. Not to exceed twelve (12) weeks in an eligibility/re-determination period.

10. A separated primary adult caretaker or teen parent with a validly issued temporary order for parent responsibilities or child custody shall not be determined ineligible based on the other spouse's or parent's financial resources.

E. Ineligible Household Compositions

Incapacitated single adult caretakers or teen parents who are not in an eligible activity are not eligible for the low-income program.

F. Eligible Child

An "eligible child" is a child birth to the age thirteen (13) years who needs child care services during a portion of the day, but less than twenty four (24) hours, and is physically residing with the eligible adult caretaker(s) or teen parent(s); or a child with verified additional care needs under the age of nineteen (19) who is physically or mentally incapable of caring for himself or herself or is under court supervision and is physically residing with the eligible adult caretaker(s) or teen parent(s).

1. All children who have had an application made on their behalf for or are receiving child care assistance shall verify that they are a U.S. citizen or qualified alien and provide proof of identity.
2. Children receiving child care from a qualified exempt child care provider who is unrelated to the child and care is provided outside of the child's home and who are not attending school as defined by the Colorado Department of Education shall provide a copy of their immunization record to the county, indicating that the children are age-appropriately immunized, unless exempt due to religious or medical reasons (see Sections 25-4-902 and 25-4-908, C.R.S.).

G. Eligible Activities

Adult caretakers or teen parents shall meet the criteria of at least one of the following activities:

1. Employment Criteria
  - a. Adult caretakers or teen parents may be employed full or part time.
  - b. Adult caretaker(s) or teen parent(s) shall verify that his/her gross income divided by the number of hours worked equals at least the current federal minimum wage.
  - c. Owners of LLC's and S-Corporations, are considered employees of the corporation.
2. Self-Employed Criteria
  - a. The adult caretaker(s) shall submit documentation listing his/her income and work-related expenses. All expenses shall be verified or they will not be allowed.

- b. The adult caretaker(s) shall submit an expected weekly employment schedule that includes approximate employment hours. This is required upon beginning self-employment, at application, and at re-determination.
- c. The adult caretaker(s) shall show that he/she has maintained an average income that exceeds their business expenses from self-employment.
- d. The adult caretaker(s) shall show that his/her taxable gross income divided by the number of hours worked equals at least the current federal minimum wage.
- e. Adult caretakers whose self-employment endeavor is less than twelve (12) months old, may be granted child care for six (6) months or until their next redetermination, whichever is longer, to establish their business. At the end of the launch period, adult caretakers shall provide documentation of income, verification of expenses and proof that they are making at least federal minimum wage for the number of hours worked. Projected income for the launch period shall be determined based upon the federal minimum wage times the number of declared number of hours worked.

### 3. Job Search Criteria

- a. Job search child care is available to eligible adult caretakers or teen parents that met the eligibility criteria on the most recent eligibility determination for no fewer than thirteen (13) weeks of child care for each instance of non-temporary cessation of activity (per section 3.905.2, c).
- b. If the job search activity is reported within the four (4) week reporting period, the activity shall begin the day that the change in activity was reported. If the job search activity is reported outside of the four (4) week reporting period, the activity shall begin the date that activity cessation occurred.
- c. Job search shall continue until the adult caretaker or teen parent gains employment, enters into another eligible activity, or when all of the allotted job search time has been utilized. Any day utilized in a week is considered one (1) week used toward the time limited activity.
- d. Regular consistent child care must be provided during the job search period.
- e. The amount of care authorized each day shall, at a minimum, be commensurate with the amount needed to complete the job search tasks.
- f. Job search child care shall be approved in each instance of non-temporary job loss or when adult caretakers or teen parents end their eligible activity while enrolled in the Low-Income program.
- g. An adult caretaker or teen parent shall be determined ineligible once they have utilized their allotted job search time and have not reentered into an eligible activity.
- h. If at the time of re-determination, the adult caretaker or teen parent remains in a job search activity, has not utilized the remainder of their allotted job search time, and has provided the required re-determination documentation, the county shall



place the case into a post-eligibility stabilization period for the duration of the remaining job search time.

- 1) If during the post-eligibility stabilization period the adult caretaker or teen parent reports that they have gained employment or reentered into another eligible activity, the county shall process this change, continue care, and assess a parent fee.
- 2) The adult caretaker or teen parent shall be determined ineligible if they have not reentered into an eligible activity and the post-eligibility stabilization period has expired.

- i. Subject to available appropriations, an adult caretaker or teen parent who is not employed at the time of application and meets all other eligibility criteria is eligible to receive a minimum of thirteen (13) weeks of job search child care.

#### 4. Training Criteria and Post-Secondary Education

Subject to available appropriations, an adult caretaker(s) who is enrolled in a training or post-secondary education program is eligible for CCCAP for at least one hundred four (104) weeks and up to two-hundred-eight (208) weeks per lifetime, provided all other eligibility requirements are met during the adult caretaker's enrollment. These weeks do not have to be used consecutively. A county may give priority for services to a working adult caretaker(s) over an adult caretaker(s) enrolled in post-secondary education or workforce training. When a teen parent becomes enrolled in post-secondary education, they are considered an adult caretaker and the time limited activity timelines apply.

Counties' child care staff may refer adult caretakers and teen parents to community employment and training resources for assistance in making a training and postsecondary education decision.

- a. Adult caretaker educational programs include post-secondary education for a first bachelor's degree or less, or workforce/vocational/technical job skills training when offered as secondary education, which result in a diploma or certificate, for at least one-hundred-four (104) weeks and up to two-hundred-eight (208) weeks per lifetime. This is limited to coursework for the degree or certificate.
- b. In addition to the weeks of assistance available for post-secondary and vocational or technical training, up to fifty-two (52) weeks of assistance is allowable for basic education.
- c. Any week in which at least one (1) day is utilized for child care is considered one (1) week used toward the time limit.

#### H. Low-Income Eligibility Guidelines

1. Adult caretaker(s) or teen parent(s) gross income must not exceed eighty-five percent (85%) of the state median income.

- a. Entry eligibility shall be set by the state department at a level based on the self-sufficiency standard, not to be set below one hundred eighty-five percent (185%) of federal poverty level.
  - b. Exit income eligibility must be eighty-five percent (85%) of the state median income.
2. Effective October 1, 2018, monthly gross income levels, for one-hundred percent (100%) of the Federal Poverty Level (FPL), as well as eighty-five percent (85%) of State Median Income (SMI) for the corresponding household size are as follows:

<b>Family Size</b>	<b>100% Federal Poverty Guideline (FPG)</b>	<b>85% State Median Income (SMI) (State and Federal Maximum Income Limit)</b>
<b>2</b>	\$1,011.67	\$4,394.05
<b>3</b>	\$1,371.67	\$5,427.95
<b>4</b>	\$1,731.67	\$6,461.84
<b>5</b>	\$2,091.67	\$7,495.74
<b>6</b>	\$2,451.67	\$8,529.63
<b>7</b>	\$2,811.67	\$8,723.49
<b>8</b>	\$3,171.67	\$8,917.34
<b>9</b>	\$3,531.67	\$9,111.20
<b>Each Additional person</b>	\$360.00	\$193.86

3. Generally, the expected monthly income amount is based on the income received in the prior thirty (30) day period; except that, when the prior thirty (30) day period does not provide an accurate indication of anticipated income as referenced in the definition of "Income Eligibility" in Section 3.903 or under circumstances as specified below, a different period of time may be applicable:
  - a. For new or changed income, a period shorter than a month may be used to arrive at a projected monthly amount.
  - b. For contract employment in cases, such as in some school systems, where the employees derive their annual income in a period shorter than a year, the income shall be prorated over the term of the contract, provided that the income from the contract is not earned on an hourly or piecework basis.
  - c. For regularly received self-employment income, net earnings will usually be prorated and counted as received in a prior thirty (30) day period, except for farm income. For further information, see Section 3.905.1, H, 3, on self-employment under countable earned income.
  - d. For all other cases where receipt of income is reasonably certain but the monthly amount is expected to fluctuate, a period of up to twelve months may be used to arrive at an average monthly amount.
  - e. For income from rental property to be considered as self-employment income, the adult caretaker(s) or teen parent(s) shall actively manage the property at least an average of twenty (20) hours per week. Income from rental property will

be considered as unearned income if the adult caretaker(s) or teen parent(s) are not actively managing the property an average of at least twenty (20) hours per week. Rental income, as self-employment or as unearned income, may be averaged over a twelve (12) month period to determine monthly income. Income from jointly owned property shall be considered as a percentage at least equal to the percentage of ownership or, if receiving more than percentage of ownership, the actual amount received.

- f. For cases where a change in the monthly income amount can be anticipated with reasonable certainty, such as with Social Security cost-of-living increases or other similar benefit increases, the expected amount shall be considered in arriving at countable monthly income for the month received.
- g. Income inclusions and exclusions (Section 3.905) shall be used in income calculations.
- h. Irregular child support income, not including lump sum payments, may be averaged over a period of time up to twelve (12) months in order to calculate household income.
- i. Non-recurring lump sum payments, including lump sum child support payments, may be included as income in the month received or averaged over a twelve (12) month period, whichever is most beneficial for the client.

4. Income Verification at Application and Re-determination

a. Earned Income

- 1) For ongoing employment, income received during the prior thirty (30) day period shall be used in determining eligibility unless, on a case-by-case basis, the prior thirty (30) day period does not provide an accurate indication of anticipated income, in which case, a county can require verification of up to twelve (12) of the most recent months of income to determine a monthly average. The adult caretaker(s) or teen parent(s) may also provide verification of up to twelve (12) of the most recent months of income if he/she chooses to do so if such verification more accurately reflects a household's current income level.
- 2) For employment that has begun or changed within the last sixty (60) days, a new employment verification letter may be used.
- 3) For self-employment income the person shall submit documentation listing his/her income and work-related expenses for the prior thirty (30) day period. On a case-by-case basis, if the prior thirty (30) day period does not provide an accurate indication of anticipated income, a county can require verification of up to twelve (12) of the most recent months of income and expenses to determine a monthly average. The adult caretaker(s) may also provide verification of up to twelve (12) of the most recent months of income and expenses if he/she chooses to do so if such verification more accurately reflects a household's current income level. All expenses shall be verified or they will not be allowed.

b. Unearned Income

Unearned income received during the prior thirty (30) day period shall be used in determining eligibility unless, on a case-by-case basis, the prior thirty (30) day period does not provide an accurate indication of anticipated income, in which case, a county can require verification of up to twelve (12) of the most recent months of income to determine a monthly average. The adult caretaker(s) or teen parent(s) may choose to also provide verification of up to twelve (12) of the most recent months of income if such verification more accurately reflects a household's current income level.

- c. Adult caretakers or teen parents shall self-declare that their liquid and non-liquid assets do not exceed one million dollars. If assets exceed one million dollars the household is ineligible for CCCAP.
- d. If written documentation is not available at time of eligibility determination, verbal verification from the employer or other person issuing the payment may be obtained. Counties shall document the verbal verification in the case file to include the date that the information was received, who provided the information, and a contact phone number.
- e. If income is not verified
  - 1) At application
    - a) If verifications are not returned within the fifteen (15) day noticing period the application will be denied.
    - b) If all verification has not been submitted within sixty (60) calendar-days of the application date then the county shall require a new application.
  - 2) At re-determination, if all verifications are not received within the fifteen (15) day noticing period, the CCCAP case will be closed.

#### I. Income Inclusions

- 1. Gross earnings, salary, armed forces pay (including but not limited to basic pay, basic assistance for housing (BAH) and basic assistance for subsistence (BAS), hazard duty pay, and separation pay), commissions, tips, and cash bonuses are counted before deductions are made for taxes, bonds, pensions, union dues and similar deductions. If child care is provided for an employment activity, then gross wages divided by the number of hours worked shall equal at least the current federal minimum wage.
- 2. Taxable gross income (declared gross income minus verified business expenses from one's own business, professional enterprise, or partnership) from non-farm self-employment.
  - a. These verified business expenses include, but are not limited to:
    - 1) The rent of business premises; and,
    - 2) Wholesale cost of merchandise; and,
    - 3) Utilities; and,

- 4) Taxes; and,
    - 5) Mileage expense for business purposes only; and,
    - 6) Labor; and,
    - 7) Upkeep of necessary equipment.
  - b. The following are not allowed as business expenses from self-employment:
    - 1) Depreciation of equipment; and,
    - 2) The cost of and payment on the principal of loans for capital asset or durable goods; and,
    - 3) Personal expenses such as personal income tax payments, lunches, and transportation to and from work.
  - c. If child care is provided for a self-employment activity, then taxable gross wages divided by the number of hours worked shall equal at least the current federal minimum wage. To determine a valid monthly income taxable gross income may be averaged for a period of up to twelve (12) months.
3. Taxable gross income (gross receipts minus operating expenses from the operation of a farm by a person on his own account, as an owner, renter or sharecropper) from farm self-employment.
  - a. Gross receipts include, but are not limited to:
    - 1) The value of all products sold; and,
    - 2) Government crop loans; and,
    - 3) Money received from the rental of farm equipment and/or farm land to others; and,
    - 4) Incidental receipts from the sale of wood, sand, gravel, and similar items.
  - b. Operating expenses include, but are not limited to:
    - 1) Cost of feed, fertilizer, seed, and other farming supplies; and,
    - 2) Cash wages paid to farmhands; and
    - 3) Cash rent; and,
    - 4) Interest on farm mortgages; and,
    - 5) Farm building repairs; and,
    - 6) Farm taxes (not state and federal income taxes); and,
    - 7) Similar expenses.

- c. The value of fuel, food, or other farm products used for family living is not included as part of net income. If child care is provided for an employment activity, then taxable gross wages divided by the number of hours worked shall equal at least the current federal minimum wage. To determine a valid monthly income, taxable gross income may be averaged for a period of up to twelve months. For all other cases where receipt of income is reasonably certain but the monthly amount is expected to fluctuate, a period of up to twelve months shall be used to arrive at an average monthly amount.
- 4. An in-kind benefit is any gain or benefit received by the adult caretaker(s) or teen parent(s) as compensation for employment, which is not in the form of money such as meals, clothing, public housing or produce from a garden. A dollar amount shall be established for this benefit and it shall be counted as other income. The dollar amount is based on the cost or fair market value.
- 5. Vendor payments are money payments that are not payable directly to an adult caretaker or teen parent but are paid to a third party for a household expense and are countable when the person or organization making the payment on behalf of a household is using funds that otherwise would need to be paid to the adult caretaker(s) or teen parent(s) and are part of the compensation for employment.
- 6. Railroad retirement insurance
- 7. Veterans Payments
  - a. Retirement or pension payments paid by defense finance and accounting services (DFAS) to retired members of the Armed Forces;
  - b. Pension payments paid by the Veteran's Administration to disabled members of the Armed Forces or to survivors of deceased veterans;
  - c. Subsistence allowances paid to veterans through the GI bill. For education and on-the-job training; and,
  - d. "Refunds" paid to veterans as GI insurance premiums.
- 8. Pensions and annuities (minus the amount deducted for penalties, if early payouts are received from these accounts)
  - a. Retirement benefit payments;
  - b. 401(k) payments;
  - c. IRA payments;
  - d. Pension payments; or,
  - e. Any other payment from an account meant to provide for a retired person or their survivors.
- 9. Dividends
- 10. Interest on savings or bonds

11. Income from estates or trusts
12. Net rental income
13. Royalties
14. Dividends from stockholders
15. Memberships in association
16. Periodic receipts from estates or trust funds
17. Net income from rental of a house, store, or other property to others
18. Receipts from boarders or lodgers
19. Net royalties
20. Inheritance, gifts, and prizes
21. Proceeds of a life insurance policy, minus the amount expended by the beneficiary for the purpose of the insured individual's last illness and burial, which are not covered by other benefits
22. Proceeds of a health insurance policy or personal injury lawsuit to the extent that they exceed the amount to be expended or shall be expended for medical care
23. Strike benefits
24. Lease bonuses and royalties (e.g., oil and mineral)
25. Social Security pensions, survivor's benefits and permanent disability insurance payments made prior to deductions for medical insurance
26. Unemployment insurance benefits
27. Worker's compensation received for injuries incurred at work
28. Maintenance payments made by an ex-spouse as a result of dissolution of a marriage
29. Child support payments
30. Military allotments
31. Workforce innovation opportunity act (WIOA) wages earned in work experience or on-the-job training
32. Earned AmeriCorps income includes government payments from agricultural stabilization and conservation service and wages of AmeriCorps volunteers in service to America (vista) workers. Vista payments are excluded if the client was receiving CCCAP when he or she joined vista. If the client was not receiving CCCAP when he or she joined vista, the vista payments shall count as earned income.

- 33. CARES payments – refugee payments from Refugee Services
- J. Income Exclusions
- 1. Earnings of a child in the household when not a teen parent
  - 2. Supplemental Security Income (SSI) under Title XVI
  - 3. Any payment made from the Agent Orange Settlement Fund, pursuant to P.L. No. 101201
  - 4. Nutrition related public assistance
    - a. The value of Food Assistance benefits (SNAP)
    - b. Benefits received under title VII, Nutrition Program for the Elderly, of The Older Americans Act (42 U.S.C. 3030A)
    - c. The value of supplemental food assistance received under the Special Food Services Program for Children provided for in the National School Lunch Act and under the Child Nutrition Act
    - d. Benefits received from the Special Supplemental Food Program for Women, Infants and Children (WIC)
  - 5. Payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act
  - 6. Experimental Housing Allowance Program (EHAP) payments made by HUD under Section 23 of the U.S. Housing Act
  - 7. Payments made from Indian judgment funds and tribal funds held in trust by the Secretary of the Interior and/or distributed per capita
  - 8. Distributions from a native corporation formed pursuant to the Alaska Native Claims Settlement Act (ANCSA)
  - 9. Major disaster and emergency assistance provided to individuals and families, and comparable disaster assistance provided by states, local governments and disaster assistance organizations
  - 10. Payments received from the county or state for providing foster care, kinship care, or for an adoption subsidy
  - 11. Payments to volunteers serving as foster grandparents, senior health aides, or senior companions, and to persons serving in the Service Corps of Retired Executives (SCORE) and Active Corps of Executives (ACE) and any other program under Title I (VISTA) when the value of all such payments adjusted to reflect the number of hours such volunteers are serving is not equivalent to or greater than the minimum wage, and Title II and III of the Domestic Volunteer Services Act
  - 12. Low-Income Energy Assistance Program (LEAP) benefits



13. Social security benefit payments and the accrued amount thereof to a recipient when an individual plan for self-care and/or self-support has been developed
14. Earned Income Tax Credit (EIC) payments
15. Monies received pursuant to the "Civil Liberties Act of 1988," P.L. No. 100-383 (by eligible persons of Japanese ancestry or certain specified survivors, and certain eligible Aleuts)
16. Any grant or loan to any undergraduate student for educational purposes made or insured under any programs administered by the Commissioner of Education (Basic Educational Opportunity Grants, Supplementary Educational Opportunity Grants, National Direct Student Loans, and Guaranteed Student Loans); Pell Grant Program, the PLUS Program, the Byrd Honor Scholarship programs, and the College Work Study Program
17. Training allowances granted by WIA to enable any individual, whether dependent child or caretaker relative, to participate in a training program are exempt
18. Payments received from the youth incentive entitlement pilot projects, the youth community conservation and improvement projects, and the youth employment and training programs under the Youth Employment and Demonstration Project Act
19. Any portion of educational loans, scholarships, and grants obtained and used under conditions that preclude their use for current living costs and that are earmarked for education
20. Financial assistance received under the Carl D. Perkins Vocational and Applied Technology Education Act that is made available for attendance costs. Attendance costs include: tuition, fees, rental or purchase of equipment, materials, supplies, transportation, dependent care and miscellaneous personal expenses
21. Any money received from the Radiation Exposure Compensation Trust Fund, pursuant to Public Law No. 101-426 as amended by Public Law No. 101-510
22. Resettlement and Placement (R & P) vendor payments for refugees
23. Supportive service payments under the Colorado Works Program
24. Home Care Allowance under adult categories of assistance
25. Loans from private individuals as well as commercial institutions
26. Public cash assistance grants including Old Age Pension (OAP), Aid to the Needy Disabled (AND), and Temporary Assistance to Needy Families (TANF)/Colorado Works
27. Reimbursements for expenses paid related to a settlement or lawsuit
28. Irregular income in the certification period that totals less than ninety dollars (\$90) in any calendar quarter, such as slight fluctuations in regular monthly income and/or that which is received too infrequently or irregularly to be reasonably anticipated

29. Income received for participation in grant funded research studies on early childhood development

K. Income Adjustments

1. Verified court-ordered child support payments for children not living in the household shall be deducted prior to applying the monthly gross income to the maximum gross monthly income guidelines and when calculating parent fees. To qualify for the adjustment, the child support shall be:
  - a. Court ordered and paid; and,
  - b. For a current monthly support order (not including arrears).
2. In order to be considered verified:
  - a. There shall be verification that payments are court ordered and actually paid;
  - b. Court ordered payments deducted shall be for current child support payments; and,
  - c. Such verification shall be made at the time of initial approval of eligibility for services and at the time of each re-determination of eligibility.

L. Child Support Services (County Option)

1. At the option of the county, the county may require adult caretakers in households receiving Low-Income Child Care Assistance to apply for and cooperate with Child Support Services pursuant to Section 26-2-805, C.R.S.
2. At the option of the county, teen parents may be required to cooperate with the child support services unit upon re-determination if during the twelve (12) month eligibility period, they have graduated from high school or have completed the high school equivalency exam.
3. Participating counties shall refer all dependent children with a non-custodial parent that are in need of care to the Child Support Services Unit or their delegates unless an active child support case exists or if a good cause exemption has been granted.
  - a. Counties shall inform all adult caretakers or teen parents (per section 3.905.1, L, 2) of their right to apply for a good cause exemption utilizing the state prescribed good cause waiver at the time of application as well as any time while receiving child care. Counties shall extend benefits until a good cause determination is complete.
  - b. "Good cause" shall include, but not be limited to, the following:
    - 1) Potential physical or emotional harm to a child or children; or,
    - 2) Potential physical or emotional harm to an adult caretaker relative or teen parents; or,
    - 3) Pregnancy or birth of a child related to incest or forcible rape; or,

- 4) Legal adoption in a court of law or a parent receiving pre-adoption services; or,
    - 5) Other exemption reasons as determined by the county director or designee.
  - c. The county director or designee shall make determination of good cause exemption and shall determine if good cause needs to be reviewed at some future date.
  - d. If an adult caretaker has been approved for good cause in another public assistance program that requires child support Services, a good cause exemption shall be extended to CCCAP.
4. The adult caretaker(s) or teen parent(s) (per section 3.905.1, L, 2) shall apply for and cooperate with the Child Support Services Unit or delegate agency within thirty (30) calendar-days of initial date of approval for child care. For ongoing child care cases, the county shall require the adult caretaker(s) to cooperate with Child Support Services at re-determination.
5. For Low-Income Child Care Assistance "Child Support Services cooperation" is defined as:
- a. Applying for Child Support Services within thirty (30) calendar-days of being notified of the requirement; and,
  - b. Maintaining an active Child Support Services case while receiving ongoing Low-Income Child Care Assistance benefits; and,
  - c. Cooperating with Child Support Services is required for all children that are requesting care in the ongoing child care household with an absent parent.
6. If CCCAP receives written notice within required timeframes from the Child Support Services Unit that the child care household has not cooperated, the following steps shall be taken at application or re-determination only:
- a. The county or its designee child care staff shall notify the household within fifteen (15) calendar-days, in writing, that he/she has fifteen (15) calendar-days from the date the notice is mailed to cooperate, or request a good cause exemption, before the child care case and all authorizations shall be closed.
  - b. If the adult caretaker or teen parent (per section 3.905.1, L, 2) fails to cooperate within the required time frames and/or with the Child Support Services Unit, the CCCAP case shall be closed. Upon notification of a request for good cause, the county shall extend benefits until a good cause determination is complete, as long as the household meets all other eligibility criteria. The county shall make a good cause determination within fifteen (15) calendar-days of the request.
7. If a household's benefits are terminated due to failure to cooperate, that household may remain ineligible in all counties that have this option until cooperation is verified by the Child Support Services Unit or delegate agency.
8. At the time of referral from the Colorado Works Program to the Low-Income Child Care Assistance Program, the Low-Income Child Care Assistance Program shall notify

households in writing within at least fifteen (15) calendar-days of the referral of his/her continued requirement to cooperate with the Child Support Services Unit.

9. The Child Care Assistance Program shall notify Child Support Services within at least fifteen (15) calendar-days when a household is transitioned from Colorado Works child care to Low-Income Child Care Assistance and the household's continued requirement to cooperate.
10. Households shall not be required to cooperate with Child Support Services if:
  - a. Good cause has been established; or,
  - b. The child support case is closed pursuant to Section 6.260.51 (9 CCR 2504-1); or,
  - c. The Low-Income Child Care case is a two-parent household if there are no absent parents for any children in the home.

### **3.905.2 ADULT CARETAKER OR TEEN PARENT RESPONSIBILITIES**

- A. Primary adult caretaker(s) or teen parent(s) shall sign the application/re-determination form along with providing verification of income to determine eligibility.
- B. Adult caretaker(s) or teen parent(s) agrees to pay the parent fee listed on the child care authorization notice and understands that it is due to the child care provider in the month that care is received.
- C. Adult caretaker(s) or teen parent(s) have the responsibility to report and verify changes to income, only if the household's income exceeds eighty-five percent (85%) of the State median income, in writing, within ten (10) calendar-days of the change. Also, if the adult caretaker(s) or teen parent(s) is no longer in his/her qualifying eligible activity, this shall be reported in writing within four (4) calendar weeks pursuant to Section 26-2-805(1)(e)(III), C.R.S. this does not include a temporary break in eligible activity such as a temporary job loss from the qualifying eligible activity or temporary change in participation in a training or education activity. A temporary break includes but is not limited to:
  1. Absence from seasonal employment not to exceed twelve (12) weeks when returning to same employer;
  2. Absence from employment due to extended verified medical leave, not to exceed twelve (12) weeks when returning to same employer;
  3. Absence from employment due to verified maternity/paternity leave, not to exceed twelve (12) consecutive weeks as defined in section 3.903 when returning to same employer; or,
  4. Temporarily not attending class between semesters not to exceed twelve (12) weeks.
- D. Adult caretaker(s) or teen parent(s) shall provide the County Department with up-to-date immunization records for child(ren) who receive child care from qualified exempt child care providers not related to the child(ren), where care is provided outside of the child's home and the child(ren) are not school age.

- E. Adult caretaker(s) or teen parent(s) shall cooperate with the child support services unit or the delegate agency for all children who are in need of care and have an absent parent, within thirty (30) days of requesting child care, as required by the county and per section 3.905.1 L.
- F. Adult caretaker(s) or teen parent(s) shall report changes in child care providers prior to the change.
- G. All adult caretaker(s) or teen parent(s) shall provide verification of their schedule related to their eligible activity only at application and/or re-determination when non-traditional care hours are requested.
- H. When the primary adult caretaker(s) or teen parent(s) is declaring the identity of his/her child due to the child not having identification as part of the application, an un-expired picture id that has been taken in the past ten (10) years issued by a school or U.S. federal or state governmental agency of the primary adult caretaker or teen parent is needed to verify the adult caretaker's identity.
- I. When a child care case has closed and not more than thirty (30) days have passed from date of closure; the adult caretaker(s) or teen parent(s) may provide the verification needed to correct the reason for closure. If the household is determined to be eligible, services may resume as of the date the verification was received by the county, despite a gap in services. The adult caretaker(s) or teen parent(s) would be responsible for payment during the gap in service.
- J. Adult caretaker(s) or teen parent(s) shall not share his/her individual attendance credentials with the child care provider at any time or he/she may be subject to disqualification per section 3.915.4, b.
- K. Adult caretaker(s) or teen parent(s) are required to use the Attendance Tracking System (ATS) to check children in and out for the days of care authorized and attended unless the child care provider has been granted an exemption by the state. Non-cooperation with the use of the Attendance Tracking System (ATS) may result in case closure and/or non-payment of the child care subsidy as defined by county policy.

### **3.905.3 LOW INCOME CHILD CARE RE-DETERMINATION**

- A. A re-determination of eligibility shall be conducted no earlier than every twelve (12) months. The State-approved eligibility re-determination form shall be mailed to households at least forty-five (45) calendar-days prior to the re-determination due date. Adult caretaker(s) or teen parent(s) shall complete and return to Child Care staff by the re-determination due date. Adult caretaker(s) or teen parent(s) who do not return eligibility re-determination forms and all required verification may not be eligible for child care subsidies.
  - 1. Employed and self-employed adult caretaker(s) or teen parent(s) shall submit documentation of the following:
    - a. Earned income
      - 1) For ongoing employment, income received during the prior thirty (30) day period shall be used in determining eligibility unless, on a case-by-case basis, the prior thirty (30) day period does not provide an accurate indication of anticipated income, in which case, a county can require verification of up to twelve (12) of the most recent months of income to determine a monthly average. The adult caretaker(s) or teen parent(s) may also provide verification of up to twelve (12) of the most recent

months of income if he/she chooses to do so if such verification more accurately reflects a household's current income level.

- 2) For employment that has begun or changed within the last sixty (60) days, a new employment verification letter may be used.
  - 3) For self-employment income the person shall submit documentation listing his/her income and verification of work-related expenses for the prior thirty (30) day period. On a case-by-case basis, if the prior thirty (30) day period does not provide an accurate indication of anticipated income, a county can require verification of up to twelve (12) of the most recent months of income and expenses to determine a monthly average. An adult caretaker may also provide verification of up to twelve (12) of the most recent months of income and expenses if he/she chooses to do so if such verification more accurately reflects a household's current income level. All expenses shall be verified or they will not be allowed.
- b. Unearned income received during the prior thirty (30) day period shall be used in determining eligibility unless, on a case-by-case basis, the prior thirty (30) day period does not provide an accurate indication of anticipated income, in which case, a county can require verification of up to twelve (12) of the most recent months of income to determine a monthly average. The adult caretaker(s) or teen parent(s) may also provide verification of up to twelve (12) of the most recent months of income if he/she chooses to do so if such verification more accurately reflects a household's current income level.
  - c. All adult caretaker(s) or teen parent(s) shall provide verification of their schedule related to their eligible activity only at application and/or re-determination only when non-traditional care hours are requested.
  - d. At application and re-determination, adult caretakers or teen parents shall self-declare that their liquid and non-liquid assets do not exceed one million dollars. If assets exceed one million dollars the household is ineligible for CCCAP.
2. Adult caretaker(s) or teen parent(s) in training shall submit documentation from the training institution which verifies school schedule (only if reported at application or re-determination and non-traditional care hours are requested), and verifies current student status.
  3. Adult caretaker(s) or teen parent(s) shall provide the county department with up-to-date immunization records for child(ren) who receive child care from qualified exempt child care providers not related to the child(ren), where care is provided outside of the child's home and the child(ren) are not school age.
  4. If written documentation is not available at time of eligibility determination, verbal verification from the employer or other person issuing the payment may be obtained. Counties shall document the collateral contact verification in the case file to include the date that the information was received, who provided the information, and a contact phone number. Acceptable collateral contacts include but are not limited to:
    - a. Employers;

- b. Landlords;
  - c. Social/migrant service agencies; and,
  - d. Medical providers who can be expected to provide accurate third party verification.
- B. Parent fees shall be reviewed at re-determination. An adjusted parent fee will be based on an average of at least the past thirty (30) days gross income or a best estimate of anticipated income in the event of new employment. Unless, on a case-by-case basis, the prior thirty (30) day period does not provide an accurate indication of anticipated income, in which case a county can require evidence of up to twelve (12) of the most recent months of income. The adult caretaker(s) or teen parent(s) may also provide evidence of up to twelve (12) of the most recent months of income if they choose to do so if such evidence more accurately reflects the adult caretaker or teen parent's current income level. The fee change shall be effective the first full calendar month after the change is reported and verified, and timely written notice is provided.
- C. For adult caretaker(s) or teen parent(s) whose children are enrolled in Head Start or Early Head Start, counties shall extend re-determination of eligibility to annually coincide with the Head Start or Early Head Start program schedule. These households are still responsible for notifying the county of any changes that may impact eligibility.

#### **3.905.4 TERMINATION OF LOW INCOME CHILD CARE SERVICES**

- A. Child care authorizations and cases shall be terminated during the eligibility period for the following eligibility related reasons:
  - 1. Household income exceeds eighty-five percent (85%) of state median income during eligibility period
  - 2. Adult caretaker(s) or teen parent(s) is/are no longer a resident of the state
  - 3. Adult caretaker(s) or teen parent(s) is not involved in an eligible activity and their job search period has expired
  - 4. Adult caretaker(s) or teen parent(s) who are employed or self-employed and do not meet federal minimum wage requirements outlined 3.905.1 (G)(1) are not considered to be in an eligible activity
  - 5. The adult caretaker(s) or teen parent(s) has been disqualified due to a founded Intentional Program Violation
- B. Child care authorizations and/or cases must be terminated for the following eligibility related reasons at re-determination only:
  - 1. Eligible child exceeds age limits
  - 2. Adult caretaker(s) or teen parent(s) did not pay parent fees, an acceptable payment schedule has not been worked out between the child care provider(s) and adult caretaker(s) or teen parent(s), or the adult caretaker(s) or teen parent(s) has/have not followed through with the payment schedule.

3. Adult caretaker(s) or teen parent(s) exceeds activity time limits
  4. Adult caretaker(s) or teen parent(s) fails to comply with re-determination requirements
  5. Adult caretaker(s) or teen parent(s) is not involved in an eligible activity
  6. Adult caretaker(s) or teen parent(s) has become a participant in Colorado Works
  7. Adult caretaker(s) or teen parent(s) did not submit required immunization records
  8. Adult caretaker(s) or teen parent(s) is/are no longer a resident of the county or state
  9. Adult caretaker(s) or teen parent(s) (per section 3.905.1, L, 2) is/are no longer cooperating with child support establishment during the twelve (12) month eligibility period, modification or enforcement services, at county option, and, if the adult caretaker(s) or teen parent(s) has/have applied for a good cause exemption, the county director or designee has determined that the adult caretaker(s) or teen parent(s) is/are not eligible for a good cause exemption
  10. Adult caretaker(s) or teen parent(s) do not meet federal minimum wage requirement for employment or self-employment are not considered to be in an eligible activity
  11. Household income exceeds eighty-five percent (85%) of State median income
  13. The child has had twenty-two (22) or more unexplained absences from authorized care within ninety (90) days of the redetermination date. The ninety (90) day period must account for seasonal or reported breaks in care.
- C. Reason for termination shall be documented on the state prescribed closure form and mailed via postal service, emailed or other electronic systems, faxed or hand-delivered to the primary adult caretaker or teen parent and child care provider.
  - D. Upon termination from the child care program, the adult caretaker(s) or teen parent(s) will have thirty (30) days from the effective date of closure to correct or provide the information without having to reapply for benefits. Upon correcting or providing the information, eligibility will continue as of the date the missing information was provided to the county. Parent fees will be based on the previous amount specified until prior notice is provided of changes to future parent fees.
  - E. Nothing in this section shall preclude an adult caretaker(s) or teen parent(s) from voluntarily withdrawing from the Low-Income program.

### **3.906 COLORADO WORKS CHILD CARE**

- A. Adult caretakers or teen parents who have been approved for Colorado Works are eligible to receive Colorado Works child care during the Colorado Works assessment process.
- B. To continue receiving Colorado Works child care after the assessment process has been completed, a referral form or individualized plan shall be completed and/or received indicating that the participant remains eligible for basic cash assistance. A referral form shall be received by the child care technician unless the Colorado Works technician processes the child care and clearly documents the need for child care in CHATS.
- C. An adult caretaker, caring for children who are receiving basic cash assistance through the Colorado Works program may be eligible for low-income child care if the adult caretaker is not a



part of the Colorado Works assistance unit; and, she/he meets all other low-income program criteria.

- D. Counties may provide Colorado Works child care for households approved for state diversions as determined by the local Colorado Works program.

### **3.906.1 ELIGIBILITY FOR COLORADO WORKS CHILD CARE**

- A. Eligibility for Colorado Works child care shall be determined by the local Colorado Works program. All Colorado Works child care cases shall be authorized as requested by Colorado Works.
- B. It is the responsibility of the local Colorado Works program to notify the child care technician if the household becomes ineligible at which time the Colorado Works child care case and authorization shall be set to close at the end of the month in which the household became ineligible, allowing for timely noticing.
- C. Income is verified and shared by the local Colorado Works program.
  - 1. Supportive service payments under the Colorado Works program are not countable income.
  - 2. Temporary assistance to needy families (TANF)/Colorado Works payments are not countable income.
- D. Eligible activity is determined and shared by the local Colorado Works program.
- E. Child care schedule is determined and shared by the local Colorado Works program.
- F. Residency is verified by the local Colorado Works program.
- G. Citizenship and identity is verified by the local Colorado Works program.
- H. Colorado Works participants shall provide the county with up-to-date immunization records for child(ren) who receive child care from qualified exempt child care providers not related to the child(ren), where care is provided outside of the child's home and the child(ren) are not school age..
- I. Counties that provide Colorado Works child care for households approved for state diversions require the same eligibility as outlined above.

### **3.906.2 TRANSITION OFF COLORADO WORKS CHILD CARE**

Counties shall provide low income child care assistance for a household transitioning off the Colorado Works program due to employment or job training without requiring the household to apply for low income child care but shall initially re-determine the household's eligibility twelve (12) months after the transition.

- A. A household that transitions off the Colorado Works program shall not be automatically transitioned to low income CCCAP if any of the following conditions apply:
  - 1. The household leaves the Colorado Works Program due to an Intentional Program Violation (IPV) as determined in Section 3.500 or as outlined in county policy; or,

2. The household needs child care for activities other than employment or job training; or,
  3. The household is leaving the Colorado Works program due to employment and will be at an income level that exceeds the county adopted income eligibility limit for the county's low income CCCAP; or,
  4. The household has withdrawn from the Colorado Works program; or,
  5. If a household is not transitioned for the reasons outlined above, the county shall provide notice.
- B. At the county's discretion, a household transitioning off the Colorado Works program that is eligible for low income CCCAP and resides in a county that has households on its wait list may be added to the wait list or be provided child care assistance without first being added to the wait list.
- C. If a household is not transitioned from Colorado Works to low-income child care, the county shall provide a fifteen (15) day notice.

### **3.907 PROTECTIVE SERVICES CHILD CARE**

- A. Protective services households refers to households when child(ren) have been placed by the county in foster home care, kinship foster home care, or non-certified kinship care and that have an open child welfare case. At the option of the county, the county may provide protective services child care utilizing child care development funds (CCDF).
- B. Protective services child care is not twenty-four (24) hour care. Child care services for school-age children during regular school hours shall be different from, and cannot be substituted for, educational services that school districts are required to provide under the Colorado exceptional children's act.

#### **3.907.1 ELIGIBILITY FOR PROTECTIVE SERVICES HOUSEHOLDS (COUNTY OPTION)**

- A. Protective services households are considered to be a household of one for purposes of determining income eligibility. The only countable income for a protective services household is the income that is received by the child(ren) that have been placed in kinship or foster care. Child support income shall not be included as income. Child support income is intercepted by the county child welfare department.
- B. Protective services households shall be allowed up to sixty (60) days to provide verification of the child(ren)'s income.
- C. As determined by the Child Welfare worker, the income requirement for protective services households may be waived on a case by case basis. If the income requirement is waived, it must be documented in the case file.
- D. Protective services households are not subject to eligible activity requirements.
- E. Protective services households are not subject to residency verification requirements. The county with the open child welfare case shall be considered the county of residency.
- F. Citizenship and identity

1. Protective services households must be allowed up to six (6) months to provide verification of the child(ren)'s U.S. citizenship. Protective services households must be allowed up to sixty (60) days to provide the adult caretaker or teen parent's identification.
- G. Protective services households must be allowed up to sixty (60) days to provide verification of immunization if child care is provided by a qualified exempt child care provider not related to the child where care is provided outside of the home.

### **3.908 CHILD WELFARE CHILD CARE**

- A. Child Welfare child care is used as a temporary service to maintain children in their own homes or in the least restrictive out of-home care setting when there are no other child care options available. This may include parents, non-certified kinship care, kinship foster care homes, and foster care homes.
- B. Child Welfare child care is not twenty-four (24) hour care. Child care services for school-age children during regular school hours shall be different from, and cannot be substituted for, educational services that school districts are required to provide under the Colorado exceptional children's act.
- C. Eligibility for Child Welfare child care is determined on a case-by-case basis by the Child Welfare division using the criteria outlined in 7.302 (12 CCR 2509-4).
- D. Child Welfare households are not subject to residency verification requirements. The county with the open child welfare case shall be considered the county of residency.
- E. The county shall not provide Child Welfare child care utilizing CCDF.

### **3.909 ELIGIBILITY FOR FAMILIES EXPERIENCING HOMELESSNESS**

- A. Households shall meet the definition of families experiencing homelessness.
- B. Households that meet the definition of "families experiencing homelessness" shall be provided a child care authorization during a stabilization period of at least sixty (60) consecutive calendar-days, within a twelve (12) month period, to allow the household the opportunity to submit verification for ongoing child care subsidies.
  1. If verifications necessary to determine ongoing eligibility are received within the stabilization period, the household will continue to receive subsidized child care. If verifications necessary to determine ongoing eligibility are not received within the stabilization period, the household will be determined ineligible and given proper adverse action notice.
  3. Subsidized care provided during the stabilization period is considered non-recoverable by the county unless fraud has been established.
  4. Eligible activity
    - a. The adult caretaker(s) or teen parent(s) is not required to participate in an eligible activity during the stabilization period.
    - b. If the adult caretaker(s) or teen parent(s) is participating in an eligible activity, they will have at least sixty (60) days to provide necessary verification.

5. Residency
  - a. The adult caretaker(s) or teen parent(s) shall self-declare residency during the stabilization period by providing the location they are temporarily residing. Counties shall identify the zip code of this location in CHATS.
  - b. The adult caretaker(s) or teen parent(s) may provide a mailing address or the county shall use general delivery or the county office address for client correspondence.
6. The adult caretaker(s) or teen parent(s) may self-declare citizenship and identity of the child(ren) during the stabilization period.
7. If child care is provided by a qualified exempt child care provider not related to the child where care is provided outside of the home, the requirement to provide the county with verification of immunization status shall not be required during the stabilization period.

### **3.910 CHILD CARE ASSISTANCE PROGRAM WAIT LISTS AND ENROLLMENT FREEZES**

#### **3.910.1 WAIT LISTS**

- A. A county may apply to the state to implement a wait list when:
  1. State-generated projections indicate that a county's allocation will be at least eighty-five percent (85%) expended by the end of the fiscal year; or,
  2. A county is able to demonstrate a fiscal need that includes factors that are not accounted for in the state-generated projections for county CCAP expenditures, such as, but not limited to, drastic economic changes.
- B. Once approved, counties shall maintain a current and accurate wait list in the state identified human services case management system of adult caretakers and teen parents who have applied for the CCCAP program.
  1. Counties shall require families to complete a CCCAP application in its entirety and enroll eligible adult caretakers and teen parents from wait lists according to the following state defined target populations:
    - a. Households whose income is at or below 130% of the current federal poverty guidelines;
    - b. Children with additional care needs; and,
    - c. Families experiencing homelessness.
  2. Counties may prioritize enrollment for teen parents or other segments of populations that are defined by the county based on local needs.

#### **3.910.2 ENROLLMENT FREEZES**

- A. A county may apply to the state to implement a freeze when:

1. State-generated projections indicate that a county's allocation will be at least ninety-five percent (95%) expended by the end of the fiscal year; or,
  2. A county is able to demonstrate a fiscal need that includes factors that are not accounted for in the state-generated projections for county CCAP expenditures, such as, but not limited to, drastic economic changes.
- B. Counties that have been approved to implement a freeze shall add adult caretakers and teen parents into the state identified human services case management system if they are likely to be found eligible based on self-reported income and job, education, job search, or workforce training activity. Counties shall require an applicant to restate his or her intention to be kept on the freeze every six (6) months in order to maintain his or her place on the list.
1. Counties shall enroll eligible adult caretakers and teen parents once a freeze is lifted according to the following state defined target populations:
    - a. Households whose income is at or below 130% of the current federal poverty guidelines;
    - b. Children with additional care needs; and,
    - c. Families experiencing homelessness.
  2. Once a freeze is lifted, counties may prioritize enrollment for teen parents or other segments of populations that are defined by the county based on local needs.

### **3.911 PARENT FEES**

- A. Parent fees are based on gross countable income for the child care household compared to the household size and in consideration of the number of children in care. Parent fees are to be calculated in whole dollars by dropping the cents. Families shall be noticed of their parent fee at the time of application or re-determination; or, when a reduction/increase of household parent fee occurs.
- B. Parent fee revisions for child care during the twelve (12) month eligibility period may occur when:
1. The adult caretaker or teen parent, who was initially determined eligible with countable income, regains income after a temporary loss of income; or,
  2. A change has been reported that results in a decrease in household parent fee.
  3. There is an increase or decrease in the amount of care that is authorized and the increase in authorization is not due to the addition of a household member; or,
  4. The household begins or ceases utilization of care at a high-quality child care provider.
  5. Increases in parent fees beyond what is outlined in numbers 1-4 of this section shall only go into effect at re-determination

- C. During the twelve (12) month eligibility period the household parent fee may not be assessed higher than what was determined at the most recent application or re-determination.
- D. Parent fees shall be reviewed at re-determination. An adjusted parent fee will be based on an average of at least the past thirty (30) days gross income or a best estimate of anticipated income in the event of new employment or a change in the adult caretaker(s)' or teen parent(s)' regular monthly income. Unless, on a case-by-case basis, the prior thirty (30) day period does not provide an accurate indication of anticipated income, in which case a county can require evidence of up to twelve (12) of the most recent months of income. The adult caretaker(s) or teen parent(s) may also provide evidence of up to twelve (12) of the most recent months of income if they choose to do so if such evidence more accurately reflects the adult caretaker's current income level. Income may be divided by a weekly amount then multiplied by 4.33 to arrive at a monthly average for parent fee calculations.
- E. Colorado Works households in a paid employment activity shall pay parent fees based on gross countable income as verified and shared by the local Colorado Works program.
- F. As defined by county policy, a county may waive the parent fee for a household that has a child that is dually enrolled in a head start or early head start program
- G. For a household utilizing a child care provider in the top three levels of the state department's quality rating system, the parent fee shall be reduced by twenty percent (20%) of the regularly calculated parent fee. For households utilizing multiple child care providers, only one child care provider is required to be in the top three quality levels for the reduced parent fee to apply.
- H. All adult caretaker(s) and teen parents are required to pay the fee as determined by the formula listed below, except in the following cases:
  - 1. One or two teen parent households who are in middle/junior high, high school, GED, or vocational/technical training activity and for whom payment of a fee produces a hardship, the parent fee may be waived entirely and documented in the case file. The parent fee waiver shall be reviewed during each re-determination.
  - 2. The household is eligible for a reduced parent fee based on the quality level of the child care provider
  - 3. Colorado Works participants enrolled in activities other than paid employment
  - 4. Child Welfare Child Care households as defined in the Social Services rule manual, Section 7.000.5 (12 CCR 2509-1)
  - 5. Families Experiencing Homelessness as defined in section 3.909
  - 6. Protective Service Households as defined in section 3.907
  - 7. Families that have no income shall have no parent fee.
- I. The initial or revised fee shall be effective the first full calendar month after the end of the timely written notice period. A parent fee shall not be assessed or changed retroactively.

- J. The fee shall be paid in the month that care is received and shall be paid by the parent directly to the child care provider(s). Parent fees are used as the first dollars paid for care. The counties or their designee shall not be liable for the fee payment.
- K. When more than one child care provider is being used by the same household, child care staff shall designate to whom the adult caretaker(s) or teen parent(s) pays a fee or in what proportion the fee shall be split between child care providers. The full parent fee shall be paid each month, but parent fees shall not exceed the reimbursement rate by CCCAP. The adult caretaker(s) or teen parent(s) shall determine if it is most beneficial to close their CCCAP case if the parent fee exceeds the cost of care.
- L. Adult caretakers or teen parents will be informed of their responsibilities related to fee payment on their signed application form.
- M. Loss of eligibility for child care subsidies may occur at re-determination if the adult caretaker(s) or teen parents do not pay their parent fees; do not make acceptable payment arrangements with the child care providers; or, do not follow through with the arrangements during the twelve (12) month eligibility period. Notice of termination for such loss of eligibility shall be given in accordance with Section 3.905.5. Child care providers shall report nonpayment of parent fees no later than sixty (60) calendar-days after the end of the month following the month the parent fees are due unless county policy requires it earlier. If a household's benefits are terminated at re-determination for non-payment of parent fees, that household will remain ineligible until:
1. Delinquent parent fees are paid in full; or,
  2. Adequate payment arrangements are made with the child care provider to whom the fees are owed and an agreement is signed by both parties; or,
  3. County determination of verified good faith efforts to make payment to the child care provider(s), when the client was unable to locate the child care provider(s).
- N. The adult caretaker(s) or teen parent(s) and child care provider(s) shall be given timely written notice of the parent fee amount, on the child care notice of authorization, at least fifteen (15) calendar-days prior to the first of the month the parent fee is effective.
- O. Parent fees shall be assessed based on the following formula:

PERCENT FPG	FOR FIRST CHILD-PERCENT OF HOUSEHOLD INCOME	EACH ADDITIONAL CHILD
At or below 100%	1%	NONE
Above 100% and at or below 103%	2%	\$15
Above 103% and at or below 106%	3%	\$15
Above 106% and at or below 109%	4%	\$15
Above 109% and at or below 112%	5%	\$15
Above 112% and at or below 115%	6%	\$15
Above 115% and at or below 118%	7%	\$15
Above 118% and at or below 121%	8%	\$15
Above 121% and at or below 124%	9%	\$15
Above 124% and at or below 130%	10%	\$15
Above 130% and at or below 160%	11%	\$25

Above 160% and at or below 185%	12%	\$35
Above 185% and at or below 205%	13%	\$40
Above 205% and below 85% state median	14%	\$40

- P. Counties shall use the federal poverty guidelines and state median income limit as defined in section 3.905.1 (H)(2). Counties shall update parent fees at the next scheduled re-determination.
- Q. Parent fees, as assessed by the parent fee formula, may be reduced to five dollars (\$5) for hardship reasons for up to six (6) months per hardship award. The county director or his/her designee shall approve fee reductions and a written justification placed in the case file and noted in the case record in the Child Care Automated Tracking System (CHATS). Any hardship award may be extended so long as justification for extending the hardship award exists.
- R. The state department shall notify counties annually of the current federal poverty guidelines and state median income limit. Counties shall update parent fees at the next scheduled redetermination.
- S. When all children in a household are in part-time care, the parent fee shall be assessed at fifty-five percent (55%) of the above-calculated fee. Part-time care is defined as an average of less than thirteen (13) full-time equivalent units of care per month.
- T. When parent fees fluctuate between part-time and full-time, due to the authorized care schedule, the parent fee should be assessed at the lower rate if the majority of the months in the twelve (12) month eligibility period calculate to part-time care.
- U. Children enrolled in grades one (1) through twelve (12) that are authorized for part-time care during the school year must have a part-time parent fee.
- V. One or two teen parent households for whom payment of a parent fee produces a hardship may have their fee waived entirely. The parent fee waiver shall be documented in the case file and reviewed during each subsequent re-determination.

### **3.912 COUNTY RESPONSIBILITIES**

- A. Counties shall administer the Colorado Child Care Assistance Program in compliance with State Department fiscal and program regulations and in accordance with the terms associated with their allocation. Counties will be allocated child care funds annually.
- B. Counties or their designee shall establish administrative controls to ensure appropriate internal controls and separation of duties (this means that the same employee shall not authorize and process payment for child care services). If these administrative controls create a hardship for the county, the county shall submit a waiver request and an internal county policy to the state department for approval. In no event will the state department approve a waiver of controls specified in federal or state statute or regulation/rule.
- C. Counties shall use forms as specified when required by the State Department. Counties may add additional language to state forms but shall not remove language. This does not include the CCCAP application or re-determination. All changes to forms shall be submitted to and approved by the state department prior to use.
- D. Counties shall respond to requests from the State Department within two (2) business days.



- E. Counties shall make reasonable efforts to advise county residents of services available to target groups through press releases, presentations, pamphlets, and other mass media.
- F. Counties shall use CHATS as designated by the state to administer CCCAP. Counties who do not use CHATS as prescribed by the state may not be reimbursed.
- G. Counties shall establish controls over which county staff have the authority to override eligibility in CHATS. All overrides of eligibility shall be accompanied by documentation in CHATS.
- H. Counties shall document in CHATS actions and contacts made under the appropriate comment screen, within two (2) business days of case action or contact.
- I. Counties shall code child care expenditures to the appropriate program, as prescribed by the state. Failure to do so may result in non-reimbursement or other actions as deemed appropriate by the state.
- J. Counties shall monitor expenditures of Child Care funds and may suspend enrollments, as necessary, to prevent over-expenditures in child care. "Reimbursable expenditures" are supported in whole or in part by State General Fund, Federal (pass through) or a combination of State and Federal money.
- K. Counties shall be responsible for the provision of a safe place for storage of case records and other confidential material to prevent disclosure by accident or as a result of unauthorized persons other than those involved in the administration of the CCCAP program. Data of any form shall be retained for the current year, plus three previous years, unless:
  - 1. A statute, rule or regulation, or generally applicable policy issued by a county, state or federal agency that requires a longer retention period; or,
  - 2. There has been a recovery, audit, negotiation, litigation or other action started before the expiration of the three-year period.
  - 3. If a county shares building space with other county offices, it shall use locked files to store case material and instruct facility and other maintenance personnel concerning the confidential nature of information.
- L. If a county opts to require Child Support Services the county shall coordinate with the county Child Care Assistance Program or delegate agency and the delegate county Child Support Services Unit. This includes, but is not limited to:
  - 1. Developing a referral process to notify the delegate Child Support Services unit within its county within fifteen (15) calendar-days of determining that a household is eligible for CCCAP.
  - 2. Determining good cause procedures. Counties shall notify the delegate Child Support Services unit within its county within fifteen (15) calendar-days of making the good cause determination.
  - 3. Developing cooperation and non-cooperation procedures which shall include timelines and processes for inter-department communication.
  - 4. Notifying Child Support Services no later than the end of the thirty (30) day reinstatement period of a low income case closure.

- M. Counties shall post eligibility, authorization, and administration policies and procedures so they are easily accessible and readable to the layperson. The policies shall be sent to the State Department for compilation.
- N. Counties shall provide adult caretakers, teen parents, child care providers and the general public with information as required by the state department including but not limited to:
1. Information on all available types of child care providers in the community: centers, family child care homes, qualified exempt child care providers and in-home child care. This information can be provided through child care resource and referral agencies.
  2. Information regarding voter registration
  3. Information on family support services including but not limited to:
    - a. Colorado Works;
    - b. Head Start and Early Head Start;
    - c. Low-Income Energy Assistance Program (LEAP);
    - d. Food Assistance program;
    - e. Women, Infants and Children (WIC) program;
    - f. Child and Adult Care Food program (CACFP);
    - g. Medicaid And State Children's Health Insurance Program;
    - h. Housing Information; and,
    - i. Individuals with Disabilities Education Act (IDEA) programs and services.
  4. Counties shall also provide information and referrals to services under early and periodic screening, diagnosis, and treatment (EPSDT) under Medicaid and Part C of IDEA (34 CFR 300)
  5. Counties shall collect information on adult caretaker(s) or teen parent(s) receiving programs services listed in 3.911, N, 3-4 via the CCCAP application and shall enter the information into CHATS for reporting purposes.
- O. Once determined eligible, households should remain eligible for a minimum of twelve (12) months. Counties shall not discontinue child care services prior to a household's next eligibility re-determination unless:
1. The household's income exceeds eighty-five percent (85%) of the state median income;
  2. The adult caretaker(s) or teen parent(s) is no longer in a qualifying eligible activity for the reasons that do not constitute a temporary break as defined in section 3.905.2,C; or,
  3. The adult caretaker(s) or teen parent(s) no longer reside(s) in the state.

- P. Counties shall provide written wait list and freeze policies to the state for review and approval at the time of county plan submission.
- Q. Counties shall maintain a current and accurate wait list in the state identified human services case management system of adult caretakers and teen parents who have applied for the CCCAP program.
- R. Counties shall review current applications for completeness, approve or deny the application, and provide timely written notice to the adult caretaker(s) or teen parent(s) of approval, or of missing verifications, no more than fifteen (15) calendar-days from the date the application was received by the county. Applications are valid for a period of sixty (60) calendar-days from the application date.
1. If verifications are not received within the fifteen (15) day noticing period the application will be denied.
  2. If verification is received within sixty (60) calendar-days of the application date, counties will determine eligibility from the date the current verification was received if the eligibility criteria is met.
  3. If verification has not been completely submitted within sixty (60) calendar-days of the application date then the county shall require a new application.
- S. Upon review of an application that was directed to the wrong county of residence, the receiving county shall forward the application and any verification within one (1) business day to the correct county. The county shall provide notification to the adult caretaker(s) or teen parent(s) that his/her application has been forwarded to the correct county.
- T. Counties may access information already available on file or through system interfaces from other assistance programs within their county to use in child care eligibility determination at application and/or re-determination. Counties shall place a copy of this verification in the case file and/or make a notation in CHATS regarding the verification as appropriate.
- U. Counties shall obtain immunization records for children who receive child care from qualified exempt child care providers not related to the child(ren), where care is provided outside of the child's home and the child(ren) are not school age at application and re-determination.
- V. Counties are encouraged to use collateral contact whenever possible to verify information needed to determine eligibility, not including citizenship and identity.
- W. Counties shall allow adult caretaker(s) or teen parent(s) who declare their children are citizens of the U.S. no more than six (6) months to obtain the documents needed to meet the citizenship documentation requirement for the children.
- X. Counties shall not require Social Security Numbers or cards for household members who apply for child care assistance.
- Y. Counties shall verify the date of birth for all children receiving child care services.
- Z. Counties shall use the prudent person principle when determining eligibility or authorizing care and shall document reasoning in the appropriate notes section of CHATS.
- AA. Counties or their designee shall verify the residence of any adult caretaker(s) or teen parent(s) receiving or applying for child care assistance to ensure that they live in the county where they

are applying for assistance at the time of application or re-determination. For families experiencing homelessness, refer to section 3.909.

1. Verification of address may include but is not limited to:
    - a. Rent receipt/lease; or,
    - b. Mortgage statement; or,
    - c. Utility or other bill mailed no more than two months previously; or,
    - d. Voter registration; or,
    - e. Automobile registration; or,
    - f. A statement from the person who leases/owns the property; or,
    - g. Documentation from schools such as verification of enrollment, report card, or official transcript mailed no more than two months previously; or,
    - h. Official correspondence from any other government agency (e.g. IRS) mailed within the past two months; or
    - i. A statement from another department in your agency if they have verified the residence (e.g. Child Welfare, collateral contact); or
    - j. Paycheck stub received within the past two months
  2. If the county of residence is questionable, a secondary means of verification may be requested such as but not limited to:
    - a. Records from the local county clerk and recorder's office; or,
    - b. Records from the local county assessor's office.
- BB. County child care staff shall advise low-income adult caretaker(s) or teen parent(s) of their responsibilities in writing at application and re-determination. Information that shall be reported during the twelve (12) month eligibility period is as follows:
1. Changes to income, if the household's income exceeds eighty-five percent (85%) of the State median income shall be reported within ten (10) calendar-days of the change.
  2. Changes to an adult caretaker(s) or teen parent's qualifying eligible activity, which does not qualify as a temporary break as defined in section 3.905.2, C, must be reported within four (4) calendar weeks.
- CC. Counties shall process any reported change and/or required verification within ten (10) calendar-days of receiving the information using the following guidelines:
1. Changes reported during the twelve (12) month eligibility period requiring immediate action:

- a. Changes to income, if the household's income exceeds eighty-five percent (85%) of the state median income;
  - b. Changes to an adult caretaker or teen parent's qualifying eligibility activity, which does not qualify as a temporary break as defined in section 3.905.2, C;
  - c. Changes in parent fee per section 3.910
  - d. Changes in state residency; and,
  - e. Changes that are beneficial to the household such as, but not limited to:
    - 1) An increase in authorized care;
    - 2) A change of child care provider;
    - 3) Change in household composition due to an additional child requesting care; and,
    - 4) Change in mailing address.
2. Changes outside of the above guidelines should be documented in CHATS but shall not be acted upon until the adult caretaker or teen parent's re-determination.

DD. If the adult caretaker(s) or teen parent(s) moves out of the county in which they are actively receiving child care assistance benefits during the twelve (12) month eligibility period; remains below eighty-five percent (85%) of the state median income; and, remains in an eligible activity as defined in the originating county's county plan, the originating county shall maintain the case, authorization(s), and fiscal responsibility until the re-determination date that was previously determined;

- 1. The originating county shall be responsible for initiating and/or maintaining the fiscal agreement for the child care provider that the family utilizes for care in accordance with 3.914.5(B) for the remainder of the twelve (12) month eligibility period. If the originating county does not have an active fiscal agreement with the chosen child care provider at the time of exit, the child care provider's fiscal agreement shall be entered using the county ceiling rates of the county in which the provider is located.
- 2. At the time of re-determination, the receiving county shall re-determine the household's eligibility per section 3.905.3 without requiring the household to re-apply. at the time of re-determination the originating county shall issue the eligibility re-determination form to the household per section 3.905.3 and direct the family to return the completed form to the receiving county. In order to mitigate service interruptions, the originating county shall notify the receiving county of the re-determination and their responsibilities of re-determining eligibility.
- 3. The child care case may be closed if at the time of re-determination the family does not meet the eligibility requirements of the receiving county.
- 4. If the receiving county has a wait list at the time of re-determination, a family may be placed onto that county's wait list provided they are not a part of the county defined target populations.

- EE. Counties shall respond to requests for information or assistance from other agencies within five (5) business days.
- FF. Whenever possible in processing re-determinations of eligibility for adult caretaker(s) or teen parent(s) currently receiving CCCAP, counties shall use information that is already available in other sources to document any verification including citizenship and identity.
- GG. Counties shall reduce parent fees by twenty percent (20%) of the regularly calculated parent fee when a household utilizes a quality child care provider rated in the top three levels of the state department's quality rating system. For households utilizing multiple child care providers, only one child care provider is required to be in the top three quality levels for the reduced parent fee to apply.
- HH. Reports of unpaid parent fees shall be documented on the case and the county shall not take action on report of unpaid parent fees until re-determination. If the unpaid parent fee is reported outside of the required reporting period outlined in 3.913.2, Q, the county shall not take any action. If at the time of re-determination, the parent fee remains unpaid and acceptable payment arrangements have not been made with the child care provider, the household shall remain ineligible until:
1. Delinquent parent fees are paid in full;
  2. Adequate payment arrangements are made with the child care provider to whom the fees are owed and an agreement is signed by both parties; or,
  3. County determination of verified good faith efforts to make payment to the child care provider(s), when the client was unable to locate the child care provider(s).
- II. Counties shall authorize care based on verified need, by establishing an authorization to cover the maximum amount of units needed to ensure care is available based on the adult caretaker or teen parent's participation in an eligible activity, and shall not be linked directly to the adult caretaker or teen parent's activity schedule and should be based on the child's need for care.
- JJ. Counties are encouraged to blend Head Start, Early Head Start and CCDF funding streams by authorizing care based on the child's need for care, regardless of the child's head start or early head start enrollment status, in order to provide seamless services to children dually enrolled in these programs.
- KK. Counties shall align the CCCAP re-determination date with the Head Start or Early Head Start program year upon notification that a child is enrolled in a Head Start or Early Head Start program. The re-determination date shall not occur any earlier than twelve (12) months from the CCCAP application date.
- LL. With regard to services to students enrolled in grades one (1) through twelve (12), no funds may be used for services provided during the regular school day, for any services for which the students received academic credit toward graduation, or for any instructional services, which supplant or duplicate the academic program of any public or private school, this applies to grades 1 through 12. Exceptions to this may include but are not limited to:
1. When a child is temporarily prohibited from attending his/her regular classes due to a suspension or expulsion; or,
  2. When a child is temporarily out of school due to scheduled breaks; or,

3. When a child is temporarily out of school due to unexpected school closures.
- MM. The authorization start date shall be the date a low income CCCAP case is determined eligible, except in the case of a pre-eligibility application.
- NN. For pre-eligibility care reimbursable after eligibility has been determined and the county can provide subsidy for the potential program participant, authorization shall be dated to the date the pre-eligibility application was received by the county.
- OO. The county shall generate a state-approved notice regarding changes to child care subsidies within one (1) business day and provide to the primary adult caretaker, teen parent and child care provider via postal service, e-mail or other electronic systems, fax, or hand-delivery.
- PP. If verification that is needed to correct the reason for closure of a child care case is received within thirty (30) calendar-days after the effective date of closure, eligibility shall be determined as of the date the verification was received regardless of any break in service period.
- QQ. The county shall generate Attendance Tracking System registration for the household upon case approval or initial authorization.
- RR. The county shall generate Attendance Tracking System registration for child care providers when a fiscal agreement with a provider is opened.
- SS. The county shall make available the following child care provider information, including protective services information, to all staff whose responsibilities include child care subsidy services:
1. Information known to licensing staff.
  2. Information from previous agency contacts.
  3. Information obtained from the Fiscal Agreement renewals.
  4. Information obtained from adult caretaker(s) or teen parent(s), caseworker visits, and other sources.
  5. Information about corrective action intervention by the counties, their designee(s), or State Department.
- TT. Counties are responsible for verifying proof of lawful physical residence in the United States for any qualified exempt child care provider(s).
- UU. The counties or their designee will complete a review of the state administered system for child abuse and neglect on the qualified exempt child care provider(s) and any one in the qualified exempt child care provider's household who is eighteen (18) years and over not including the adult caretaker(s) or teen parent(s).
- VV. Upon notification to counties by the state department that the relevant human services systems are capable of accommodating this review, the counties or their designee shall screen the qualified exempt child care provider(s) and any other adult eighteen (18) years of age and older, not including the adult caretaker(s) or teen parent(s), for current or previous adverse county contact, including but not limited to, allegations of fraud or IPV.

- VV. The county shall reimburse licensed child care providers based on the state established base payment and tiered reimbursement rates.
- WW. The county-established licensed child care provider reimbursement rates shall include a system of tiered reimbursement based on quality levels for licensed child care providers that enroll children participating in CCCAP.
- XX. For renewals, the county shall send fiscal agreements at least sixty (60) calendar-days prior to the end date of the previous fiscal agreement via postal service, fax, hand-delivery, e-mail or other electronic systems.
- YY. Counties shall make fiscal agreements effective the date that the county receives the completed and signed fiscal agreement from the provider. Fiscal agreements shall be:
1. One(1) year in length for qualified exempt child care providers
  2. Three (3) years in length for licensed child care providers
- ZZ. Counties shall reimburse providers at the rate set by the state department.
- AAA. Prior to approving a fiscal agreement with any child care provider, the county shall compare the child care provider's private pay rates to the county's reimbursement rates set by the state. The CCCAP reimbursement rate paid to the provider by the county must be the lesser of the two.
- BBB. Counties shall:
1. Have fiscal agreements signed by the child care provider and county staff prior to opening them in CHATS;
  2. Enter a completed fiscal agreement into CHATS within five (5) business days of receipt; and,
  3. Provide a copy of the fully executed fiscal agreement to the child care provider within seven (7) calendar days of THE CHATS entry.
- CCC. Counties shall not make changes to their county ceiling rates more than every twelve (12) months unless instructed to do so by the state department.
- DDD. Counties shall update CHATS and notify a provider via rate notification within fifteen (15) business days after a child care technician has received a system generated quality rating change notification indicating that a provider has had a change in their quality rating.
- EEE. Counties shall verify that child care providers are not excluded from receiving payments prior to signing a fiscal agreement. The county shall make this verification check through the Excluded Parties List System (EPLS) established by the General Services Division on the website at: [www.sam.gov](http://www.sam.gov).
- FFF. Counties shall pay child care providers for services provided that could not be paid through the automated system, based on county payroll policies. If payment is delayed for any reason, the county shall notify the child care provider(s) in a timely manner and document the circumstances in CHATS.



- GGG. In any cases where payments to licensed child care providers or qualified exempt child care providers are delayed more than three (3) calendar months past the end of the month care was provided, county-only money shall be used to pay for this care.
- HHH. Counties shall ensure that child care providers are not charging the county more than the child care provider's established private pay rates.
- III. County offices shall complete a random monthly review of attendance data for at least one percent (1%) or one provider, whichever is greater. The county or its designee shall take necessary action as defined in the county fraud referral process if the review indicates:
4. That the child care provider(s) may have submitted an inaccurate report of attendance for a manual claim, the county or its designee shall contact the child care provider(s) and adult caretaker(s) or teen parent(s) to resolve the inaccuracy.
  5. That either the adult caretaker(s) or teen parent(s) or the child care provider has attempted to defraud the program or receive benefits to which they were not eligible. The county or its designee shall report that information to the appropriate legal authority.
- JJJ. Counties shall refer, within fifteen (15) calendar-days of establishing recovery, to the appropriate investigatory agency and/or the district attorney, any alleged discrepancy which may be a suspected fraudulent act by a household or child care provider of services.
- KKK. Counties shall establish recoveries within twelve (12) months of discovery of the facts resulting in recovery.
- LLL. Counties shall take whatever action is necessary to recover payments when households and/or child care providers owe money to the State Department because of overpayments, ineligibility and/or failure to comply with applicable state laws, rules or procedures.
- MMM. Counties shall report established recoveries that are the result of legally designated or determined fraud or recoveries of five-thousand dollars (\$5000) or more to the state department.

### **3.913 ADDITIONAL COUNTY RESPONSIBILITIES FOR COLORADO WORKS CHILD CARE**

- A. The county will act within five (5) business days of receipt of a referral from Colorado Works for new or ongoing child care.
- B. The county shall not terminate care on any Colorado Works (basic cash assistance) child care cases until the end of the month the Colorado Works case is closed. Since clients are eligible for Colorado Works for the entire month, they are also eligible for Colorado Works child care. This does not include Colorado Works diversion cases.

### **3.914 PRE-ELIGIBILITY DETERMINATIONS**

An Early Care and Education provider may provide services to the household prior to the final determination of eligibility and shall be reimbursed for such services only if the county determines the household is eligible for services and there is no need to place the household on the wait list. The start date of eligibility is defined in Section 3.911, Q. If the household is found ineligible for services, the Early Care and Education provider shall not be reimbursed for any services provided during the period between his/her pre-eligibility determination and the county's final determination of eligibility.

The Early Care and Education provider or county may conduct a pre-eligibility determination for child care assistance for a potential program participant to facilitate the determination process.

- A. The Early Care and Education provider may submit the prospective program participant's State-approved application, release of information, and documentation to the county for final determination of eligibility for child care assistance. The Early Care and Education provider shall signify on the first page of the application in the space provided that a pre-eligibility determination has been made.
- B. The Early Care and Education provider or county may provide services to the household prior to final determination of eligibility, and the county shall reimburse an Early Care and Education Provider:
  - 1. As of the date the county receives the application from the Early Care And Education provider for such services only if the county determines the prospective program participant is eligible for services; and,
  - 2. There is no need to place the prospective program participant on a wait list.
- C. All supporting documentation for a pre-eligibility application submitted by an Early Care and Education Provider shall be received in thirty (30) calendar-days of the date the application was received or the application may be determined ineligible by the county. If all verifications are received between the thirty-first (31st) and sixtieth (60th) day, counties shall determine eligibility from the date the verification was received.
- D. If the prospective program participant is found ineligible for services, the county shall not reimburse the Early Care and Education provider for any services provided during the period between its pre-eligibility determination and the county's final determination of eligibility.
- E. If an Early Care and Education provider or county has conducted a pre-eligibility determination, they shall include documentation of the information on which the pre-eligibility determination has been made in or with the application. The documentation shall include household income, household composition, and eligible activity.
- F. When a county conducts a pre-eligibility determination, the county shall notify the prospective child care provider with the referral for pre-eligibility authorization that payment for care provided prior to full eligibility may not occur if the adult caretaker(s) or teen parent(s) is ultimately deemed ineligible for the CCCAP program.
- G. A child care provider may refuse to serve a county pre-eligibility authorized program participant.

### **3.915 CHILD CARE PROVIDERS**

#### **3.915.1 ELIGIBLE FACILITIES**

##### **A. Licensed Facilities**

The following facilities are required to be licensed and comply with licensing rules as defined in the Social Services rule manual, sections 7.701 through 7.712 (12 CCR 2509-8):

- 1. Family child care homes
- 2. Child care centers which are less than 24-hour programs of care, as defined in section 26-6-102(1.5), C.R.S.
- B. Qualified Exempt Child Care Providers

1. Qualified exempt child care provider: A non-licensed family child care home in which less than twenty-four (24) hour care is given at any one time for:
  - a. Any number of children directly related to the provider;
  - b. Any number of siblings from one family unrelated to the provider; or,
  - c. Up to four (4) children, who are unrelated to the provider.
  - d. No more than two (2) children under the age of two (2) years may be cared for at any time if the provider's own children are in the provider's care as they are counted toward the maximum capacity of four (4).
  - e. The relationships for care outlined in a-b of this section include:
    - 1) "Relative in-home care" means care provided by a relative in the child's own home by a person who does not meet the definition of "adult caretaker" or "teen parent".
    - 2) "Relative out-of-home care" means care provided by a relative in another location by a person who does not meet the definition of "adult caretaker" or "teen parent".
    - 3) "Non-relative in-home care" means care provided by a person, who is not related to the child, in the child's own home by a person who does not meet the definition of "adult caretaker" or "teen parent".
    - 4) "Non-relative out-of-home care" means care provided by a person, who is not related to the child, in another location by a person who does not meet the definition of "adult caretaker" or "teen parent".
2. The counties or their designee shall register qualified exempt child care providers and include the following information: name, address (not a P.O. Box #), phone number and social security number. Pursuant to Section 24-76.5-103, C.R.S., counties or their designee shall verify the lawful presence in the United States of all applicants for state or local public benefits, or federal benefits provided by CDHS, or by the county or their designee under the supervision of the State Department pursuant to Section 3.140.12, except as otherwise provided in subsection (3) of 24-76.5-103, C.R.S. Any contract provided by an agency of a state or local government is considered a public benefit.
3. Qualified Exempt Child Care Provider Requirements
  - a. Qualified exempt child care provider(s) must be at least eighteen (18) years of age.
  - b. A qualified exempt child care provider shall not be the parent or adult caretaker of the child that is receiving care.
  - c. As a prerequisite to signing a fiscal agreement with a county or its designee, a qualified exempt child care provider shall sign an attestation of mental competence. The attestation affirms that he or she, and any adult residing in the qualified exempt child care provider home where care is provided, has not been adjudged by a court of competent jurisdiction to be insane or mentally incompetent to such a degree that the individual cannot safely care for children.

- d. A qualified exempt child care provider shall complete and sign the self-attestation form agreeing to participate in additional training as identified. As a part of this agreement, the provider shall not have had any of their own children removed from the home or placed in a residential treatment facility. The form must include the signature of the adult caretaker(s) or teen parent(s) acknowledging monitoring responsibilities.

#### 4. Background Checks

- a. A qualified exempt child care provider and any adult eighteen years of age or older who resides in the exempt child care provider's home, not including the adult caretaker(s) or teen parent(s), must be subject to a county level background check. The background check will be used to preclude individuals with founded or substantiated child abuse or neglect from providing child care.
- b. A qualified exempt child care provider and any adult eighteen years of age or older who resides in the exempt child care provider's home, not including the adult caretaker(s) or teen parent(s), must also be subject to and pass a criminal background review as follows:
  - 1) A review of the Federal Bureau of Investigations (FBI) fingerprint-based criminal history records every five (5) years;
  - 2) A review of the Colorado Bureau Of Investigations (CBI) fingerprint-based criminal history records at application;
  - 3) An annual review of the state administered database for child abuse and neglect;
  - 4) An annual review of the CBI sex offender registry; and,
  - 5) The national sex offender registry public website (upon notification to counties by the state department that the relevant state and federal human services systems are capable of accommodating this review).
- c. Information submitted to the CBI sex offender registry and the national sex offender registry public website shall include:
  - 1) Known names and addresses of each adult residing in the home, not including the adult caretaker(s) or teen parents; and,
  - 2) Addresses.
- d. At the time of submission of the completed background check packet, as determined by state procedures, a qualified exempt child care provider shall submit certified funds (i.e., money order or cashier's check) to cover all fees indicated below.
  - 1) A fee for the administrative costs referred to in Section 7.701.4, F (12 CCR 2509-8).

A fee for each set of submitted fingerprints for any adult who resides in the home where the care is provided, eighteen (18) years of age or older, not including the adult caretaker(s) or teen parent(s), will be required.

Payment of the fee for the criminal record check is the responsibility of the individual being checked unless the county chooses to cover the cost associated with the criminal record check. Counties that choose to exercise this option shall document the policy within their county plan.

- 2) Counties will be notified of the date the background check has cleared and shall use that date as the effective date of reimbursement for the fiscal agreement. Child care authorizations must not begin until the background check has cleared.
- d. The qualified exempt child care provider(s) may continue to receive payment as long as the qualified exempt child care provider(s) or other adult is not ineligible due to the following circumstances:
- 1) Conviction of child abuse, as described in Section 18-6-401, C.R.S.;
  - 2) Conviction of a crime of violence, as defined in Section 18-1.3-406, C.R.S.;
  - 3) Conviction of any felony offense involving unlawful sexual behavior, as defined in Section 16-22-102 (9), C.R.S.;
  - 4) Conviction of any felony that on the record includes an act of domestic violence, as defined in Section 18-6-800.3, C.R.S.;
  - 5) Conviction of any felony involving physical assault, battery or a drug related/alcohol offense within the five years preceding the date of the fingerprint-based criminal background check;
  - 6) Conviction of any offense in another state substantially similar to the elements described in Items 1 through 5, above;
  - 7) Has shown a pattern of misdemeanor convictions within the ten (10) years immediately preceding submission of the application. "Pattern of misdemeanor" shall include consideration of Section 26-6-108(2), C.R.S., regarding suspension, revocation and denial of a license, and shall be defined as:
  - 8) Three (3) or more convictions of 3rd degree assault as described in Section 18-3-204, C.R.S., and/or any misdemeanor, the underlying factual basis of which has been found by any court on the record to include an act of domestic violence as defined in Section 18-6-800.3, C.R.S.; or,
  - 9) Five (5) misdemeanor convictions of any type, with at least two (2) convictions of 3rd degree assault as described in Section 18-3-204, C.R.S., and/or any misdemeanor, the underlying factual basis of which has been found by any court on the record to include an act of domestic violence as defined in Section 18-6-800.3, C.R.S.; or,
  - 10) Seven (7) misdemeanor convictions of any type.
  - 11) Has been determined to be responsible in a confirmed report of child abuse or neglect.

- e. A qualified exempt child care provider shall notify the county with whom he or she has contracted pursuant to a publicly funded state Child Care Assistance Program, within ten (10) calendar-days of any circumstances that result in the presence of any new adult in the residence.
- 5. Additional requirements for non-relative qualified exempt child care providers and other qualified child care facilities:
  - a. Completion of all pre-service health and safety trainings approved by the state department of human services, within three months of providing services as a qualified exempt child care provider under the Colorado Child Care Assistance Program.
  - b. An annual on-site health and safety inspection conducted by the state department of human services or its designee. The health and safety check list is incorporated by reference to provide further guidance; no further editions or amendments are included. Non-relative qualified exempt providers shall correct any health and safety inspection standards immediately after the inspection.
  - c. Qualified exempt non-relative child care providers shall meet the mandatory child abuse and neglect reporting requirements.
  - d. If the non-relative qualified exempt child care provider fails to comply with any of the requirements in (a)-(d) above, the county shall deny or terminate a fiscal agreement.
- 6. Qualified exempt child care providers who are denied a Fiscal Agreement or whose Fiscal Agreement is terminated may request an informal conference with staff responsible for the action, the supervisor for that staff and the county director or director's designee to discuss the basis for this decision and to afford the qualified exempt child care provider(s) with the opportunity to present information as to why the qualified exempt child care provider(s) feels the county should approve or continue the Fiscal Agreement. Any request for a conference shall be submitted in writing within fifteen (15) calendar-days of the date the qualified exempt child care provider is notified of the action. The county shall hold that conference within two (2) weeks of the date of the request. The county shall provide written notice of its final decision to the qualified exempt child care provider(s) within fifteen (15) business days after the conference.
- 7. Non-relative qualified exempt child care providers who are denied a fiscal agreement or whose fiscal agreement is terminated due to the department's decision regarding adherence to health and safety standards may appeal the decision to the executive director of the state department of human services or his/her designee in writing within fifteen (15) days of the county's decision. The executive director's decision is a final agency decision subject to judicial review by the state district court under § 24-4-106, C.R.S.
- C. For renewals, the county shall send fiscal agreements at least sixty (60) calendar-days prior to the end date of the previous fiscal agreement via postal service, fax, hand-delivery, e-mail or other electronic systems.
- D. Payment Methods

1. Payment for purchased child care shall be made to the child care provider(s) through an automated system if it is a qualified exempt child care provider(s) or licensed facility.
  2. When a manual claim is needed, the state prescribed child care manual claim form for attendance record and billing must be prepared and signed by the child care provider for increments of one month or less. The county shall utilize the state prescribed manual claim to verify that the billing is for care that was authorized and utilized and does not exceed the authorized number of units.
- E. Child care providers shall be provided with a written notice of the process of termination of the fiscal agreement on the fiscal agreement form.

### **3.915.2 CHILD CARE PROVIDER RESPONSIBILITIES**

- A. Child care Providers shall maintain a valid child care license as required by Colorado statute unless exempt from the Child Care Licensing Act.
- B. Child care Providers shall report to the county if their license has been revoked, suspended, or denied within three (3) calendar-days of receiving notification or a recovery will be established of all payments made as of the effective date of closure.
- C. Child care providers shall report to the county and state licensing any changes in address no less than thirty (30) calendar-days prior to the change.
- D. Child care providers shall report to the county and state licensing any changes in phone number within ten (10) calendar-days of the change.
- E. Child care providers shall allow parents, adult caretakers, or teen parents immediate access to the child(ren) in care at all times.
- F. Child care providers shall accept referrals for child care without discrimination with regard to race, color, national origin, age, sex, religion, marital status, sexual orientation, or physical or mental handicap.
- G. Child care providers shall provide children with adequate food, shelter, and rest as defined in licensing rule (12 CCR 2509-8).
- H. Child care providers shall maintain as strictly confidential all information concerning children and their families.
- I. Child care providers shall protect children from abuse/neglect and report any suspected child abuse and neglect to the county or the Colorado Child Abuse and Neglect Hotline immediately.
- J. Child care providers shall provide child care at the facility address listed on the fiscal agreement and ensure care is provided by the person or business listed on the fiscal agreement. Exceptions are defined in licensing rules (12 CCR 2509-8).
- K. Child care providers will not be reimbursed for any care provided before the fiscal agreement start date and after the fiscal agreement end date.
- L. Child care providers shall sign the fiscal agreement and all other county or state required forms. Payment shall not begin prior to the first of the month the fiscal agreement has been signed and received by the county.

- M. Child care providers shall comply with Attendance Tracking System (ATS) requirements as defined in section 3.914.4.
- N. Child care providers shall develop an individualized care plan (ICP) for children with additional care needs based upon the Individual Education Plan (IEP), or Individual Health Care Plan (IHCP), and provide a copy to the county eligibility worker on an annual basis or other alternate period of time determined in the plan.
- O. Licensed child care providers shall maintain proof of up-to-date for the children in their care in accordance with Section 7.702 et seq. (12 CCR 2509-8). This rule does not apply to the following:
  - 1. Qualified exempt child care Providers caring for children in the child's own home; or,
  - 2. Qualified exempt child care Providers caring only for children related to the child care provider such as grandchildren, great-grandchildren, siblings, nieces, or nephews, etc.;
- P. Child care Providers shall maintain paper or electronic sign in/out sheets that the person authorized to drop off/pick up the children has signed with the date, names of the children and, the time the children arrive and leave each day they attend. These records shall be available for county review upon request and maintained for the current year plus three years.
- Q. Child care providers shall report non-payment of parent fees no later than sixty (60) calendar-days after the end of the month the parent fees are due unless county policy requires it earlier. The unpaid parent fees can be reported by fax, e-mail or other electronic systems, in writing or on the billing form.
- R. Child care providers shall notify the county of unexplained, frequent and/or consistent absences within ten (10) calendar-days of establishing a pattern.
- S. Child care providers shall not charge counties more than their established private pay rates.
- T. Child care providers shall not charge adult caretakers or teen parents rates in addition to those agreed upon in the fiscal agreement (this includes the agreed upon registration, mandatory activity and transportation fees if the county pays these fees).
- U. Child care Providers shall offer free, age appropriate alternatives to voluntary activities.
- V. Child care Providers shall only bill for care authorized and utilized.
- W. Child care Providers shall bill counties monthly for services authorized and attended but not paid through the Attendance Tracking System (ATS). Payment for services shall be forfeited if the original state prescribed manual claim form is not submitted within sixty (60) calendar-days following the month of service.
- X. Child care providers shall not hold, transfer, or use an adult caretaker or teen parent's individual attendance credentials. If intentional misuse is founded by any county or state agency, the child care provider will be subject to fiscal agreement termination as outlined in section 3.914.



### **3.915.3 COMPLAINTS ABOUT CHILD CARE PROVIDERS**

Counties and the public may access substantiated complaint files regarding complaints about procedures other than child abuse at the Colorado Department of Human Services, Division of Early Care and Learning, or on the CDHS website at <https://gateway.cdhs.state.co.us/cccls/PublicFileReview.aspx>.

#### **A. Complaints about qualified exempt child care providers**

Complaints shall be referred to the Colorado Department of Human Services, Division of Early Care and Learning Licensing staff or appropriate contracted agencies the same day as it is received by the county when:

1. The complaint is about a qualified exempt child care provider, who is alleged to be providing illegal care.
2. The complaint is related to issues with a qualified exempt child care provider such as violation of non-discrimination laws or denial of parent access (does not include investigation of illegal care).

#### **B. Complaints about licensed child care providers**

The following guidelines shall apply to complaints received by counties about licensed child care providers:

1. If the complaint concerns child abuse or neglect, the county shall immediately refer the complaint to the appropriate county protective services unit.
2. If the complaint concerns a difference of opinion between a child care provider and an adult caretaker(s) or teen parent(s), the counties shall encourage the child care provider and adult caretaker or teen parent to resolve their differences.
3. Complaints shall be referred to the Colorado Department of Human Services, Division of Early Care and Learning licensing staff the same day the county receives it when the complaint is about a family child care home or child care center and is related to noncompliance licensing issues.

### **3.916 PURCHASE OF SERVICES**

#### **3.916.1 CHILD CARE PROVIDER REIMBURSEMENT RATES**

The counties shall implement the state-established licensed child care provider base payment rates for each county on July first every year. In addition to establishing licensed child care provider base payment rates, the state department will establish tiered reimbursement rates based on quality levels for licensed child care providers that enroll children participating in CCCAP.

- A. Payment rates shall be defined utilizing the state established, system supported age bands.
- B. Rate types are selected by child care provider type (licensed home, licensed center, and qualified exempt child care providers). The state department has established rate type definitions to be used by all counties and deviation from the rate definitions shall not be permitted.
- C. Payments shall be made in part time/full time daily rates.

1. Part-time is defined as zero (0) hours, zero (0) minutes, and one (1) second through five (5) hours, zero (0) minutes, and zero (0) seconds per day. Part time is paid at fifty-five percent (55%) of the full time rate.
  2. Full time is defined as five (5) hours, zero (0) minutes, and one (1) second through twelve (12) hours, zero (0) minutes, and zero (0) seconds.
  3. Full-time/part time is defined as twelve (12) hours, zero (0) minutes, one (1) second through seventeen (17) hours, zero (0) minutes, zero (0) seconds of care.
  4. Full time/full time is defined as seventeen (17) hours, zero (0) minutes, one (1) second through twenty-four (24) hours, zero (0) minutes, zero (0) seconds of care.
  5. Counties may set rates for basic and alternative care as defined by the county and reported in the county plan.
- D. Counties must not set qualified exempt child care provider rates such that they inhibit or deter providers from becoming licensed.
- E. Absences and Holidays
1. Counties shall pay for absences in accordance with the policy set by the county. Any absence policy set by the county shall address when the child is not in care and include, but not be limited to, payments for scheduled school breaks, absences, and holidays.
  2. Counties shall reimburse child care providers for absences and holidays per twelve (12) months of continuous eligibility based on the following schedule:
    - a. For child care providers in the first level of the department's quality rating and improvement system, no fewer than six (6) absences or holidays;
    - b. For child care providers in the second level of the department's quality rating and improvement system, no fewer than ten (10) absences or holidays;
    - c. For child care providers in the top three levels of the department's quality rating and improvement system, no fewer than fifteen (15) absences or holidays.
  3. Counties may adopt a policy allowing the use of hold slots in order to address payments to hold a child's space with a provider when the child is not in care to include, but not limited to:
    - a. Payments for scheduled school breaks;
    - b. Absences, and;
    - c. Holidays.
- F. Counties may adopt a policy to pay for drop in days in addition to regularly authorized care.
- G. Bonus Payments

Counties shall not at any time use federal Child Care Development Block Grant Funds (CCDBG), or state General Funds, for the payment of bonuses to child care providers serving children in the CCCAP program. A county shall not use CCDBG or state General Funds to retroactively increase the daily rate paid to child care providers and issue a payment to child care providers based on that retroactive calculation.

- H. Child care providers who contend that the county has not made payment for care provided under CCCAP in compliance with these rules may request an informal conference with staff, the appropriate supervisor, the county director or the director's designee, and, if requested by the child care provider(s), state program staff. Any request for a conference shall be submitted in writing within fifteen (15) calendar-days of the date of the action. The county shall hold that conference within two (2) weeks of the date of the request. The county shall provide written notice of its final decision within fifteen (15) business days of the conference. The purpose of the conference shall be limited to discussion of the payments in dispute and the relevant rules regarding payment.

### **3.916.2 SLOT CONTRACTS (COUNTY OPTION)**

Slot contracts are used as a method to increase the supply and improve the quality of child care for county identified target populations and areas through collaborative partnerships that meet family and community needs. Slot contracts should also support continuity of care for households, funding stability for child care providers, and expenditure predictability for counties.

- A. Counties may choose to enter into a slot contract not to exceed twelve (12) months per contract with a licensed child care provider to purchase a specified number of slots for children enrolled in CCCAP.
  - 1. When a county chooses the option to use slot contracts with a licensed child care provider, the following steps shall be completed a minimum of sixty (60) days prior to the commencement of the slot contract:
    - a. County plan shall be updated in CHATS to include selection of the slot contract option.
    - b. At the time the county plan is updated a slot contract policy shall be submitted to the state department for approval. The policy shall include but is not limited to:
      - 1) The county identified target populations and areas
      - 2) How the county will determine the length of the slot contract
      - 3) How the county will identify the need for the slot contract at a specific licensed child care provider
      - 4) How the county will ensure a fair and equitable review and selection process when selecting a licensed child care provider in the case of multiple child care programs expressing interest in entering into slot contracts.
      - 5) How the county will determine the number of slots they contract for with a licensed child care provider

- 6) Evidence that less-than-arm's length transactions are prohibited including, but not limited to, those in which; one party is able to control or substantially influence the actions of the other.
  - 7) How the county will continuously monitor the success of a slot contract during the contract period to include but not limited to:
    - a) What the measure of success is for the slot contract and how it is determined.
    - b) Frequency of monitoring the success of the slot contract to be no less than quarterly.
    - c) Contract renegotiation for not reaching the set measure of success for the slot contract including under-utilization of paid slots during the designated monitoring period.
  - 8) How the county will determine the need for a slot contract renewal
    - a) A proposed slot contract (state template or county developed), including the state-approved slot contract fiscal agreement, between the county and the child care provider shall be submitted to the state department for approval a minimum of thirty (30) days prior to the contract start date. The slot contract shall include the obligations that need to be met by each party and the steps that will be taken if either party fails to meet the identified obligations.
    - b) If the county determines a need for slot contract renewal or renegotiation, they shall provide documentation to the state department of the success of the initial slot contract and the need for an additional slot contract a minimum of sixty (60) days prior to the end of the initial slot contract.
- B. Counties shall submit the state developed monitoring tool based on the county determined review schedule.
- C. Target population and areas may include but are not limited to:
1. Infants and toddlers;
  2. Children with additional care needs;
  3. Children needing care during nontraditional hours (i.e., evening, overnight and weekend care);
  4. Children in underserved areas;
  5. Areas where quality programs are in short supply for children enrolled in CCCAP; or,
  6. Any other county identified target population or areas.
- D. Criteria for assessing the need for slot contracts may include but is not limited to:

1. Counties shall demonstrate the rationale for identifying specific CCCAP populations or underserved areas in their county;
  2. The demographic data source(s) shall be identified which supports the need to expand quality programs for specific CCCAP target populations and/or justifies needs based on underserved areas for all CCCAP households (demographic data may be based on zip codes or other geographic areas as determined by the county);
  3. Counties are strongly encouraged to work with early childhood councils, resource and referral agencies, and other community based organizations to identify the need for contracts with specific populations or in specific areas of the county.
- E. Licensed child care programs who enter into slot contract agreements with counties shall agree to be engaged in quality building at a minimum of a level two (2) quality rating through the Colorado Shines QRIS program.
- F. The state department will develop a contract template that meets the requirements of this rule and all state and federal contracting requirements.
1. Counties may adapt the contract template to include any county-specific requirements or may draft their own contract which shall be pre-approved by the state department prior to use.
  2. The state department will assess and approve within thirty (30) days of receipt:
    - a. The updated county plan;
    - b. The county submitted slot contract policy; and,
    - c. The county submitted slot contract.
  3. The state department will assess requests for slot contract renewals within thirty (30) days of receipt based on the supporting documentation provided by the county.
  4. The state department will review the monitoring conducted by the county based on the county determined review schedule.

### **3.916.3 ARRANGEMENT FOR CHILD CARE SERVICES**

- A. Counties shall use the state prescribed child care authorization notice form to purchase care on a child-by-child basis and identify the amount of care and length of authorized care. Payment for care will be authorized for child care providers who have a license or who are qualified exempt child care providers and have a current, signed state prescribed fiscal agreement form(s) with the county.
- B. Care is typically authorized for twelve (12) consecutive months except:
1. When an eligible child is or will be enrolled in a program that does not intend to operate for the entire eligibility period;
  2. When an eligible child's adult caretaker(s) or teen parent(s) does not intend to keep the child enrolled with their initial child care provider(s) during the entire eligibility period; or,

3. When the adult caretaker(s) or teen parent(s) are participating in time limited activities such as job search or education/training.
- C. When payment will be made to the child care provider(s), the county shall forward the child care authorization notice form to the child care provider(s) within seven (7) working days of determined eligibility. This time limit applies to original, changed and terminated actions. The state may not reimburse counties if the seven working day requirement is not met.
- D. Child care will be paid for children birth to thirteen (13) for a portion of a day, but less than twenty-four (24) hours. Child care for eligible activities will include reasonable transportation time from the child care location to eligible activity and from eligible activity to child care location.
- E. Children over the age of thirteen (13) but up to age nineteen (19), who are physically or mentally incapable of caring for himself or herself or under court supervision, may be eligible for child care due to having additional care needs for a portion of a day but less than twenty-four (24) hours. Counties may pay more for children who have additional care needs based upon verified individual needs and documented in county policy, but rates cannot exceed the child care provider's published private pay rates.
- F. Counties may pay for activity fees if the child care provider charges such fees, and if the fiscal agreement contains the child care provider's policy on activity fee costs. Counties shall set their own limit on activity fees with prior notice to the state department.
- G. Counties may pay for transportation costs if the child care provider charges such costs, and if the fiscal agreement contains the child care provider's policy on transportation costs. Allowable costs include the child care provider's charges for transportation from the child care provider's facility to another child care or school facility. Transportation costs do not include travel between an adult caretaker's or teen parent's home and the child care provider's facility. Counties shall set their own limit on transportation fees with prior notice to the state department.
- H. Counties may pay for registration fees if the child care provider is licensed, and if the fiscal agreement contains the child care provider's policy on registration costs. Counties shall set their own limit on registration fees with prior notice to the state department.
- I. Any money paid or payable to child care providers shall be subject to execution, levy, attachment, garnishment or other legal process.
- J. Expenditures shall be necessary and reasonable for proper and efficient performance and administration. A cost is reasonable if, in its nature and amount, it meets all the following criteria:
  1. Expenditures shall be compared to market prices for reasonableness.
  2. Expenditures shall be compared to the market prices for comparable goods or services as a test for reasonableness.
  3. Expenditures shall be ordinary and necessary.
  4. Expenditures shall be of a type generally recognized as ordinary and necessary for the operation of the governmental unit or the performance of the federal award.
  5. Expenditures shall meet standards such as sound business practices and arms-length bargaining.

6. Expenditures shall have restraints or requirements imposed by such factors as: sound business practices; arms-length bargaining; Federal, State and other laws and regulations; and, terms and conditions of the State and/or Federal award. "Arms-length bargaining" means both parties to a contract have relatively equal powers of negotiation upon entering the contract. Neither party has a disproportionate amount of power to strong-arm the other party. Less-than-arms-length transactions are prohibited and these include, but are not limited to, those where; one party is able to control or substantially influence the actions of the other.
7. Expenditures shall be the same as would be incurred by a prudent person.
8. Expenditures shall not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. A prudent person is one who considers their responsibilities to the governmental unit, its employees, the public at large, and the federal government.

#### **3.916.4 ATTENDANCE TRACKING SYSTEM (ATS)**

- A. The adult caretaker(s) or teen parent(s) shall utilize the Attendance Tracking System as follows:
  1. To record child's authorized and utilized daily attendance at the designated child care provider's location.
  2. In the event that the child care provider has recorded a missed check-in or check-out the adult caretaker or teen parent shall confirm the record in the Attendance Tracking System for the prior nine (9) day period.
  3. Adult caretakers or teen parents shall not leave his/her individual attendance credentials in the child care provider's possession at any time or he/she may be subject to disqualification.
  4. Non-cooperation with the use of the Attendance Tracking System may result in case closure and/or non-payment of the child care subsidy as defined by a state approved county policy.
- B. The child care provider will receive registration information for the Attendance Tracking System upon entering into a fiscal agreement with the county and shall utilize the Attendance Tracking System as follows:
  1. To ensure that CCCAP adult caretakers or teen parents record child's authorized and utilized daily attendance at the designated child care provider's location.
  2. To ensure that in the event that the adult caretaker(s) or teen parent(s) misses one or more check-ins/outs to record daily attendance, the child care provider may record the missed check-in/out in the Attendance Tracking System and the adult caretaker or teen parent shall confirm the record in the attendance tracking system for the prior nine (9) day period for automatic payment.
  3. The child care provider shall not hold, transfer, or use any adult caretaker or teen parents' Individual attendance credentials at any time or the child care provider may be subject to disqualification.

4. Non-cooperation with the use of the Attendance Tracking System may result in nonpayment of the child care subsidy as defined by a state approved county policy, unless non-use of the Attendance Tracking System is approved by the state department.

### **3.916.5 COUNTY FISCAL AGREEMENT AUTHORITY**

- A. Counties have the authority to enter into a fiscal agreement with Qualified Exempt Child Care Providers and licensed child care providers including those in a probationary status.
- B. Counties have the authority to refuse to enter into a fiscal agreement with a child care provider.
- C. Counties have the authority to terminate a fiscal agreement after providing at least fifteen (15) calendar-days' notice by postal service mail, fax, hand-delivery, email or other electronic systems.
- D. The counties have the authority to terminate a fiscal agreement without advance notice if a child's health or safety is endangered or if the child care provider is under a negative licensing action as defined in section 7.701.2, J 11 and section 7.701.22, K (12 CCR 2509-8). Counties may not enter into or continue a fiscal agreement with any child care provider who has a denied, suspended or revoked child care license.
- E. Counties may notify a child care provider of an immediate termination verbally, but written notice of that action must also be forwarded to the child care provider within one business day. Any notice regarding denial or termination of a Fiscal Agreement shall include information regarding the child care provider's right to an informal conference.

### **3.917 PROGRAM INTEGRITY**

#### **3.917.1 INTENTIONAL PROGRAM VIOLATION (IPV)**

All adult caretakers or teen parents that apply for the Colorado Child Care Assistance Program (CCCAP) shall be provided with a written notice of the penalties for an Intentional Program Violation (IPV) on the child care application and statement of responsibility.

- A. An IPV is an intentional act committed by an adult caretaker(s) or teen parent(s), for the purpose of establishing or maintaining the Colorado Child Care Assistance Program (CCCAP) household's eligibility to receive benefits for which they were not eligible. An adult caretaker or teen parent commits an IPV when he or she makes a false or misleading statement or omission in any application or communication, with knowledge of its false or misleading nature, for the purpose of establishing or maintaining the household's eligibility to receive benefits.
- B. A county shall be required to conduct an investigation of any adult caretaker(s) or teen parent(s) who has applied for or received CCCAP whenever there is an allegation or reason to believe that an individual has committed an IPV as described below.
  1. Following investigation, action shall be taken on cases where documented evidence exists to show an individual has committed one or more acts of IPV. Action shall be taken through:
    - a. Obtaining a "Waiver of Intentional Program Violation Hearing"; or,
    - b. Conducting an administrative disqualification hearing; or,
    - c. Referring case for civil or criminal action in an appropriate court of jurisdiction.



2. Overpayment collection activities shall be initiated immediately in all cases even if administrative disqualification procedures or referral for prosecution is not initiated.

### **3.917.2 CRITERIA FOR DETERMINING INTENTIONAL PROGRAM VIOLATION**

- A. The determination of IPV shall be based on clear and convincing evidence that demonstrates intent to commit IPV. "Intent" is defined as a false representation of a material fact with knowledge of that falsity or omission of a material fact with knowledge of that omission.
- B. "Clear and convincing" evidence is stronger than "a preponderance of evidence" and is unmistakable and free from serious or substantial doubt.

### **3.917.3 INTENTIONAL PROGRAM VIOLATION/ADMINISTRATIVE DISQUALIFICATION HEARINGS (IPV/ADH)**

An IPV/ADH shall be requested whenever facts of the case do not warrant civil or criminal prosecution, where documentary evidence exists to show an individual has committed one or more acts of IPV, and the individual has failed to sign and return the Waiver of IPV form.

- A. A county may conduct an IPV/ADH or may use the Colorado Department of Personnel and Administration to conduct the IPV/ADH. A state prescribed form to request the administrative disqualification hearing for intentional program violation shall be used for this purpose.

The adult caretaker(s) or teen parent(s) may request that the Department of Personnel and Administration conduct the ADH/IPV in lieu of a county level hearing. Such a hearing shall be requested ten (10) calendar-days before the scheduled date of the county hearing.

- B. Notice of the date of the administrative disqualification hearing on a form prescribed by the Colorado Department of Human Services shall be mailed to the last known address on record to the individual alleged to have committed an IPV at least thirty (30) calendar-days prior to the hearing date. The notice form shall include a statement that the individual may waive the right to appear at the administrative disqualification hearing, along with the hearing procedure form and client rights.
- C. The Administrative Law Judge or hearing officer shall not enter a default against the participant or applicant for failure to file a written answer to the notice of IPV hearing form, but shall base the initial decision upon the evidence introduced at the hearing.
- D. Upon good cause shown, the administrative hearing shall be rescheduled not more than once at the accused individual's request. The request for continuance shall be received by the appropriate hearing officer prior to the administrative disqualification hearing. The hearing shall not be continued for more than a total of thirty (30) calendar-days from the original hearing date. One additional continuance is permitted at the hearing officer or ALJ's discretion.
- E. An IPV/ADH shall not be requested against an accused adult caretaker(s) or teen parent(s) whose case is currently being referred for prosecution on a civil or criminal action in an appropriate state or federal court.

### **3.917.4 WAIVER OF ADMINISTRATIVE DISQUALIFICATION HEARING**

- A. Supporting evidence warranting the scheduling of an administrative disqualification hearing for an alleged IPV shall be documented with a county supervisory review. If the county determines there

is evidence to substantiate that person has committed an IPV, the county shall allow that person the opportunity to waive the right to an administrative disqualification hearing.

- B. A State-approved Notice of Alleged Intentional Program Violation form including the client's rights, the state-approved Waiver of Intentional Program Violation Hearing form, and the state-approved request for a state level Administrative Disqualification Hearing for Intentional Program Violation form shall be mailed to the individual suspected of an IPV. An investigator in the process of completing an investigation shall offer the waiver to the individual if the investigator is not intending to pursue criminal or civil action. The individual shall have fifteen (15) calendar-days from the date these forms are mailed by the county to return the completed Waiver of IPV hearing form.
- C. When an adult caretaker(s) or teen parent(s) waives his/her right to an administrative disqualification hearing, a written notice of the disqualification penalty shall be mailed to the individual. This notice shall be on the State prescribed notice form.
- D. The completion of the waiver is voluntary and the county may not require its completion nor by its action appear to require the completion of the request of waiver.

### **3.917.5 DISQUALIFICATION FOR INTENTIONAL PROGRAM VIOLATION (IPV)**

- A. If the adult caretaker(s) or teen parent(s) signs and returns the request for waiver of IPV hearing form within the fifteen (15) day deadline or an individual is found to have committed an intentional program violation through the hearing process, the primary adult caretaker or teen parent shall be provided with a notice of the period of disqualification. The disqualification shall begin the first day of the month following the disqualification determination, allowing for authorization noticing, unless the household in which a disqualified person is living is ineligible for other reasons.
- B. Once the disqualification has been imposed, the period shall run without interruption even if the participant becomes ineligible for the Colorado Child Care Assistance Program.
- C. The penalty shall be in effect for:
  - 1. Twelve (12) months upon the first occasion of any such offense;
  - 2. Twenty-four (24) months upon the second occasion of any such offense and,
  - 3. Permanently upon the third such offense.
- D. The disqualification penalties affect any household to which the adult caretaker(s) or teen parent(s) is a member.
- E. The penalty period shall remain in effect unless and until the finding is reversed by the State Department or a court of appropriate jurisdiction.
- F. A penalty imposed by one county shall be used when determining the appropriate level of disqualification and penalty for that individual in another county.
- G. The disqualification penalties may be in addition to any other penalties which may be imposed by a court of law for the same offenses.

### **3.917.6 NOTIFICATION OF HEARING DECISION**

- A. If the local level hearing officer finds the adult caretaker(s) or teen parent(s) has committed an IPV as a result of a county hearing, a written notice shall be provided to notify the primary adult caretaker or teen parent of the decision. The local level hearing decision notice shall be a state prescribed form, which includes a statement that a state level hearing may be requested with the request form attached.
- B. In a hearing before an Administrative Law Judge (ALJ), the determination of IPV shall be an initial decision, which shall not be implemented while pending State Department review and Final Agency Action. The initial decision shall advise the adult caretaker(s) or teen parent(s) that failure to file exceptions to provisions of the initial decision will waive the right to seek judicial review of a final agency decision affirming those provisions.
- C. When a final decision is made, a written notice of the disqualification penalty shall be mailed to the adult caretaker(s) or teen parent(s). This notice shall be on a state prescribed notice form.

### **3.917.7 REFERRAL TO DISTRICT ATTORNEY**

When the counties or their designee(s) determine that they have paid or are about to pay for child care as a result of a suspected criminal act, the facts used in the determination shall be reviewed with the counties' legal advisor, investigatory unit and/or a representative from the District Attorney's office. If the available evidence supports suspected criminal acts, the case shall be referred to the District Attorney. All referrals to the District Attorney shall be made in writing and shall include the amount of assistance fraudulently received by the adult caretaker, teen parent, or child care provider.

The following actions may be taken:

- A. If the District Attorney prosecutes, the amount of overpayment due will be taken into consideration and may be included in the court decision and order.
- B. Interest may be charged from the month in which the amount of overpayment due was received by the collection entity until the date it is recovered. Interest shall be calculated at the legal rate.
- C. If the District Attorney decides not to prosecute, the amount of overpayment due will continue to be recovered by all legal means. The county retains the option to pursue IPV/ADH or other administrative measures.
- D. A referral is not a violation of the safeguards and restrictions provided by confidentiality rules and regulations.

### **3.917.8 CRIMINAL VERDICT DISQUALIFICATION**

Upon determination of fraudulent acts, adult caretaker(s) or teen parent(s) who have signed the application or re-determination will be disqualified from participation in the Colorado Child Care Assistance Program for the following periods, pursuant to Section 26-1-127, C.R.S. Such disqualification is mandatory and in addition to any other penalty imposed by law. Disqualification levels are:

- A. Twelve months (12) for the first offense; or,
- B. Twenty-four months (24) for a second offense; or,
- C. Permanently for a third offense.

### **3.917.9 DISQUALIFICATION PERIOD**

- A. Upon determination of fraudulent criminal acts, the adult caretaker(s) or teen parent(s) shall be notified of the period of disqualification. The disqualification shall begin the first day of the month that follows the disqualification determination, allowing for authorization noticing and shall run uninterrupted from that date.
- B. In collecting evidence of fraudulent activities the counties or their designee shall not violate the legal rights of the individual. When the county questions whether an action it contemplates might violate the legal rights of the individual, it shall seek the advice of its legal advisor.

### **3.917.91 DISQUALIFICATION PENALTIES**

In addition to any criminal penalty imposed, the disqualification penalties affect the adult caretaker(s) or teen parent(s) the penalty period shall remain in effect unless the finding is reversed by the state department or a court of appropriate jurisdiction. The disqualification period shall follow the adult caretaker(s) and teen parent(s) regardless of the county of residence in Colorado. Penalties imposed are progressive regardless of the county of residence for each subsequent penalty level.

Child care providers shall be subject to the fiscal agreement termination process outlined in section 3.914.5.

### **3.917.92 HEARING AND DISPUTE RESOLUTION RIGHTS**

Adult caretaker(s) or teen parent(s) have the right to a county dispute resolution conference or state level fair hearing pursuant to Sections 3.840 and 3.850.

Child care providers shall be informed of their right to a county dispute resolution conference on the reverse side of their copy of the child care authorization notice pursuant to section 3.840, "county dispute resolution process".

### **3.917.93 CHILD CARE RECOVERY**

When the counties or their designee have determined that an adult caretaker(s) or teen parent(s) has received public assistance for which he or she was not eligible due to an increase in household income, that causes the household's income exceeds eighty-five percent (85%) of the State median income, or a change in the qualifying eligible activity that was not reported within four weeks of its occurrence; or a child care provider has received child care payments they were not eligible for:

- A. The county, or its designee(s), determines if the overpayment is to be recovered. Exception from recovery includes:
  - 1. The household who is without fault in the creation of the overpayment; and,
  - 2. The household who has reported any increase in income or change in resources or other circumstances affecting the household's eligibility within the timely reporting requirements for the program.
- B. The county or its designee determines whether there was willful misrepresentation and/or withholding of information and considers or rules out possible fraud;
- C. The county or its designee determines the amount of overpayment;

- D. The county or its designee notifies the household or child care provider(s) of the amount due and the reason for the recovery using the prior notice rules;
- E. The county or its designee enters the amount of the overpayment and other specific factors of the situation in the case record, including the calculation used to determine the recovery amount.

#### **3.917.94 TIMELINESS AND AMOUNT**

- A. A recovery for overpayment of public assistance is established when the overpayment occurred during the twelve (12) months preceding discovery and the facts to establish recovery have been received. However, when a single overpayment or several overpayments have been made within the prior twelve (12) months and the overpayments total less than fifty dollars (\$50), a recovery for repayment is not made.
- B. If an overpayment occurs due to willful misrepresentation or withholding of information and the county is unable to determine income and activity eligibility criteria for child care previously provided, either through verification from the client or child care provider(s) or access to other verification sources, the county shall recover the entire benefit for the affected months.

For willful misrepresentation and/or withholding of information, all overpayments will be pursued regardless of how long ago they occurred.

#### **3.917.95 RECOVERY PROCESS**

- A. When it is determined that an overpayment has occurred, the counties or their designee shall:
  - 1. Document the facts and situation that produced the overpayment and retain this documentation until the overpayment is paid in full or for three years plus the current year, whichever is longer.
  - 2. Determine what benefits the household was eligible for and recover benefits for which the household was found to be ineligible, except in the case of willful misrepresentation or withholding of information.
  - 3. Determine the payments for which the child care provider was not eligible and recover those payments.
  - 4. Initiate timely written notice allowing for the fifteen (15) calendar day noticing period. Such notice shall include a complete explanation, including applicable rules, concerning the overpayment, recovery sought and appeal rights.
  - 5. Take action to recover following the right of appeal and fair hearing process.
  - 6. Pursue all legal remedies available to the county in order to recover the overpayment. Legal remedies include, but are not limited to:
    - a. Judgments;
    - b. Garnishments;
    - c. Claims on estates; and,

- d. The state income tax refund intercept process.
- 7. In accordance with Sections 26-2-133 and 39-21-108, C.R.S., the state and counties or their designees may recover overpayments of public assistance benefits through the offset (intercept) of a taxpayer's State Income Tax Refund.
  - a. This method may be used to recover overpayments that have been:
    - 1) Determined by final agency action; or,
    - 2) Ordered by a court as restitution; or,
    - 3) Reduced to judgment.
  - b. This offset (intercept) may include the current legal rate of interest on the total when fraud or intentional program violation has been determined. Offsets (intercepts) are applied to recoveries through use of a hierarchy. The hierarchy is:
    - 1) Fraud recoveries, oldest to newest;
    - 2) Court ordered recoveries, oldest to newest; and,
    - 3) Client error recoveries, oldest to newest.
- B. Prior to certifying the taxpayer's name and other information to the Department of Revenue, the Colorado Department of Human Services shall notify the taxpayer, in writing at his/her last-known address, that the state intends to use the tax refund offset (intercept) to recover the overpayment. In addition to the requirements of Section 26-2-133(2), C.R.S., the pre-offset (intercept) notice shall include the name of the counties claiming the overpayment, a reference to child care as the source of the overpayment, and the current balance owed. The taxpayer is entitled to object to the offset (intercept) by filing a request for a county dispute resolution conference or state hearing within thirty (30) calendar-days from the date that the pre-offset notice is mailed, faxed, emailed, sent via other electronic systems, or hand-delivered to the taxpayer. In all other respects, the procedures applicable to such hearings shall be those stated elsewhere in Section 3.840 and Section 3.850. At the hearing on the offset (intercept), the counties or their designee, or an Administrative Law Judge (ALJ), shall not consider whether an overpayment has occurred, but may consider the following issues if raised by the taxpayer in his/her request for a hearing whether:
  - 1. The taxpayer was properly notified of the overpayment,
  - 2. The taxpayer is the person who owes the overpayment,
  - 3. The amount of the overpayment has been paid or is incorrect, or
  - 4. The debt created by the overpayment has been discharged through bankruptcy.

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**Office of the Attorney General**

Tracking number: 2018-00698

**Opinion of the Attorney General rendered in connection with the rules adopted by the**

Income Maintenance (Volume 3)

**on 04/05/2019**

9 CCR 2503-9

**COLORADO CHILD CARE ASSISTANCE PROGRAM**

The above-referenced rules were submitted to this office on 04/11/2019 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

April 23, 2019 15:31:59

**Philip J. Weiser**  
Attorney General  
by Eric R. Olson  
Solicitor General

## **Permanent Rules Adopted**

### **Department**

Department of Health Care Policy and Financing

### **Agency**

Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)

### **CCR number**

10 CCR 2505-10

### **Rule title**

10 CCR 2505-10 MEDICAL ASSISTANCE - STATEMENT OF BASIS AND PURPOSE,  
AND RULE HISTORY 1 - eff 05/30/2019

### **Effective date**

05/30/2019



## **DO NOT PUBLISH THIS PAGE**

Title of Rule: Revision to the Medical Assistance Rule concerning Federally Qualified Health Centers, Section 8.700

Rule Number: MSB 19-01-17-A

Division / Contact / Phone: Payment Reform / Erin Johnson / 303-866-4370

## **SECRETARY OF STATE**

### **RULES ACTION SUMMARY AND FILING INSTRUCTIONS**

#### **SUMMARY OF ACTION ON RULE(S)**

1. Department / Agency Name: Health Care Policy and Financing / Medical Services Board
2. Title of Rule: MSB 19-01-17-A, Revision to the Medical Assistance Rule concerning Federally Qualified Health Centers, Section 8.700
3. This action is an adoption an amendment of:
4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):  
Sections(s) 8.700 Federally Qualified Health Center, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).
5. Does this action involve any temporary or emergency rule(s)? No  
If yes, state effective date:  
Is rule to be made permanent? (If yes, please attach notice of hearing). Yes

#### **PUBLICATION INSTRUCTIONS\***

Replace the current text at 8.700 with the proposed text beginning at 8.700.1 through th end of 8.700.8.B. This rule is effective May 30, 2019.

## **DO NOT PUBLISH THIS PAGE**

Title of Rule: Revision to the Medical Assistance Rule concerning Federally Qualified Health Centers, Section 8.700

Rule Number: MSB 19-01-17-A

Division / Contact / Phone: Payment Reform / Erin Johnson / 303-866-4370

### **STATEMENT OF BASIS AND PURPOSE**

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

The purpose of this rule revision is to reimburse Federally Qualified Health Centers (FQHCs) separately for the administration of antagonist injections for medication-assisted treatment for substance use disorders. FQHCs are currently reimbursed an all-inclusive encounter rate for one-on-one, face-to-face services between a member and an eligible provider. For the administration of antagonist injections for medication assisted treatment for substance use disorders, FQHCs can currently bill as an FQHC and be reimbursed at the FQHC encounter rate as these drugs are administered by a physician. Pursuant to House Bill (HB) 18-1007, if a pharmacy or pharmacist has entered into a collaborative pharmacy practice agreement with one or more prescribers to administer antagonist injections for medication-assisted treatment for substance use disorders, the pharmacist administering the drug must receive an enhanced dispensing fee that aligns with the administration fee paid to a provider in a clinical setting. Therefore, FQHCs that have an in-house pharmacy may bill for the administration of the drug if provided by a pharmacist in the pharmacy. This rule revision will allow FQHCs to bill separately from the encounter rate for the administration of the drug similar to a provider in a non-FQHC clinical setting. This rule revision is necessary to align with the policy implemented due to HB 18-1007 and to incentivize the administration of antagonist injections for medication-assisted treatment for substance use disorders.

2. An emergency rule-making is imperatively necessary

- ☐ to comply with state or federal law or federal regulation and/or  
☐ for the preservation of public health, safety and welfare.

Explain:

3. Federal authority for the Rule, if any:
4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2018);  
HB 18-1007;  
25.5-5-510 C.R.S. (2018)

## **DO NOT PUBLISH THIS PAGE**

Title of Rule: Revision to the Medical Assistance Rule concerning Federally Qualified Health Centers, Section 8.700

Rule Number: MSB 19-01-17-A

Division / Contact / Phone: Payment Reform / Erin Johnson / 303-866-4370

### **REGULATORY ANALYSIS**

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

This rule revision will impact clients that receive services at FQHCs who have a substance use disorder and may benefit from medication assisted treatment.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

This rule is not expected to have an economic impact. This rule will make it easier for clients to receive medication assisted treatment for substance use disorder in the clinic setting instead of having to either walk down the hall to an in-house pharmacy or be sent to a separate pharmacy.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

This rule is not expected to cost the Department any additional money. The new reimbursement for FQHCs is the same amount that would have been paid at a pharmacy.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

The benefit of the proposed rule is for easier coordination of care and continuance of services for clients with substance use disorders. The cost of inaction is that the Department will not be aligned with HB 18-1007 and it will be more difficult for clients to receive medication assisted treatment for substance use disorder.

5. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

There are no less costly methods for achieving the purpose of the proposed rule since this rule is not expected to cost the Department any additional money.

**DO NOT PUBLISH THIS PAGE**

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

The Department considered not reimbursing FQHCs separately for the provision of this service. However, this would not align with HB 18-1007 and potentially make it more difficult for clients with substance use disorders to receive life changing services.

## **8.700 FEDERALLY QUALIFIED HEALTH CENTERS**

### **8.700.1 DEFINITIONS**

1. Federally Qualified Health Center (FQHC) means a hospital-based or freestanding center that meets the FQHC definition found in Title 42 of the Code of Federal Regulations, Part 405, Subpart X (2015). Title 42 of the Code of Federal Regulations, Part 405, Subpart X (2015) is hereby incorporated by reference into this rule. Such incorporation, however, excludes later amendments to or editions of the referenced material. These regulations are available for public inspection at the Department of Health Care Policy and Financing, 1570 Grant Street, Denver, CO 80203. Pursuant to C.R.S. 24-4-103(12.5)(V)(b), the agency shall provide certified copies of the material incorporated at cost upon request or shall provide the requestor with information on how to obtain a certified copy of the material incorporated by reference from the agency of the United States, this state, another state, or the organization or association originally issuing the code, standard, guideline or rule:
2. Visit means a one-on-one, face-to-face encounter between a center client and physician, dentist, dental hygienist, physician assistant, nurse practitioner, nurse-midwife, visiting nurse, clinical psychologist, podiatrist, clinical social worker, licensed marriage and family therapist, licensed professional counselor, or licensed addiction counselor providing the services set forth in Section 8.700.3.A. Group sessions do not generate a billable encounter for any FQHC services.
  - a. A visit includes a one-on-one, face-to-face encounter between a center client and a supervised person pursuing mental health therapy licensure as a licensed clinical social worker, licensed professional counselor, licensed marriage and family therapist, or psychologist in the state of Colorado providing services set forth in Section 8.700.3.A. The supervised person must hold a candidate permit as a licensed professional counselor or a candidate permit as a licensed marriage and family therapist, or a candidate permit as a psychologist, or be a licensed social worker. Group sessions do not generate a billable encounter for any FQHC services.

### **8.700.2 CLIENT CARE POLICIES**

8.700.2.A The FQHCs health care services shall be furnished in accordance with written policies that are developed with the advice of a group of professional personnel that includes one or more physicians and one or more physician assistants or nurse practitioners. At least one member of the group shall not be a member of the FQHC staff.

8.700.2.B The policies shall include:

1. A description of the services the FQHC furnishes directly and those furnished through agreement or arrangement. See Section 8.700.3.A.3.
2. Guidelines for the medical management of health problems that include the conditions requiring medical consultation and/or client referral, the maintenance of health care records and procedures for the periodic review and evaluation of the services furnished by the FQHC.
3. Rules for the storage, handling and administration of drugs and biologicals.

### **8.700.3 SERVICES**

8.700.3.A The following services may be provided by a certified FQHC:

1. General services

- a. Outpatient primary care services that are furnished by a physician, dentist, dental hygienist, physician assistant, nurse practitioner, nurse midwife visiting nurse, clinical psychologist, podiatrist, clinical social worker, licensed marriage and family therapist, licensed professional counselor, licensed addiction counselor or supervised person pursuing mental health licensure as defined in their respective practice acts.
  - i. Outpatient primary care services that are furnished by a supervised person pursuing mental health therapy licensure as a licensed clinical social worker, licensed professional counselor, licensed marriage and family therapist, or psychologist in the state of Colorado as defined in their respective practice acts.
- c. Part-time or intermittent visiting nurse care.
- d. Services and medical supplies, other than pharmaceuticals, that are furnished as a result of professional services provided under Section 8.700.3.A.1.a and b.

2. Emergency services. FQHCs furnish medical emergency procedures as a first response to common life-threatening injuries and acute illness and must have available the drugs and biologicals commonly used in life saving procedures.

3. Services provided through agreements or arrangements. The FQHC has agreements or arrangements with one or more providers or suppliers participating under Medicare or Medicaid to furnish other services to clients, including physician services (whether furnished in the hospital, the office, the client's home, a skilled nursing facility, or elsewhere) and additional and specialized diagnostic and laboratory services that are not available at the FQHC.

8.700.3.B A certified FQHC may also provide any service authorized for payment outside the per visit encounter rate by Section 8.700.6.B.

#### **8.700.4 PHYSICIAN RESPONSIBILITIES**

8.700.4.A A physician shall provide medical supervision and guidance for physician assistants and nurse practitioners, prepare medical orders, and periodically review the services furnished by the clinic. A physician shall be present at the clinic for sufficient periods of time to fulfill these responsibilities and must be available at all times by direct means of communications for advice and assistance on patient referrals and medical emergencies. A clinic operated by a nurse practitioner or physician assistant may satisfy these requirements through agreements with one or more physicians.

#### **8.700.5 ALLOWABLE COST**

8.700.5.A The following types and items of cost for primary care services are included in allowable costs to the extent that they are covered and reasonable:

- 1. Compensation for the services of a physician, dentist, dental hygienist, physician assistant, nurse practitioner, nurse-midwife, visiting nurse, qualified clinical psychologist, podiatrist, clinical social worker, licensed marriage and family therapist, licensed professional counselor and licensed addiction counselor and licensure candidates for

clinical psychologist, clinical social worker, licensed marriage and family therapist, and licensed professional counselor who owns, is employed by, or furnishes services under contract to an FQHC.

2. Compensation for the duties that a supervising physician is required to perform.
3. Costs of services and supplies related to the services of a physician, dentist, dental hygienist, physician assistant, nurse practitioner, nurse-midwife, visiting nurse, qualified clinical psychologist, podiatrist, clinical social worker, licensed marriage and family therapist, licensed professional counselor or licensed addiction counselor.
4. Overhead cost, including clinic or center administration, costs applicable to use and maintenance of the entity, and depreciation costs.
5. Costs of services purchased by the clinic or center.

8.700.5.B Unallowable costs include but are not limited to expenses that are incurred by an FQHC and that are not for the provision of covered services, according to applicable laws, rules, and standards applicable to the Medical Assistance Program in Colorado. An FQHC may expend funds on unallowable cost items, but these costs may not be used in calculating the per visit encounter rate for Medicaid clients.

Unallowable costs, include, but are not necessarily limited to, the following:

1. Offsite Laboratory/X-Ray;
2. Costs associated with clinics or cost centers which do not provide services to Medicaid clients; and,
4. Costs of services reimbursed separately from the FQHC encounter rate as described in Section 8.700.6.B.

## **8.700.6 REIMBURSEMENT**

8.700.6.A FQHCs shall be reimbursed separate per visit encounter rates based on 100% of reasonable cost for physical health services, dental services, and specialty behavioral health services. An FQHC may be reimbursed for up to three separate encounters with the same client occurring in one day and at the same location, so long as the encounters submitted for reimbursement are any combination of the following: physical health encounter, dental encounter, or specialty behavioral health encounter. Distinct dental encounters are allowable only when rendered services are covered and paid by the Department's dental Administrative Service Organization (ASO). Distinct specialty behavioral health encounters are allowable only when rendered services are covered and paid by either the Regional Accountable Entity (RAE) or through the short-term behavioral health services in the primary care setting policy.

8.700.6.B The following services are reimbursed separately from the FQHC encounter rate. These services shall be reimbursed in accordance with the following:

1. Long-Acting Reversible Contraception (LARC) devices shall be reimbursed separately from the FQHC encounter rate. In addition to payment of the encounter rate for the insertion of the device(s), the LARC device(s) must be billed in accordance with Section 8.730 and shall be reimbursed the lower of:
  - a. Submitted charges; or

- b. Fee schedule as determined by the Department.
- 2. Services provided in an inpatient hospital setting shall be reimbursed the lower of:
  - a. Submitted charges; or
  - b. Fee schedule as determined by the Department.
- 3. The provision of complete dentures and partial dentures must be billed in accordance with Section 8.201. and Section 8.202. and shall be reimbursed the lower of:
  - a. Submitted charges; or
  - b. Fee schedule as determined by the Department.
- 4. Dental services provided in an outpatient hospital setting shall be reimbursed the lower of:
  - a. Submitted charges; or
  - b. Fee schedule as determined by the Department.
- 5. The Prenatal Plus Program shall be billed and reimbursed in accordance with Section 8.748.
- 6. The Nurse Home Visitor Program shall be billed and reimbursed in accordance with Section 8.749.
- 7. An FQHC that operates its own pharmacy that serves Medicaid clients must obtain a separate Medicaid billing number for pharmacy and bill all prescriptions utilizing this number in accordance with Section 8.800.
- 8. Antagonist injections for substance use disorders provided at the FQHC shall be reimbursed the lower of:
  - a. Submitted charges; or
  - b. Fee schedule as determined by the Department.
- 8.700.6.C A physical health encounter, a dental encounter, and a specialty behavioral health encounter on the same day and at the same location shall count as three separate visits.
  - 1. Encounters with more than one health professional, and multiple encounters with the same health professional that take place on the same day and at a single location constitute a single visit, except when the client, after the first encounter, suffers illness or injury requiring additional diagnosis or treatment.
- 8.700.6.D Encounter rates calculations
  - a) Effective July 1, 2018, FQHCs will be paid three separate encounter rates for three separate services: physical health services, dental services, and specialty behavioral health services. Physical health services are covered services reimbursed through the Department's MMIS, except the short-term behavioral health services in the primary care setting policy. Dental services are services provided by a dentist or dental hygienist that are reimbursed by the Department's dental ASO. Specialty behavioral health services are



behavioral health services covered and reimbursed by either the RAE or by the MMIS through the short-term behavioral health services in the primary care setting policy. The Department will perform an annual reconciliation to ensure each FQHC has been paid at least their per visit Prospective Payment System (PPS) rate. If an FQHC has been paid below their per visit PPS rate, the Department shall make a one-time payment to make up for the difference.

1. The PPS rate is defined by Section 702 of the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act (BIPA) included in the Consolidated Appropriations Act of 2000, Public Law 106-554, Dec. 21, 2000. BIPA is incorporated herein by reference. No amendments or later editions are incorporated.

Copies are available for a reasonable charge and for inspection from the following person at the following address: Custodian of Records, Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, CO 80203. Any material that has been incorporated by reference in this rule may be examined at any state publications depository library.

2. a) Each alternative payment rate shall be the lower of the service specific annual rate or the service specific base rate. The annual rate and the base rate shall be calculated as follows:
  1. The annual rate for the physical health rate shall be the FQHCs current year's audited, calculated, and inflated cost per visit for physical health services and visits. The annual rate for the dental rate shall be the FQHCs current year's audited, calculated, and inflated cost per visit for dental services and visits provided by a dentist or dental hygienist. The annual rate for the specialty behavioral health rate shall be the FQHCs current year's audited, calculated, and inflated cost per visit for behavioral health services and visits either covered and reimbursed by the RAE or by the short-term behavioral health services in the primary care setting policy.
  2. The new base rates shall be the audited, calculated, inflated, and weighted average encounter rate for each separate rate, for the past three years. Base rates are recalculated (rebased) annually. Initial Base rates shall be calculated when the Department has two year's data of costs and visits.
  3. Beginning July 1, 2020, A portion of the FQHCs physical health and specialty behavioral health alternative payment methodology rates are at-risk based on the FQHC's quality modifier. An FQHC's quality modifier is determined by the FQHC's performance on quality indicators in the previous Calendar Year.
3. a) New FQHCs shall file a preliminary FQHC Cost Report with the Department. Data from the preliminary report shall be used to set reimbursement base rates for the first year. The base rates shall be calculated using the audited cost report showing actual data from the first fiscal year of operations as an FQHC. These shall be the FQHCs base rates until the FQHC's final base rates are set.
  - b) New base rates may be calculated using the most recent audited Medicaid FQHC cost report for those FQHCs that have received their first federal Public Health Service grant with the three years prior to

rebasing, rather than using the inflated weighted average of the most recent three years audited encounter rates.

4.
  - a) The Department shall audit the FQHC cost report and calculate the new annual and base reimbursement rates. If the cost report does not contain adequate supporting documentation, the FQHC shall provide requested documentation within ten (10) business days of request. Unsupported costs shall be unallowable for the calculation of the FQHCs new encounter rate.
  - b) Freestanding and hospital-based FQHCs shall file the Medicaid cost reports with the Department on or before the 90th day after the end of the FQHCs' fiscal year. FQHCs shall use the Medicaid FQHC Cost Report developed by the Department to report annual costs and encounters. An extension of up to 75 days may be granted based upon circumstances. Failure to submit a cost report within 180 days after the end of a freestanding FQHCs' fiscal year shall result in suspension of payments.
  - c) The new reimbursement encounter rates for FQHCs shall be effective 120 days after the FQHCs fiscal year end. The old reimbursement encounter rates (if less than the new audited rate) shall remain in effect for an additional day above the 120-day limit for each day the required information is late; if the old reimbursement encounter rates are more than the new rate, the new rates shall be effective the 120th day after the FQHCs fiscal year end.
5.
  - a) If an FQHC changes its scope of service after the year in which its base PPS rate was determined, the Department will adjust the FQHC's PPS rate in accordance with section 1902(bb) of the Social Security Act.
  - b) An FQHC must apply to the Department for an adjustment to its PPS rate whenever there is a documented change in the scope of service of the FQHC. The documented change in the scope of service of the FQHC must meet all of the following conditions:
    1. The increase or decrease in cost is attributable to an increase or decrease in the scope of service that is a covered benefit, as described in Section 1905(a)(2)(C) of the Social Security Act, and is furnished by the FQHC.
    2. The cost is allowable under Medicare reasonable cost principles set forth in 42 CFR Part 413.5.
    3. The change in scope of service is a change in the type, intensity, duration, or amount of services, or any combination thereof.
    4. The net change in the FQHC's per-visit encounter rate equals or exceeds 3% for the affected FQHC site. For FQHCs that file consolidated cost reports for multiple sites in order to establish the initial PPS rate, the 3% threshold will be applied to the average per-visit encounter rate of all sites for the purposes of calculating the cost associated with a scope-of-service change.
    5. The change in scope of service must have existed for at least a full six (6) months.

- c) A change in the cost of a service is not considered in and of itself a change in scope of service. The change in cost must meet the conditions set forth in Section 8.700.6.D.5.b and the change in scope of service must include at least one of the following to prompt a scope-of-service rate adjustment. If the change in scope of service does not include at least one of the following, the change in the cost of services will not prompt a scope-of-service rate adjustment.
1. The addition of a new service not incorporated in the baseline PPS rate, or deletion of a service incorporated in the baseline PPS rate;
  2. The addition or deletion of a covered Medicaid service under the State Plan;
  3. Changes necessary to maintain compliance with amended state or federal regulations or regulatory requirements;
  4. Changes in service due to a change in applicable technology and/or medical practices utilized by the FQHC;
  5. Changes resulting from the changes in types of patients served, including, but not limited to, populations with HIV/AIDS, populations with other chronic diseases, or homeless, elderly, migrant, or other special populations that require more intensive and frequent care;
  6. Changes resulting from a change in the provider mix, including, but not limited to:
    - i. A transition from mid-level providers (e.g. nurse practitioners) to physicians with a corresponding change in the services provided by the FQHC;
    - ii. The addition or removal of specialty providers (e.g. pediatric, geriatric, or obstetric specialists) with a corresponding change in the services provided by the FQHC (e.g. delivery services);
    - iii. Indirect medical education adjustments and a direct graduate medical education payment that reflects the costs of providing teaching services to interns and/or residents; or,
    - iv. Changes in operating costs attributable to capital expenditures (including new, expanded, or renovated service facilities), regulatory compliance measures, or changes in technology or medical practices at the FQHC, provided that those expenditures result in a change in the services provided by the FQHC.
- d) The following items do not prompt a scope-of-service rate adjustment:
1. An increase or decrease in the cost of supplies or existing services;

2. An increase or decrease in the number of encounters;
3. Changes in office hours or location not directly related to a change in scope of service;
4. Changes in equipment or supplies not directly related to a change in scope of service;
5. Expansion or remodel not directly related to a change in scope of service;
6. The addition of a new site, or removal of an existing site, that offers the same Medicaid-covered services;
7. The addition or removal of administrative staff;
8. The addition or removal of staff members to or from an existing service;
9. Changes in salaries and benefits not directly related to a change in scope of service;
10. Change in patient type and volume without changes in type, duration, or intensity of services;
11. Capital expenditures for losses covered by insurance; or,
12. A change in ownership.

- e) An FQHC must apply to the Department by written notice within ninety (90) days of the end of the FQHCs fiscal year in which the change in scope of service occurred, in conjunction with the submission of the FQHC's annual cost report. Only one scope-of-service rate adjustment will be calculated per year. However, more than one type of change in scope of service may be included in a single application.
- f) Should the scope-of-service rate application for one year fail to reach the threshold described in Section 8.700.6.D.5.b.4, the FQHC may combine that year's change in scope of service with a valid change in scope of service from the next year or the year after. For example, if a valid change in scope of service that occurred in FY 2016 fails to reach the threshold needed for a rate adjustment, and the FQHC implements another valid change in scope of service during FY2018, the FQHC may submit a scope-of-service rate adjustment application that captures both of those changes. An FQHC may only combine changes in scope of service that occur within a three-year time frame, and must submit an application for a scope-of-service rate adjustment as soon as possible after each change has been implemented. Once a change in scope of service has resulted in a successful scope-of-service rate adjustment, either individually or in combination with another change in scope of service, that change may no longer be used in an application for another scope-of-service rate adjustment.

- g) The documentation for the scope-of-service rate adjustment is the responsibility of the FQHC. Any FQHC requesting a scope-of-service rate adjustment must submit the following to the Department:
1. The Department's application form for a scope-of-service rate adjustment, which includes:
    - i. The provider number(s) that is/are affected by the change(s) in scope of service;
    - ii. A date on which the change(s) in scope of service was/were implemented;
    - iii. A brief narrative description of each change in scope of service, including how services were provided both before and after the change;
    - iv. Detailed documentation such as cost reports that substantiate the change in total costs, total health care costs, and total visits associated with the change(s) in scope; and
    - v. An attestation statement that certifies the accuracy, truth, and completeness of the information in the application signed by an officer or administrator of the FQHC;
  2. Any additional documentation requested by the Department. If the Department requests additional documentation to calculate the rate for the change(s) in scope of service, the FQHC must provide the additional documentation within thirty (30) days. If the FQHC does not submit the additional documentation within the specified timeframe, the Department, at its discretion, may postpone the implementation of the scope-of-service rate adjustment.
- h) The reimbursement rate for a scope-of-service change applied for January 30, 2017 or afterwards will be calculated as follows:
1. The Department will first verify the total costs, the total covered health care costs, and the total number of visits before and after the change in scope of service. The Department will also calculate the Adjustment Factor ( $AF = \text{covered health care costs} / \text{total cost of FQHC services}$ ) associated with the change in scope of service of the FQHC. If the AF is 80% or greater, the Department will accept the total costs as filed by the FQHC. If the AF is less than 80%, the Department will reduce the costs other than covered health care costs (thus reducing the total costs filed by the FQHC) until the AF calculation reaches 80%. These revised total costs will then be the costs used in the scope-of-service rate adjustment calculation.
  2. The Department will then use the appropriate costs and visits data to calculate the adjusted PPS rate. The adjusted PPS rate

will be the average of the costs/visits rate before and after the change in scope of service, weighted by visits.

3. The Department will calculate the difference between the current PPS rate and the adjusted PPS rate. The “current PPS rate” means the PPS rate in effect on the last day of the reporting period during which the most recent scope-of-service change occurred.
  4. The Department will check that the adjusted PPS rate meets the 3% threshold described above. If it does not meet the 3% threshold, no scope-of-service rate adjustment will be implemented.
  5. Once the Department has determined that the adjusted PPS rate has met the 3% threshold, the adjusted PPS rate will then be increased by the Medicare Economic Index (MEI) to become the new PPS rate.
- i) The Department will review the submitted documentation and will notify the FQHC in writing within one hundred twenty (120) days from the date the Department received the application as to whether a PPS rate change will be implemented. Included with the notification letter will be a rate-setting statement sheet, if applicable. The new PPS rate will take effect one hundred twenty (120) days after the FQHC’s fiscal year end.
- j) Changes in scope of service, and subsequent scope-of-service rate adjustments, may also be identified by the Department through an audit or review process.
1. If the Department identifies a change in scope of services, the Department may request the documentation as described in Section 8.700.6.D.5.g from the FQHC. The FQHC must submit the documentation within ninety (90) days from the date of the request.
  2. The rate adjustment methodology will be the same as described in Section 8.700.6.D.5.h.
  3. The Department will review the submitted documentation and will notify the FQHC by written notice within one hundred twenty (120) days from the date the Department received the application as to whether a PPS rate change will be implemented. Included with the notification letter will be a rate-setting statement sheet, if applicable.
  4. The effective date of the scope-of-service rate adjustment will be one hundred twenty (120) days after the end of the fiscal year in which the change in scope of service occurred.
- k) An FQHC may request a written informal reconsideration of the Department’s decision of the PPS rate change regarding a scope-of-service rate adjustment within thirty (30) days of the date of the Department’s notification letter. The informal reconsideration must be mailed to the Department of Health Care Policy and Financing, 1570

Grant St, Denver, CO 80203. To request an informal reconsideration of the decision, an FQHC must file a written request that identifies specific items of disagreement with the Department, reasons for the disagreement, and a new rate calculation. The FQHC should also include any documentation that supports its position. A provider dissatisfied with the Department's decision after the informal reconsideration may appeal that decision through the Office of Administrative Courts according to the procedures set forth in 10 CCR 2505-10 Section 8.050.3, PROVIDER APPEALS.

6. The performance of physician and mid-level medical staff shall be evaluated through application of productivity standards established by the Centers for Medicare and Medicaid Services (CMS) in CMS Publication 27, Section 503; "Medicare Rural Health Clinic and FQHC Manual". If an FQHC does not meet the minimum productivity standards, the productivity standards established by CMS shall be used in the FQHCs' rate calculation.

8.700.6.E The Department shall notify the FQHC of its rates.

#### **8.700.8 REIMBURSEMENT FOR OUTSTATIONING ADMINISTRATIVE COSTS**

8.700.8.A The Department shall reimburse freestanding FQHCs for reasonable costs associated with assisting clients in the Medicaid application process. Beginning with the 2019 Cost Report Cycle, this outstationing payment shall be made based upon actual cost and is included as an allowable cost in an FQHC cost report.

#### **8.700.8.B**

1. Hospitals with hospital-based FQHCs shall receive federal financial participation for reasonable costs associated with assisting potential beneficiaries in the Medicaid application process. For any hospital-based FQHC Medicaid cost report audited and finalized after July 1, 2005, Denver Health Medical Center shall receive federal financial participation for eligible expenditures. To receive the federal financial participation, Denver Health Medical Center shall provide the state's share of the outstationing payment by certifying that the audited administrative costs associated with outstationing activities are eligible Medicaid public expenditures. Such certifications shall be sent to the Safety Net Programs Manager.
2. Hospitals with hospital-based FQHCs shall receive federal financial participation for reasonable costs associated with assisting potential beneficiaries in the Medicaid application process. Effective with the hospital cost report year 2010 and forward, the Department will make an interim payment to Denver Health Medical Center for estimated reasonable costs associated with outstationing activities based on the costs included in the as-filed Medicare cost report. This interim payment will be reconciled to actual costs after the cost report is audited. Denver Health Medical Center shall receive federal financial participation for eligible expenditures. To receive the federal financial participation, Denver Health Medical Center shall provide the state's share of the outstationing payment by certifying that the interim estimated administrative costs and the final audited administrative costs associated with outstationing activities are eligible Medicaid public expenditures. Such certifications shall be sent to the Safety Net Programs Manager.

## **DO NOT PUBLISH THIS PAGE**

Title of Rule: Revision to the Medical Assistance Rule concerning Long Term Acute Care and Rehabilitation Per Diem Reimbursement, Sections 8.300.5.D.3

Rule Number: MSB 19-01-28-A

Division / Contact / Phone: Finance / Kevin Martin / 303-866-2842 / Elizabeth Quaife / 303-866-2083

## **SECRETARY OF STATE**

### **RULES ACTION SUMMARY AND FILING INSTRUCTIONS**

#### **SUMMARY OF ACTION ON RULE(S)**

1. Department / Agency Name: Health Care Policy and Financing / Medical Services Board
2. Title of Rule: MSB 19-01-28-A, Revision to the Medical Assistance Rule concerning Long Term Acute Care and Rehabilitation Per Diem Reimbursement, Sections 8.300.5.D.3
3. This action is an adoption an amendment of:
4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):  
Sections(s) 8.300.5.D3, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).
5. Does this action involve any temporary or emergency rule(s)? No  
If yes, state effective date:  
Is rule to be made permanent? (If yes, please attach notice of hearing). Yes

#### **PUBLICATION INSTRUCTIONS\***

Replace the current text at 8.300.5.D with the proposed text beginning at 8.300.5.D through the end of 8.300.5.D. This rule is effective May 30, 2019.



## **DO NOT PUBLISH THIS PAGE**

Title of Rule: Revision to the Medical Assistance Rule concerning Long Term Acute Care and Rehabilitation Per Diem Reimbursement, Sections 8.300.5.D.3

Rule Number: MSB 19-01-28-A

Division / Contact / Phone: Finance / Kevin Martin / 303-866-2842 / Elizabeth Quaipe / 303-866-2083

### **STATEMENT OF BASIS AND PURPOSE**

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

As the rule is currently written, the use of the term 'Freestanding' will incorrectly exclude two Long Term Acute Care locations. To leave the language as is will eliminate the budget neutral implementation of the new per diem reimbursement methodology. To correct this, the Department is removing the term "Freestanding" and specifying that the categories of Long-Term Care Hospital, Rehabilitation Hospital, and Spine/Brain Injury Specialist Hospital exclude distinct part units and satellite locations. The update will ensure all intended Long Term Acute Care Hospitals and Rehabilitation Hospitals are included in the new reimbursement methodology while distinct part units and satellite locations remain on their existing reimbursement methodology outlined in rule 10 CCR 2505-10; Section 8.300.

2. An emergency rule-making is imperatively necessary

- ☐ to comply with state or federal law or federal regulation and/or  
☐ for the preservation of public health, safety and welfare.

Explain:

3. Federal authority for the Rule, if any:

4. State Authority for the Rule:

Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2018);  
Sections 25.5-4-402(1), C.R.S. (2018)

## **DO NOT PUBLISH THIS PAGE**

Title of Rule: Revision to the Medial Assistance Rule concerning Long Term Acute Care and Rehabilitation Per Diem Reimbursement, Sections 8.300.5.D.3

Rule Number: MSB 19-01-28-A

Division / Contact / Phone: Finance / Kevin Martin / 303-866-2842 / Elizabeth Quaife / 303-866-2083

### **REGULATORY ANALYSIS**

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

Long Term Acute Care Hospitals or Rehabilitation Hospitals providing Inpatient Hospital Services which do not fit the definition of 'Freestanding' will be impacted. The term 'Freestanding' implied a hospital that owned/rented an entire building on independently owned land. Hospitals that rented a floor or building located on a hospital campus were incorrectly excluded by the use of 'Freestanding'. By specifying that the categories of Long-Term Care Hospital, Rehabilitation Hospital, and Spine/Brain Injury Specialist Hospital exclude hospital distinct part units and hospital satellite locations the rule will clearly define hospitals that are and are not included in the per diem reimbursement methodology and ensure there are no conflicts with existing reimbursement methodology language.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

The goal of the specialty hospital per diem implementation is to create a better reimbursement model that benefits both the Department and Specialty Hospitals while allowing an even distribution of Medicaid clients among the specified Hospital groups. Under the APR-DRG methodology, disparities in base rates among hospitals incentivizes over-utilization in some hospitals and under-utilization in others. By creating a standardized per diem for each group the disparities will be eliminated and there will no longer be an adverse incentive that will impact utilization in this way. Unfortunately, in MSB 18-07-23-A the term "freestanding" was used to exclude distinct part units and satellite locations which inappropriately excluded some specialty hospitals that are located within another hospital but that are still a unique entity.

This proposed rule corrects the language from MSB 18-07-23-A so that the intended quantitative and qualitative impacts from that earlier rule are realized.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

## **DO NOT PUBLISH THIS PAGE**

This proposed rule should have no costs to the Department, any other agency, or state revenues as it only corrects language from MSB 18-07-23-A.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

MSB 18-07-23-A was intended to be budget neutral, however, if the language from that rule is not updated with this proposed rule then it will no longer be budget neutral. Inaction would lead to an increase in Department expenditure and perpetuate the disparities that were intended to be fixed by MSB 18-07-23-A.

5. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

The proposed update in language is the least costly option for the Department.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

No alternative methods were considered.

## **8.300 HOSPITAL SERVICES**

### **8.300.5 Payment for Inpatient Hospital Services**

#### **8.300.5.D Payments to Non-DRG Hospitals for Inpatient Services**

##### **1. Payments to Psychiatric Hospitals**

- a. The Department shall reimburse Psychiatric Hospitals for inpatient services provided to Medicaid clients on a per diem basis. The per diem rates shall follow a step-down methodology. Each step has a corresponding per diem rate based on historical Medicaid payment rates and evaluation of Hospital data concerning the relationship between Hospital costs and client length of stay. Criteria for each step are described below:

- i Step 1: Day 1 through Day 7

- ii Step 2: Day 8 through remainder of care at acute level

- b. Hospital rates may be adjusted annually on July 1 to account for changes in funding by the General Assembly and inflationary adjustments as determined by the Medicare Economic Index.

##### **2. Payment to State-Owned Psychiatric Hospitals**

The Department shall reimburse State-Owned Psychiatric Hospitals on an interim basis according to a per diem rate. The Department will determine the per diem rate based on an estimate of 100% of Medicaid costs from the Hospital's Medicare cost report. Periodically, the Department will audit actual costs and may require a cost settlement to insure reimbursement is 100% of actual audited Medicaid costs.

##### **3. Payments to Long-Term Care and Rehabilitation Hospitals (excludes distinct part units and satellite locations as defined under 10 CCR 2505 10 8.300) shall be divided into three (3) subgroups: Long-Term Care Hospital, Rehabilitation Hospital and Spine/Brain Injury Treatment Specialty Hospital.**

The Department shall reimburse Long-Term Care, Rehabilitation, and Spine/Brain Injury Treatment Specialist Hospitals for inpatient services provided to Medicaid patients on a per diem basis. The per diem rates shall follow a step-down methodology based on length of stay, with a decrease of five (5) percent with each step. Each step shall be assigned a corresponding per diem rate based on historical Medicaid payment rates and evaluation of Hospital data concerning the relationship between Hospital costs and client length of stay. The Department may adjust hospital rates annually on July 1 to account for changes in funding by the General Assembly. The criteria for each of the steps are described below:

- a. Payments to Long-Term Care Hospitals:
  - i. Step 1: Day 1 through Day 21
  - ii. Step 2: Day 22 through Day 35
  - iii. Step 3: Day 36 through Day 56
  - iv. Step 4: Day 57 through remainder of stay
- b. Payments to Rehabilitation Hospitals:
  - i. Step 1: Day 1 through Day 6
  - ii. Step 2: Day 7 through Day 10
  - iii. Step 3: Day 11 through Day 14
  - iv. Step 4: Day 14 through remainder of stay
- c. Payments to Spine/Brain Injury Treatment Specialty Hospitals:
  - i. Step 1: Day 1 through Day 28
  - ii. Step 2: Day 29 through Day 49
  - iii. Step 3: Day 50 through Day 77
  - iv. Step 4: Day 78 through remainder of stay
- d. The Classification-specific per diem for 2019, the year of this methodology implementation shall be calculated using the following method:
  - i. The Department shall assign the claims submitted by each hospital for fiscal year 2017 to one of the following peer groups:
    - 1) Long-Term Care Hospital
    - 2) Rehabilitation Hospital
    - 3) Spine/Brain Injury Treatment Specialty Hospital
  - ii. The Department shall process Medicaid inpatient hospital claims from state fiscal year 2017 through the methodology described in Section 8.300.5.D.3 a-c. This will create per diems that are budget neutral to fiscal year 2017.
  - iii. The Department shall adjust the per diems annually to reflect budget changes. For state fiscal year 2018, rates shall be increased 1.4%. For state fiscal year 2019, rates shall be increased 1%. The Department shall adjust rates in subsequent years by the percentage changes in the budget as appropriated by the General Assembly.

## **DO NOT PUBLISH THIS PAGE**

Title of Rule: Revision to the Medical Assistance Rule concerning Reimbursement Rate Increase for Direct Support Professional Workforce Stabilization, Section 5.505

Rule Number: MSB 19-01-02-A

Division / Contact / Phone: Benefits and Services Management Division/ Office of Community Living / Bryan Fife / 303-866-6433

## **SECRETARY OF STATE**

### **RULES ACTION SUMMARY AND FILING INSTRUCTIONS**

#### **SUMMARY OF ACTION ON RULE(S)**

1. Department / Agency Name: Health Care Policy and Financing / Medical Services Board
2. Title of Rule: MSB 19-01-02-A, Revision to the Medical Assistance Rule concerning Reimbursement Rate Increase for Direct Support Professional Workforce Stabilization, Section 5.505
3. This action is an adoption of: new rules
4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):  
Sections(s) 10 CCR 2505-10, section 8.505, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).
5. Does this action involve any temporary or emergency rule(s)? No  
If yes, state effective date:  
Is rule to be made permanent? (If yes, please attach notice of hearing). Yes

#### **PUBLICATION INSTRUCTIONS\***

Insert the newly proposed text at 8.505 with the proposed text beginning at 8.505 through the end of 8.505.4. This rule is effective May 30, 2019.

## **DO NOT PUBLISH THIS PAGE**

Title of Rule: Revision to the Medical Assistance Rule concerning Reimbursement Rate Increase for Direct Support Professional Workforce Stabilization, Section 5.505

Rule Number: MSB 19-01-02-A

Division / Contact / Phone: Benefits and Services Management Division/ Office of Community Living  
/ Bryan Fife / 303-866-6433

### **STATEMENT OF BASIS AND PURPOSE**

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

This rule implements House Bill 18-1407, which requires the Department to increase specific services in specific waivers by 6.5%. The increased funding must be reserved and used to increase compensation of direct support professionals. The rule establishes the requirement for the use of the funds, the reporting requirements, and the Department's ability to audit provider reported information.

2. An emergency rule-making is imperatively necessary

- ☐ to comply with state or federal law or federal regulation and/or  
☐ for the preservation of public health, safety and welfare.

Explain:

3. Federal authority for the Rule, if any:

N/A

4. State Authority for the Rule:

Sections 25.5-1-301 through 25.5-1-303, C.R.S. (2018);  
Section 25.5-6-406

## **DO NOT PUBLISH THIS PAGE**

Title of Rule: Revision to the Medical Assistance Rule concerning Reimbursement Rate Increase for Direct Support Professional Workforce Stabilization, Section 5.505

Rule Number: MSB 19-01-02-A

Division / Contact / Phone: Benefits and Services Management Division/ Office of Community Living / Bryan Fife / 303-866-6433

### **REGULATORY ANALYSIS**

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

Providers and direct support professionals will be affected by this rule. The providers must bill for the increase funding and expend cost to implement increased compensation to direct support professionals and wages. Medicaid members will receive better access to services due to a stabilization in the workforces.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

Increase compensation to direct support professionals will lead to a stabilization of the workforce allowing better access to services for Medicaid members.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

The Department will bear the cost of the increased reimbursement rate with federal matching.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

N/A

5. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

N/A

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

This rule implements a house bill passed through legislation.



## **8.505 INCREASE OF THE REIMBURSEMENT RATE RESERVED FOR COMPENSATION OF DIRECT SUPPORT PROFESSIONALS**

### **8.505.1 DEFINITIONS**

Definitions below only apply to Section 8.505.

- A. Compensation means any form of monetary payment, including bonuses, employer-paid health and other insurance programs, paid time off, payroll taxes that are proportionate to the increase in compensation, and all other fixed and variable benefits conferred on or received by all direct support professionals providing services as enumerated below.
- B. Direct Support Professional means a worker who assists or supervises a worker to assist a person with intellectual and developmental disabilities to lead a fulfilling life in the community through a diverse range of services, including helping the person get ready in the morning, take medication, go to work or find work, and participate in social activities. Direct Support Professional includes all workers categorized as program direct support professionals and excludes workers categorized as administrative, as defined in standards established by the financial accounting standards board.
- C. Direct Benefit means compensation that is directly conferred onto a direct support professional for their sole benefit and does not include direct benefits to the employing or contracting service agency which may have an indirect benefit to the direct support professional.
- D. Plan of Correction means a formal, written response from a employing or contracting service agency to the Department on identified areas of non-compliance with requirements listed at Section 25.5-6-406, C.R.S. or 10 CCR 2505-10, Section 8.505.
- E. Payroll tax means taxes that are paid or withheld by the employer on the employee's behalf such as Social Security tax, Medicare tax, and Medicare surtax.

### **8.505.2 REIMBURSEMENT RATE INCREASE**

- A. Effective March 1, 2019, the Department increased reimbursement rates by six and a half percent which is to be reserved for compensation to direct support professionals above the rate of compensation that the direct support professionals received as of June 30, 2018. The six and a half percent rate increase must be used as a direct benefit for the direct support professional within 60 days from the close of the State Fiscal Year. The following services delivered through Home and Community Based Waivers for Persons with Developmental Disabilities, Supported Living Services, and Children's Extensive Supports will receive the six and half percent increase to reimbursement rates:
  - 1. Group Residential Services and Supports;
  - 2. Individual Residential Services and Supports;
  - 3. Specialized Habilitation;
  - 4. Respite;
  - 5. Homemaker Basic;
  - 6. Homemaker Enhanced;

7. Personal Care;
8. Prevocational Services;
9. Behavioral Line Staff;
10. Community Connector;
11. Supported Community Connections;
12. Mentorship;
13. Supported Employment- Job Development; And
14. Supported Employment- Job Coaching.

B. Funding from the reimbursement rate increase may not be used for the following:

1. Executive Salaries
2. Administrative Expenses
3. Human Resource Expenses
4. Information Technology
5. Oversight Expenses
6. Business Management Expenses
7. General Record Keeping Expenses
8. Budget and Finance Expenses
9. Workers' Compensation Insurance
10. Contract Staffing Agency Expenses
11. Employee Appreciation Events
12. Gifts
13. Activities not identifiable to a single program.

### **8.505.3 REPORTING REQUIREMENTS FOR DIRECT SUPPORT PROFESSIONAL RATE INCREASE**

- A. On or before December 31, 2019, and two (2) years thereafter, employing or contracting service agencies must report and attest to the Department in detail how all of the increased funds received pursuant to Section 25.5-6-406, C.R.S. were used, including information about increased compensation for all Direct Support Professionals, how the employing or contracting service agency maintained the increase, and how the employing or contracting service agency stabilized the direct support professional workforce.
  1. The employing or contracting service agencies must report to the Department, in the manner prescribed by the Department, by December 31 of each year.

2. The Department has ongoing discretion to request information from service agencies demonstrating how they maintained increases in compensation for Direct Support Professionals beyond the reporting period.
3. Failure to provide adequate and timely reports may result in recoupment of the funds.

#### **8.505.4 AUDITING REQUIREMENTS FOR DIRECT SUPPORT PROFESSIONAL RATE INCREASE FOR COMPENSATION**

- A. Each employing or contracted service agency shall keep true and accurate work records to support and demonstrate use of the funds. Such records shall be retained for a period of not less than three (3) years and shall be open to inspection by the Department and are made available to be copied by the Department or its authorized representatives at any reasonable time and as often as may be necessary.
- B. Employing or contracting service agencies shall submit to the Department upon request, all records showing that the funds were used as a direct benefit for Direct Support Professionals, including but not limited to:
  1. Federal Employment Forms
    - a. W2's -Wage and Tax Statement
    - b. W3 -Transmittal of Wage and Tax Statement
    - c. 941's -Employer's Quarterly Federal Tax Return
    - d. 940 -Employer's Annual Federal Tax Return
  2. State Employment Forms
    - a. UITS 1's – State Unemployment Insurance Tax Report
    - b. UITS 1A's - State Unemployment Insurance Tax Report Wage List
  3. Business/Corporate Tax Returns
  4. Independent Contractor Forms
    - a. 1099's- Miscellaneous Income
    - b. 1096 - Annual Summary and Transmittal of U.S. Information Returns
  5. Payroll Records
    - a. Payroll Detail
    - b. Payroll Summary
  6. Accounting Records
    - a. Chart of Accounts
    - b. General Ledger

- c. Profit & Loss Statements
    - d. Check Register
  - 7. Bank Statements
  - 8. Timesheets
  - 9. Benefits Records
    - a. Health Insurance Records
    - b. Other Insurance Records
    - c. Paid Time Off Records
- C. In the event that a Direct Support Professional was hired after June 30, 2018, the employing or contracting service agency shall use the lowest compensation paid to a Direct Support Professional of similar functions and duties as of June 30<sup>th</sup>, 2018. This is the base rate that the increased compensation will be applied to.
- D. If the Department determines that the employing or contracting service agency did not use the increased funding as a direct benefit to the Direct Support Professional, within one year after the close of each reporting period, the Department shall notify the service agency in writing of the Department's intention to recoup funds. The service agency has forty-five (45) days after issuance of the notice of the determination to complete any of the following actions:
  - 1. challenge the determination of the Department;
  - 2. provide additional information to the Department demonstrating compliance;
  - 3. submit a Plan of Correction to the Department.
- E. When the Department determines that an employing or contracting service agency is not in compliance, a Plan of Correction shall be developed, upon written notification by the Department. A Plan of Correction shall include, but not be limited to:
  - 1. A detailed description of actions to be taken to resolve issues and supporting documentation demonstrating completion.
  - 2. A detailed timeframe specifying the actions to be taken.
  - 3. Employee(s) responsible for implementing the actions.
  - 4. The implementation timeframes and date(s) for completion.
- F. The employing or contracting service agency must submit the Plan of Correction to the Department within forty-five (45) business days of the issuance of a written request from the Department. The employing or contracting service agency must notify the Department in writing, within five (5) business days of the receipt of the written request from the Department, if it will not be able to submit the Plan of Correction by the due date. The employing or contracting service agency must explain the rationale for the delay and the Department may grant an extension, in writing, of the deadline for the employing or contracting service agency's compliance.

- G. Upon receipt of the Plan of Correction, the Department will accept, request modifications, or reject the proposed Plan of Correction. Modifications or rejections will be accompanied by a written explanation. If a Plan of Correction is rejected, the employing or contracting service agency must resubmit a new Plan of Correction along with any requested documentation to the Department for review within five (5) business days of notification.
- H. The Department shall notify the employing or contracting service agency in writing of its final determination after affording the employing or contracting service agency the opportunity to take the actions specified in Section 8.505.4.E. The Department shall recoup one hundred percent of the increased funding received but did not use for a direct benefit for direct support professionals if the employing or contracting service agency:
  - 1. fails to respond to a notice of determination of the Department within the time provided in Section 8.505.4.E;
  - 2. is unable to provide documentation of compliance; or
  - 3. the Department does not accept the Plan of Correction submitted by the service agency, or is not completed within the established timeframe pursuant to Section 8.505.4.F.
- I. All recoveries will be conducted pursuant to Section 25.5-4-301, C.R.S. and 10 CCR 2505-10, Section 8.076.3.

## **DO NOT PUBLISH THIS RULE**

Title of Rule: Revision to the Medical assistance Rule concerning the Exception to the Waiting List Protocol, Section 8.500.7  
Rule Number: MSB 18-11-16-A  
Division / Contact / Phone: Case Management and Quality Performance / Karli Cheatham / 4032

## **SECRETARY OF STATE**

### **RULES ACTION SUMMARY AND FILING INSTRUCTIONS**

#### **SUMMARY OF ACTION ON RULE(S)**

1. Department / Agency Name: Health Care Policy and Financing / Medical Services Board
2. Title of Rule: MSB 18-11-16-A, Revision to the Medical assistance Rule concerning the Exception to the Waiting List Protocol, Section 8.500.7
3. This action is an adoption an amendment of:
4. Rule sections affected in this action (if existing rule, also give Code of Regulations number and page numbers affected):  
Sections(s) 8.500.7, Colorado Department of Health Care Policy and Financing, Staff Manual Volume 8, Medical Assistance (10 CCR 2505-10).
5. Does this action involve any temporary or emergency rule(s)? No  
If yes, state effective date:  
Is rule to be made permanent? (If yes, please attach notice of hearing). Yes

#### **PUBLICATION INSTRUCTIONS\***

Replace the current text at 8.500.7 with the proposed text beginning at 8.500.7.F through the end of 8.500.7.F. Insert newly proposed text at 8.500.7.I with the proposed text beginning at 8.500.7.I through the end of 8.500.7.I. This rule is effective May 30, 2019.

## **DO NOT PUBLISH THIS RULE**

Title of Rule: Revision to the Medical assistance Rule concerning the Exception to the Waiting List Protocol, Section 8.500.7

Rule Number: MSB 18-11-16-A

Division / Contact / Phone: Case Management and Quality Performance / Karli Cheatham / 4032

### **STATEMENT OF BASIS AND PURPOSE**

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

House Bill 18-1407 requires the Department to promulgate rules regarding the criteria for reserve capacity waiver enrollments for individuals with intellectual and developmental disabilities (I/DD). The criteria must include but is not limited to the age of the custodial parent or caregiver, the loss of the custodial parent or caregiver, incapacitation of the custodial parent or caregiver, any life-threatening or serious persistent illness of the custodial parent or caregiver and a threat to the health or safety that the custodial parent or caregiver places on the person with I/DD. The Department has solicited feedback from persons with I/DD, family members, guardians, advocates, and other stakeholders through contract work completed by the LNUSS group in May of 2017 and Department facilitated meetings in January 2019 regarding the current reserve capacity criteria and proposed changes.

2. An emergency rule-making is imperatively necessary

- ☐ to comply with state or federal law or federal regulation and/or  
☐ for the preservation of public health, safety and welfare.

Explain:

3. Federal authority for the Rule, if any:

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2018);  
25.5-10-207.5(6)(b)

## **DO NOT PUBLISH THIS RULE**

Title of Rule: Revision to the Medical assistance Rule concerning the Exception to the Waiting List Protocol, Section 8.500.7

Rule Number: MSB 18-11-16-A

Division / Contact / Phone: Case Management and Quality Performance / Karli Cheatham / 4032

### **REGULATORY ANALYSIS**

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

Individuals who are on the waiting list for the Home and Community Based Services for Persons with Developmental Disabilities waiver (HCBS-DD) who are at risk of experiencing a crisis due to the advanced age, reduced capacity and illness of their caregivers will benefit from the proposed rule as they will have access to entrance to the waiver.

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

This rule will improve quality of life for individuals with intellectual and developmental disabilities, they will no longer have to go through a crisis to access HCBS-DD waiver services. It will decrease the cost of emergency services used by individuals without the access to the waiver such as emergency room visits and crisis centers. It will provide services to individuals at the time they most need them. It will prevent unintentional neglect and consequences to the health and welfare of individuals and the involvement of other state departments and local agencies such as Adult Protective Services (APS) or the Department of Corrections (DOC).

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

This rule will increase the expenses for the HCBS-DD waiver as more individuals have the ability to gain access to the waiver. Case Management Agencies (CMA) will be required to enroll and provide case management to a higher number of individuals which could result in additional costs for staff. With increased enrollment into the waiver there will be an increased need for providers.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.



## **DO NOT PUBLISH THIS RULE**

The proposed rule if approved may increase HCBS-DD waiver expenditures but without it more costly services, Medicaid and otherwise, could be used on a more frequent basis to meet the individual's needs. Without action, individuals are more likely to access services that do not actually meet their needs, are more costly and on a more frequent basis.

5. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

The Department believes this is the most cost-effective way to move into compliance with statute.

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

Alternative methods were considered however the statute requires the department to promulgate rules regarding the criteria for reserve capacity enrollments.

## **8.500 HOME AND COMMUNITY BASED SERVICES FOR THE DEVELOPMENTALLY DISABLED (HCB-DD) WAIVER**

### **8.500.7 WAITING LIST PROTOCOL**

8.500.7.F Persons whose name is on the waiting list shall be considered for enrollment to the HCBS-DD Waiver in order of placement date on the waiting list. Exceptions to this requirement shall be limited to:

1. An emergency situation where the health and safety of the person or others is endangered and the emergency cannot be resolved in another way. Persons at risk of experiencing an emergency are defined by the following criteria:
  - a. Homeless: the person will imminently lose their housing as evidenced by an eviction notice; or whose primary residence during the night is a public or private facility that provides temporary living accommodations; or any other unstable or non-permanent situation; or is discharging from prison or jail; or is in the hospital and does not have a stable housing situation to go upon discharge.
  - b. Abusive or neglectful situation: the person is experiencing ongoing physical, sexual or emotional abuse or neglect in the person's present living situation and the person's health, safety or well-being is in serious jeopardy.
  - c. Danger to others: the person's behavior or psychiatric condition is such that others in the home are at risk of being hurt by him/her. Sufficient supervision cannot be provided by the current caretaker to ensure safety of the person in the community.
  - d. Danger to self: a person's medical, psychiatric or behavioral challenges are such that the person is seriously injuring/harming self or is in imminent danger of doing so.
  - e. Loss or Incapacitation of Primary Caregiver: a person's primary caregiver is no longer in the person's primary residence to provide care; or the primary caregiver is experiencing a chronic, long-term, or life-threatening physical or psychiatric condition that significantly limits the ability to provide care; or the primary caregiver is age 65 years or older and continuing to provide care poses an imminent risk to the health and welfare of the person or primary caregiver; or, regardless of age and based on the recommendation of a professional, the primary caregiver cannot provide sufficient supervision to ensure the person's health and welfare.

8. 500.7.I. A person shall accept or decline the offer of enrollment within thirty (30) calendar days from the date the enrollment was offered. Reasonable effort shall be made to contact the person, family, legal guardian, or other interested party.

1. Upon a written request of the person, family, legal guardian, or other interested party an additional thirty (30) calendar days may be granted to accept or decline an enrollment offer.
2. If a person does not respond to the offer of enrollment within the allotted time, the offer is considered declined and the person will maintain their order of placement date.

## **DO NOT PUBLISH THIS PAGE**

Title of Rule: Revision to the Medical Assistance Rule concerning the Healthcare Affordability and Sustainability Fee Collection and Disbursement, Section 8.3000

Rule Number: MSB 18-09-05-A

Division / Contact / Phone: Special Financing / Jeff Wittreich / 303-866-2456

## **SECRETARY OF STATE**

### **RULES ACTION SUMMARY AND FILING INSTRUCTIONS**

#### **SUMMARY OF ACTION ON RULE(S)**

1. Department / Agency Health Care Policy and Financing / Medical Services  
Name: Board
2. Title of Rule: MSB 18-09-05-A,
3. This action is an adoption an amendment  
of:
4. Rule sections affected in this action (if existing rule, also give Code of Regulations  
number and page numbers affected):  
  
Sections(s) 8.3000, Colorado Department of Health Care Policy and Financing, Staff  
Manual Volume 8, Medical Assistance (10 CCR 2505-10).
5. Does this action involve any temporary or emergency rule(s)? No  
If yes, state effective date:  
Is rule to be made permanent? (If yes, please attach notice of Yes  
hearing).

#### **PUBLICATION INSTRUCTIONS\***

Replace the current text at 8.3003 with the proposed text beginning at 8.3003.A  
through the end of 8.3003.B Replace the current text at 8.3004 with the proposed text  
beginning at 8.3004.D through the end of 8.3004.F.6. This rule is effective May 30,  
2019.

**DO NOT PUBLISH THIS PAGE**

Title of Rule: Revision to the Medical Assistance Rule concerning the Healthcare Affordability and Sustainability Fee Collection and Disbursement, Section 8.3000

Rule Number: MSB 18-09-05-A

Division / Contact / Phone: Special Financing / Jeff Wittreich / 303-866-2456

**STATEMENT OF BASIS AND PURPOSE**

1. Summary of the basis and purpose for the rule or rule change. (State what the rule says or does and explain why the rule or rule change is necessary).

Make necessary changes for the FFY 18-19 time frame. Updates healthcare affordability and sustainability fee amounts and payments amounts.

2. An emergency rule-making is imperatively necessary

- ☐ to comply with state or federal law or federal regulation and/or  
☐ for the preservation of public health, safety and welfare.

Explain:

None

3. Federal authority for the Rule, if any:

42 CFR 433.68

4. State Authority for the Rule:

25.5-1-301 through 25.5-1-303, C.R.S. (2018);  
25.5-4-402.4(4)(g), C.R.S.

## **DO NOT PUBLISH THIS PAGE**

Title of Rule: Revision to the Medical Assistance Rule concerning the Healthcare Affordability and Sustainability Fee Collection and Disbursement, Section 8.3000

Rule Number: MSB 18-09-05-A

Division / Contact / Phone: Special Financing / Jeff Wittreich / 303-866-2456

### **REGULATORY ANALYSIS**

1. Describe the classes of persons who will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.

Colorado hospitals benefit from increased Medicaid and CICP reimbursement made possible through the healthcare affordability and sustainability fee and matching federal funds and the reduction in the number of uninsured Coloradans from expanded Medicaid and CHP+ eligibility. Low-income persons benefit by having health care coverage through the expanded Medicaid and CHP+ eligibility

2. To the extent practicable, describe the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons.

The healthcare affordability and sustainability fee and matching federal funds will result in more than \$2 billion in annual health care expenditures for more than 500,000 Coloradans and will provide more than \$200 million in net new federal funds to Colorado hospitals.

3. Discuss the probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues.

While there are administrative costs associated with CHASE, such costs are funded with fees and federal matching funds and no state general funds are expected to be used.

4. Compare the probable costs and benefits of the proposed rule to the probable costs and benefits of inaction.

If no action is taken, CHASE will not have the ability to fund Medicaid and CHP+ expansions, affecting over 500,000 currently enrolled persons. Inaction would also reduce CICP payments to hospitals, endangering access to discounted health care for low-income persons not eligible for Medicaid or CHP+ and reduce the federal revenue to hospitals.

5. Determine whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

The State does not have alternative resources to fund hospital payments and health coverage for the populations as provided under CHASE; therefore, no other methods are available to achieve the purpose of the proposed rule.

**DO NOT PUBLISH THIS PAGE**

6. Describe any alternative methods for achieving the purpose for the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

The CHASE Act directs the Medical Services Board to promulgate rules for the implementation of the healthcare affordability and sustainability fee; therefore, no alternatives to rule making are available.

## **8.3003: HEALTHCARE AFFORDABILITY AND SUSTAINABILITY FEE**

### **8.3003.A. OUTPATIENT SERVICES FEE**

1. Federal requirements. The Outpatient Services Fee is subject to federal approval by CMS. The Enterprise shall demonstrate to CMS, as necessary for federal financial participation, that the Outpatient Services Fee is in compliance with 42 U.S.C. §§ 1396b(w), 1396b(w)(3)(E), and 1396b(w)(4).
2. Exempted hospitals. Psychiatric Hospitals, Long Term Care Hospitals and Rehabilitation Hospitals are exempted from the Outpatient Services Fee.
3. Calculation methodology. The Outpatient Services Fee is calculated on an annual basis as 1.8119% of total hospital outpatient charges. High Volume Medicaid and CICP Hospitals' Outpatient Services Fee is discounted by 0.84%.

### **8.3003.B. INPATIENT SERVICES FEE**

1. Federal requirements. The Inpatient Services Fee is subject to federal approval by CMS. The Enterprise shall demonstrate to CMS, as necessary for federal financial participation, that the Inpatient Services Fee is in compliance with 42 U.S.C. §§ 1396b(w), 1396b(w)(3)(E), and 1396b(w)(4).
2. Exempted hospitals. Psychiatric Hospitals, Long Term Care Hospitals and Rehabilitation Hospitals are exempted from the Inpatient Services Fee.
3. Calculation methodology. The Inpatient Services Fee is calculated on an annual per inpatient day basis of \$93.07 per day for Managed Care Days and \$416.07 per day for all Non-Managed Care Days with the following exceptions:
  - a. High Volume Medicaid and CICP Hospitals' Inpatient Services Fee is discounted to \$48.59 per day for Managed Care Days and \$217.23 per day for all Non-Managed Care Days, and.
  - b. Essential Access Hospitals' Inpatient Services Fee is discounted to \$37.23 per day for Managed Care Days and \$166.43 per day for Non-Managed Care Days.



**8.3004: SUPPLEMENTAL MEDICAID AND DISPROPORTIONATE SHARE HOSPITAL PAYMENTS**

**8.3004.D. DISPROPORTIONATE SHARE HOSPITAL SUPPLEMENTAL PAYMENT**

1. Qualified hospitals.
  - a. Hospitals that are Colorado Indigent Care Program providers and have at least two obstetricians who have staff privileges at the hospital and who have agreed to provide obstetric care for Medicaid clients or are exempt from the obstetrician requirement pursuant to 42 U.S.C. § 1396r-4(d)(2)(A)(ii) are qualified to receive this payment.
  - b. Hospitals with a MIUR equal to or greater than the mean plus one standard deviation of all MIURs for Colorado hospitals and have at least two obstetricians who have staff privileges at the hospital and who have agreed to provide obstetric care for Medicaid clients or are exempt from the obstetrician requirement pursuant to 42 U.S.C. § 1396r-4(d)(2)(A)(ii) are qualified to receive this payment.
2. Excluded hospitals. Psychiatric Hospitals are not qualified to receive this payment.
3. Calculation methodology for payment.
  - a. Total funds for the Disproportionate Share Hospital payment shall be equal to the Disproportionate Share Hospital allotment as published by CMS annually.
  - b. A Pediatric Hospital shall receive a payment equal to 45.00% of its estimated hospital-specific Disproportionate Share Hospital limit. A Respiratory Hospital shall receive a payment equal to 75.00% of its estimated hospital-specific Disproportionate Share Hospital limit. A new CICP hospital shall receive a payment equal to 10.00% of its estimated hospital-specific Disproportionate Share Hospital limit. A low MIUR hospital shall receive a payment equal to 10.00% of its estimated hospital-specific Disproportionate Share Hospital limit.
    - i. A new CICP hospital is a hospital approved as a CICP provider between July 1, 2017 and June 30, 2018.
    - ii. A Low MIUR hospital is a hospital with a MIUR less than or equal to 15.00%.
  - c. All remaining qualified hospitals shall receive a payment calculated as their percentage of uninsured costs to total uninsured costs for all remaining qualified hospitals, multiplied by the remaining Disproportionate Share Hospital funds.
  - d. No hospital shall receive a payment exceeding its hospital-specific Disproportionate Share Hospital limit as specified in federal regulation. If upon review, the Disproportionate Share Hospital Supplemental payment exceeds the

hospital-specific Disproportionate Share Hospital limit for any qualified hospital, that hospital's payment shall be reduced to the hospital-specific Disproportionate Share Hospital limit. The amount of the reduction shall then be redistributed to the other qualified hospitals not exceeding their hospital-specific Disproportionate Share Hospital limit based on the percentage of uninsured costs to total uninsured costs for all qualified hospitals not exceeding their hospital-specific Disproportionate Share Hospital Limit.

**8.3004.E. UNCOMPENSATED CARE HOSPITAL SUPPLEMENTAL MEDICAID  
PAYMENT**

1. Qualified hospitals. General Hospitals and Critical Access Hospitals shall receive this payment.
2. Excluded hospitals. Psychiatric Hospitals, Long Term Care Hospitals, and Rehabilitation Hospitals shall not receive this payment.
3. Calculation methodology for payment. A qualified Essential Access Hospital shall receive a payment based on its percentage of beds to total beds for all qualified Essential Access Hospitals. A qualified non-Essential Access Hospital shall receive a payment based on its percentage of Uninsured Costs to total Uninsured Costs for all qualified non-Essential Access hospitals.

#### **8.3004.F. HOSPITAL QUALITY INCENTIVE PAYMENT**

1. Qualified hospitals. General Hospitals and Critical Access Hospitals are qualified to receive this payment except as provided below.
2. Excluded hospitals. Psychiatric Hospitals, Long Term Care Hospitals, and Rehabilitation Hospitals are not qualified are not qualified to receive this payment.
3. Measures. Quality incentive payment measures include nine measures. Qualified hospitals must report for the first and second measures. A hospital then reports for the remaining measures in which they are eligible
  - a. The measures for the quality incentive payment are:
    - i. Active participation in the Regional Care Collaborative Organizations (RCCO) or Regional Accountable Entities (RAE),
    - ii. Culture of Safety/Patient Safety,
    - iii. Discharge Planning (Advance Care Planning (ACP)/Transition Activities),
    - iv. Rate of Cesarean Section,
    - v. Breastfeeding Practices,
    - vi. Tobacco and Substance Use Screening and Follow-Up,
    - vii. Emergency Department Process,
    - viii. Percentage of "9" or "10" on the Hospital Consumer Assessment of Healthcare Providers and Systems (HCAHPS) survey, and
    - ix. 30-Day All-Cause Readmission.
4. The hospital shall certify that based on best information, knowledge, and belief, the data included in the data reporting template is accurate, complete, and truthful, is based on actual hospital records, and that all supporting documentation will be maintained for a minimum of six years. The certification shall be made by the hospital's Chief Executive Officer, Chief Financial Officer, or an individual who reports directly to the Chief Executive Officer or Chief Financial Officer with delegated authority to sign for the Chief Executive Officer or Chief Financial Officer so that the Chief Executive Officer or Chief Financial Officer is ultimately responsible for the certification.
5. Calculation methodology for payment.
  - a. Determine total points earned.

- i. Total points earned are the sum of the points earned for the first and second measures and the next three sequential measures for which the hospital is eligible.
- b. Normalize the total points for hospitals that are exempted from reporting requirements or have limited data available for certain measures.
- c. Calculate adjusted Medicaid discharges.
  - i. Adjusted Medicaid discharges are calculated by multiplying the number of Medicaid inpatient discharges by a discharge adjustment factor.
  - ii. The discharge adjustment factor is calculated as gross Medicaid billed charges divided by gross inpatient Medicaid billed charges. The Discharge Adjustment Factor is limited to 5.
  - iii. For hospitals with fewer than 200 annual Medicaid discharges, the total number of discharges is multiplied by 125% to arrive at the number of Medicaid discharges for use in this calculation, consistent with the Medicare prospective payment system calculation.
- d. Calculate total adjusted discharge points.
  - i. Adjusted discharge points are calculated as the total points earned for all measures multiplied by the adjusted Medicaid discharges.
- e. Determine the dollars per discharge point.
  - i. Dollars per discharge point are tiered such that hospitals with higher quality points earned receive more dollars per discharge point than hospitals with lower quality points earned. There are five tiers delineating the dollar value of a discharge point with each tier assigned at certain quality point increments. For each tier increase, the dollars per discharge point increase by a multiplier.
  - ii. The multiplier for the five tiers of quality points are shown in the table below:

Tier	Hospital Quality Points Earned	Multiplier
1	1-19	\$0.00
2	20-35	\$3.13
3	36-50	\$6.26
4	51-65	\$9.39
5	66-80	\$12.52

- g. Calculate payment by hospital by multiplying the adjusted discharge points by the dollars per discharge point.

6. The dollars per discharge point for tier 2 will be set to an amount so that the total quality incentive payments made to all qualified hospitals will equal seven percent of the total reimbursement made to hospitals in the previous state fiscal year.

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**Office of the Attorney General**

Tracking number: 2019-00084

**Opinion of the Attorney General rendered in connection with the rules adopted by the**

Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)

**on 04/12/2019**

10 CCR 2505-10

**MEDICAL ASSISTANCE - STATEMENTS OF BASIS AND PURPOSE AND RULE HISTORY**

The above-referenced rules were submitted to this office on 04/16/2019 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

April 24, 2019 10:56:07

**Philip J. Weiser**  
Attorney General  
by Eric R. Olson  
Solicitor General

## **Permanent Rules Adopted**

**Department**

Department of Human Services

**Agency**

Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

**CCR number**

12 CCR 2509-8

**Rule title**

12 CCR 2509-8 CHILD CARE FACILITY LICENSING 1 - eff 06/01/2019

**Effective date**

06/01/2019



## DEPARTMENT OF HUMAN SERVICES

### Social Services Rules

#### CHILD CARE FACILITY LICENSING

##### 12 CCR 2509-8

*[Editor's Notes follow the text of the rules at the end of this CCR Document.]*

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#### 7.700 CHILD CARE FACILITY LICENSING

##### 7.701 GENERAL RULES FOR CHILD CARE FACILITIES

###### 7.701.1 INTRODUCTION

All rules in Section 7.701, et seq., shall be known and hereinafter referred to as the General Rules for Child Care Facilities and will apply to all child care applicants and licensees subject to the Child Care Licensing Act, Sections 26-6-101 to 26-6-119, C.R.S.

###### 7.701.11 Licensing Exemptions

- A. A license must be obtained before care begins unless such care is exempt as set forth below.
- B. A license is not required for:
  - 1. A special school or class in religious instruction. Religious instruction is defined as instruction in religion as a subject of general education, or instruction in the principles of a particular religious faith. Faith- or spiritually-based programs which offer religious instruction combined with early childhood education, child care or child development activities as a part of the daily routine must obtain a child care license.
  - 2. A special school or class operated for a single skill-building purpose. Single skill building includes activities or instruction in one subject area. A single skill program includes the development of an individual skill which does not include naptime periods or overnight care, or any other time children are not engaged in that specific activity. Any time activities other than the identified single skill are provided; the program is no longer considered a single skill program and must obtain the appropriate license. Meals and snacks may be incorporated into the single skill request.
  - 3. A child care center operated in connection with a church, shopping center, or business where children are cared for during short periods of time, not to exceed three hours in any twenty-four (24) hour period of time, while parents or persons in charge of such children, or employees of the church, shopping center, or business whose children are being cared for at such location are attending church services at such location, shopping, patronizing or working on the premises of the business. This facility must be operated on the premises of the church, business, or shopping center. Only children of parents or guardians who are attending a church activity; patronizing the business or shopping center or working at the church, shopping center or business can be cared for in the center.
  - 4. Occasional care of children with or without compensation, which means the offering of child care infrequently and irregularly that has no apparent pattern.

5. A family care home that provides less than 24-hour care. Care must only be provided using one (1) of the options below at any one time:
    - a. Care of children who are directly related to the caregiver by blood, marriage or adoption. The relationship between the caregiver and child includes biological child(ren), step-child(ren), grandchild(ren), niece, nephew, sibling, or first cousin and provide care for children who are siblings from the same family household which is unrelated to the provider; or
    - b. Care of up to four (4) children, related or unrelated to the caregiver. No more than two (2) children under the age of two years may be cared for at any one time.
  6. A child care facility that is approved, certified, or licensed by any other state department or agency, or by a federal government department or agency, which has standards for operation of the facility and inspects or monitors the facility.
  7. The medical care of children in nursing homes.
  8. Ski area guest child care facilities as defined at Sections 26-6-102(5) and 26-6-103.5, C.R.S.
  9. Neighborhood Youth Organizations as defined at Sections 26-6-102(5.8) and 26-6-103.7, C.R.S.
- C. Any child care providers wishing to be declared exempt from the Child Care Licensing Act based on the nature of their program must submit a request for exemption to the State Department. That request must include the name and address of the facility, the number of children in care and their approximate ages, the hours of operation, and a basic description of the program and its curriculum.
- D. Decisions of the State Department regarding exemptions are the final agency decision of the Department and cannot be reviewed by an Administrative Law Judge.

#### **7.701.12 Civil Penalties and Injunctions**

- A. Violation of any provision of the Child Care Licensing Act or intentional false statements or reports made to the Department or to any agency lawfully delegated by the Department to make an investigation or inspection may result in fines assessed of not more than \$100 a day to a maximum of \$10,000:
1. A civil penalty will be assessed by the Department only in conformity with the provisions and procedures specified in Article 4 of Title 24, C.R.S. No civil penalty will be assessed without a hearing conducted pursuant to the Child Care Licensing Act and Article 4 of Title 24, C.R.S., before an Administrative Law Judge acting on behalf of the Department.
  2. Prior to receipt of a cease and desist order from the Department or from any agency delegated by the Department to make an investigation or inspection under the provision of the Child Care Licensing Act, any unlicensed child care facility may be fined up to \$100 a day to a maximum of \$10,000 for providing care for which a license is required.
  3. For providing child care for which a license is required after receipt of a cease and desist order, an unlicensed facility will be fined \$100 a day to a maximum of \$10,000.
  4. Assessment of any civil penalty under this section will not preclude the Department from initiating injunctive proceedings pursuant to Section 26-6-111, C.R.S.

5. A licensed child care facility may be fined up to \$100 a day to a maximum of \$10,000 for each violation of the Child Care Licensing Act or for any statutory grounds as listed at Section 26-6-108(2), C.R.S.
  6. Assessment of any civil penalty does not preclude the Department from also taking action to deny, suspend, revoke, make probationary, or refuse to renew that license.
  7. Any person intentionally making a false statement or report to the Department or to any agency delegated by the Department to make an investigation or inspection under the provisions of the Child Care Licensing Act may be fined up to \$100 a day to a maximum of \$10,000.
  8. Civil penalties assessed by the Department must be made payable to the Colorado Department of Human Services.
- B. In addition to civil penalties that may be assessed under Section 7.701.12, A, when an individual operates a facility after a license has been denied, suspended, revoked, or not renewed, or before an original license has been issued, injunctive proceedings may be initiated to enjoin the individual from operating a child care facility without a license.
- C. Within ten (10) working days after receipt of a notice of final agency action with regard to a negative licensing action or the imposition of a fine, or when the department identifies and documents in a report of inspection serious violations of any of the standards that could impact the health, safety or welfare of a child cared for at the facility or family child care home, each child care center, facility or family child care home must provide the department with the names and mailing addresses of the parents or legal guardians of each child cared for at the facility so that the department can notify the parents or legal guardians of the negative licensing action taken or the serious violation impacting the health, safety or welfare of a child. The facility will be responsible for paying a fine to the Department that is equal to the direct and indirect costs associated with the mailing of the notice.

### **7.701.13 Appeals and Waivers**

The Department is authorized to hear and decide three kinds of appeal or waiver requests by applicants or licensees: hardship appeals in this rule set, also referred to as hardship waivers, stringency appeals, and materials waiver requests, according to the following procedures. For purposes of this section 7.701.13, a county department of human/social services that certifies foster homes under § 26-6-106.3, C.R.S., is a "licensee."

#### **A. Hardship Waivers**

1. Any applicant or licensee who has applied for or been issued a license to operate a child care facility or child placement agency has a right to appeal, pursuant to § 26-6-106(3), C.R.S., any rule or standard which, in his or her opinion, poses an undue hardship on the person, facility, or community.
1. "Undue hardship" is defined as a situation where compliance with the rule creates a substantial, unnecessary burden on the applicant or licensee's business operation or the families or community it serves, which reasonable means cannot remedy. An undue hardship does not include the normal cost of operating the business.

2. Emergency hardship appeals are requests by applicants or licensees to excuse noncompliance with a specific child care licensing rule due to urgent, significant, and unexpected situations outside the applicant's or licensee's control. Specific situations that may be considered "emergencies" under this paragraph include, but are not limited to:
  - 1) Natural disasters;
  - 2) Infectious disease outbreaks;
  - 3) Mold outbreaks;
  - 4) Acts of nature or an accident resulting in structural damage to the child care facility; or
  - 5) For foster care homes and residential child care facilities, an immediate, child(ren)-specific, emergency placement, situation which may disrupt placement, or situation posing a safety risk to a child(ren) in out-of-home placement.
2. Such appeal must be submitted to the department in writing within sixty (60) calendar days from the date on which the rule, standard, or emergency situation allegedly created the hardship. The applicant or licensee or their designated representative must send an appeal on the state-prescribed form to the appropriate division. Each rule appealed requires an individual appeal and applicable fee. If the appeal is an emergency hardship appeal, the applicant or licensee must mark it as such on the state-prescribed form.
3. When submitting an appeal, the applicant or licensee must consider the impact on the health, safety, and wellbeing of any children in care and include a proposed alternate compliance plan.
4. The department must consider the impact of an appeal on the health, safety, and wellbeing of the children in care, which must take priority over any undue hardship alleged, when determining whether an appeal should be granted.
5. If the Department grants an appeal for undue hardship, it will issue the applicant or licensee an official decision notification letter temporarily excusing the applicant or licensee from compliance with the appealed rule or standard and accepting the alternate compliance plan.

#### B. Stringency Appeals

1. Any applicant or licensee who has applied for or been issued a license to operate a child care facility or child placement agency has a right to appeal, pursuant to § 26-6-106(3),

C.R.S., any violation of a child care licensing rule cited in a report of inspection, on the basis that the rule has been too stringently applied by a representative of the department. "Stringency," as used in this section 7.701.13, means the child care licensing representative applied rules too strictly, improperly, or unfairly. Disputes over the factual accuracy of a cited violation are not reviewable under this provision and must be resolved with the licensing representative's supervisor.

2. Such appeal must be submitted to the department in writing within sixty (60) calendar days from the date of the report of inspection at issue. The applicant or licensee or their designated representative must send an appeal on the state-prescribed form to the appropriate division. Each rule citation requires an individual appeal and applicable fee.
3. When submitting an appeal, the applicant or licensee must provide all evidence that it believes shows the rule was applied too stringently.
4. The department must consider the impact of an appeal on the health, safety, and wellbeing of the children in care.
5. If the Department finds a licensing rule was too stringently applied in the appealed citation, it will issue the applicant or licensee a new report of inspection with that citation removed, which shall for all purposes supersede the original report of inspection.

#### C. Materials Waiver Requests

1. A child care center that is applied for or has been issued a license may request a waiver, pursuant to § 26-6-105.7, C.R.S., to use certain hazardous materials in its program or curriculum that would otherwise violate child care licensing rules.
2. The child care center must submit a materials waiver request in writing on the state-prescribed form to the appropriate division. Each rule for which waiver is requested requires an individual request and applicable fee. If the request also seeks to remove a citation on a report of inspection involving the materials, it must be submitted within sixty (60) calendar days from the date of the report of inspection; otherwise, it may be submitted at any time.
3. A child care center requesting a materials waiver must adopt a safety policy, included with the waiver request, that provides that:
  - a. Early childhood teachers are trained in the use of the specific material(s) in a way that provides reasonable, developmental-and age-appropriate safety provisions for children;
  - b. Current training certificates are provided for each staff/classroom where the materials waiver is being sought. Training must be completed through nationally

recognized programs related to the curriculum or philosophy, or through other department-approved training, curriculum, or program validation; and,

- c. Parents are notified in writing regarding the use of the hazardous materials in the child care center. The notice must include all of the potential safety risks associated with the materials. The child care center must obtain signed parental consent forms acknowledging awareness of the risks in using the materials in the child care center prior to implementing use of the identified materials and prior to any newly enrolled children attending the center after the waiver is implemented.
4. The department must consider the impact of a materials waiver request on the health, safety, and wellbeing of the children in care.
5. If the department grants a materials waiver request, it will issue the child care center an official decision notification letter allowing the use of the requested materials according to the provided safety policy. The applicant or licensee must post the decision letter next to the child care license until the letter's expiration date. If there is no expiration date, the decision letter expires three (3) years from the date of the letter. The approved waiver must be in place before using materials that pose a risk to children.

#### D. Administrative Review and Appeal Panel Procedures

1. The applicant or licensee must comply with all child care licensing rules and standards, including the rule(s) subject to an appeal or materials waiver request, until the applicant or licensee has received a written decision granting the appeal or waiver.
2. The Department will receive, review, and schedule all appeals and materials waiver requests for review by the appeal panel constituted under § 26-6-106(3), C.R.S.
  - a. For hardship appeals, the Department may propose that the appeal panel grant one or more appeals as part of a consent agenda, which the appeal panel may approve with a single vote; except if any panel member objects to the consent agenda, the appeals on such agenda must be decided individually. The appeal panel may not deny appeals by consent agenda.
  - b. For emergency hardship appeals, the Department may administratively grant the appeal if it meets the definition of an emergency situation and the proposed alternate compliance plan adequately protects the health, safety, and wellbeing of children in care. If the Department does not administratively grant the emergency hardship appeal, it must schedule the appeal for review by the appeal panel.
  - c. For materials waiver requests, the Department will administratively grant or deny the waiver request within sixty (60) days after receipt of the request. If it denies a waiver, the Department must provide notice in its decision of the center's right to

appeal the denial within forty-five (45) days and the center's right to meet with Department personnel as part of that appeal.

- d. If a child care center appeals the denial of a materials waiver request within forty-five (45) days of the denial, the Department will schedule the appeal for review by the appeal panel within forty-five (45) days of the appeal. The entire appeal process must not last longer than one hundred (100) days from the date of the notice of denial.
3. The appeal panel will adopt a written decision recommending that the department grant, deny, or grant with modifications an appeal or materials waiver request. The department must send an official decision letter, including the written decision of the appeal panel, to the applicant or licensee, within ten (10) days from the date of the appeal panel meeting.
- a. For hardship appeals and materials waiver requests, the official decision letter must be posted next to the child care license until its expiration date. If there is no expiration date, the letter expires three (3) years from its date.
  - b. If the department approves a hardship appeal or materials waiver request and the applicant or licensee wishes to make changes to the alternate compliance plan or safety policy submitted with the original appeal or request, the applicant or licensee must submit a new hardship appeal or materials waiver request.
  - c. If, after the department approves a hardship appeal or materials waiver request, the applicant or licensee violates the terms and conditions described in the approved alternate compliance plan, approved safety policy, or official decision letter, the department's approval will immediately be rescinded and considered null and void. For purposes of this provision, any injuries, accidents, or founded complaints or investigations related to the appealed or waived licensing rule constitute a violation.
4. Hearing requests
- a. For hardship or stringency appeals, if an applicant or licensee is aggrieved by the decision of the department, the applicant or licensee may request an administrative hearing pursuant to § 24-4-105, C.R.S. Written requests for an administrative hearing must be received in writing within 30 calendar days from the date the applicant or licensee received the department's decision. In all such administrative hearings, the applicant or licensee will bear the burden or proof by a preponderance of the evidence.

- b. For appeals from denials of materials waiver requests, the Department's decision is a final agency decision subject to judicial review pursuant to § 24-4-106, C.R.S.

#### **7.701.14 Civil Rights**

All facilities licensed under the Child Care Licensing Act are subject to the FOLLOWING FEDERAL LAWS AND REGULATIONS: THE non-discrimination provisions of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000D ET SEQ. (2018), and its implementing regulation, 45 C.F.R. Part 80 (2018); the Age Discrimination Act of 1975, 42 U.S.C. §§ 6101-6017 (2018) and its implementing regulation, 45 C.F.R., Part 91 (2018); Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (2018), and its implementing regulation, 45 C.F.R. Part 84 (2018). ALL OF WHICH ARE HEREBY INCORPORATED BY REFERENCE. NO LATER EDITIONS OR AMENDMENTS ARE INCORPORATED. THESE STATUTES AND REGULATIONS ARE AVAILABLE FOR PUBLIC INSPECTION AND COPYING AT THE COLORADO DEPARTMENT OF HUMAN SERVICES 1575 SHERMAN ST., 8TH FLOOR, DENVER, COLORADO, DURING REGULAR BUSINESS HOURS. THESE STATUTES AND REGULATIONS ARE ALSO AVAILABLE AT NO COST FROM THE U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES, OFFICE OF CIVIL RIGHTS, 200 INDEPENDENCE AVENUE, SW, ROOM 509F, HHH BUILDING, WASHINGTON, D.C. 20201 OR AT [HTTP://USCODE.HOUSE.GOV](http://USCODE.HOUSE.GOV) AND [HTTP://WWW.ECFR.GOV](http://WWW.ECFR.GOV).

All facilities licensed under the Child Care Licensing Act are also subject to Titles I through V of the Americans with Disabilities Act, 42 U.S.C. § 12101 et seq. (2012), AND ITS IMPLEMENTING REGULATION, 29 C.F.R., PART 1630 (2018), WHICH ARE HEREBY INCORPORATED BY REFERENCE. NO LATER EDITIONS OR AMENDMENTS ARE INCORPORATED. THESE STATUTES AND REGULATIONS ARE AVAILABLE FOR PUBLIC INSPECTION AND COPYING AT THE COLORADO DEPARTMENT OF HUMAN SERVICES 1575 SHERMAN ST., 8TH FLOOR, DENVER, COLORADO, DURING REGULAR BUSINESS HOURS. THESE STATUTES AND REGULATIONS ARE ALSO AVAILABLE AT NO COST FROM THE U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES, OFFICE OF CIVIL RIGHTS, 200 INDEPENDENCE AVENUE, SW, ROOM 509F, HHH BUILDING, WASHINGTON, D.C. 20201 OR AT [HTTP://USCODE.HOUSE.GOV](http://USCODE.HOUSE.GOV) AND [HTTP://WWW.ECFR.GOV](http://WWW.ECFR.GOV).

Decisions related to the enrollment, placement, or dismissal of a child with a disability or chronic condition must be in compliance with the Americans with Disabilities Act. The facility must provide reasonable accommodations for the child with a disability who has special needs.

A lack of independent ambulation or the need for assistance in feeding, toileting, or dressing or in other areas of self-care cannot be used as sole criteria for enrollment or placement or denial of enrollment or denial of placement. Efforts must be made to accommodate the child's needs and to integrate the child with his/her peers who do not have disabilities.

#### **7.701.2 DEFINITIONS**

##### **A. Types of Homes**

##### **1. Family Child Care Home**

"Family Child Care Home," defined at Section 26-6-102(13), C.R.S., means a type of family care home that provides less than 24-hour care for five (5) or more children under the age of eighteen (18) years on a regular basis in the primary residence of the child care provider.

##### **2. Foster Care Home**



"Foster Care Home," means a home that is certified by a county department or a child placement agency, pursuant to Section 26-6-106(14) C.R.S., for child care in a place of residence of a family or person for the purpose of providing twenty-four (24) hour foster care for a child and/or youth under the age of twenty-one (21) years. A foster care home may include foster care for a child and/or youth who is unrelated to the head of the home or foster care provided through a kinship foster care home, but does not include non-certified kinship care defined in Section 19-1-103(78.7), C.R.S. The term includes any foster care home receiving a child and/or youth for regular twenty-four (24) hour care and any home receiving a child and/or youth from any state-operated institution for child care or from any child placement agency. Foster care home also includes those homes licensed by the Department of Human Services pursuant to Section 26-6-104, C.R.S., that receive neither moneys from the counties, nor children and/or youth placed by the counties.

**B. Specialized Group Facility**

A "Specialized Group Facility," defined at Section 26-6-102(36)(a), C.R.S., means a facility that is sponsored and supervised by a county department or a licensed child placement agency for the purpose of providing twenty-four (24) hour care for three (3) or more children, but fewer than twelve (12) children except as noted below, from at least three (3) but less than eighteen (18) years of age, or for those persons less than twenty-one (21) years old who are placed by court order prior to their eighteenth 18<sup>th</sup> birthday whose special needs can best be met through the medium of a small group. A specialized group facility may serve a maximum of one (1) child enrolled in Children's Habilitation Residential Program (CHRP) and eight (8) other foster children, or two (2) children enrolled in CHRP and five (5) other foster children, unless there has been prior written approval by the CHRP waiver administrator. If placement of a child in a Specialized Group Facility will result in more than three (3) children approved for Children's Habilitation Residential Program (CHRP) funding, then the total number of children placed in that Specialized Group Center will not exceed a maximum of six (6) total children. Placements of more than three (3) children approved for CHRP funding may be made if the agency can demonstrate to the CHRP waiver administrator that the provider has sufficient knowledge, experience, and supports to safely meet the needs of all of the children in the home. Emergency placements will not exceed maximum established limits. Facilities that exceed established capacity at the time the rule takes effect may not accept additional children into the home until capacity complies with the rule.

**SPECIALIZED GROUP FACILITY MAXIMUM CAPACITY**

CHRP	Non-CHRP	Total Children
1	8	9
2	5	7

**SPECIALIZED GROUP CENTER MAXIMUM CAPACITY**

CHRP	Non-CHRP	Total Children
3	3	6

1. "Specialized Group Homes or Group Centers" who are serving children enrolled in the Children's Habilitation Residential Program (CHRP) waiver must be in compliance with rules contained within the Department of Health Care Policy and Financing's Medical Assistance Manual at Section 8.508 (10 CCR 2505-10).
2. "Specialized Group Centers" that serve three (3) children enrolled in CHRP waiver must be staffed with sufficient staff to deal with the complex needs of the children placed in the home.

3. A "Specialized Group Home" is located in a house owned or otherwise controlled by the group home parents who are primary responsible for the care of the children and reside at the home.
4. A "Specialized Group Center" is located in a facility owned or controlled by a governing body that hires the group center parents or personnel who are primarily responsible for the care of the children.

C. Child Care Center

"Childcare centers," are less than 24-hour programs of care as defined at Section 26-6-102(5), C.R.S., child care centers may provide care for five (5) or more children ages six (6) weeks up to the age of eighteen (18) years and include the following types of facilities:

1. A "large child care center" provides care for sixteen (16) or more children between two and one-half (2-1/2) years and up to the age of eighteen (18) years of age.
2. A "small child care center" provides care for five (5) through fifteen (15) children between two (2) years and up to the age of eighteen (18) years of age.
3. An "infant program" provides care for children between six (6) weeks and eighteen (18) months of age.
4. A "toddler program" provides care for children between the ages of twelve (12) months (when and walking independently) and thirty-six (36) months of age.
5. "Preschool" is a part-day child care program for five (5) or more children between the ages of two and one-half (2-1/2) and seven (7) years of age which operates less than five (5) hours per day.
6. "Kindergarten" provides a program for children the year before they enter the first grade.
7. A "school-age child care center" (hereafter referred to as the "center") means a child care center that provides care for five (5) or more children who are between five (5) years of age and up to the age of eighteen (18) years of age. Children 4 years of age, who will turn 5 on or before October 15<sup>th</sup> of the current calendar year may attend the center as part of a "building-based school-age child care program" or "building-based day camp" summer program prior to their kindergarten year. The centers purpose is to provide child care and/or an outdoor recreational experience using a natural environment. The center operates for more than one week during the year. The term includes facilities commonly known as "day camps", "summer camps", "summer playground programs", "before and after school programs", and "extended day programs." This includes centers operating with or without compensation for such care, and with or without stated educational purposes.
  - a. A "building-based school-age child care program" means a child care program that provides care for five (5) or more children who are between five (5) years of age and up to the age of eighteen (18) years of age. Four (4) year old children may attend a building based school age child care center the summer prior to attending kindergarten and the child's fifth (5<sup>th</sup>) birthday occurs on or before October 15<sup>th</sup>. The center is located in a building that is regularly used for the care of children.
  - b. A "mobile school-age child care program" provides care for five (5) or more children who are at least seven (7) years of age or have completed the first grade and up to the age of eighteen (18) years. Children move from one site to another by means of transportation provided by the governing body of the program. The program uses no permanent building on a regular basis for the care of children.

- c. An “outdoor-based school-age child care program” provides care for five (5) or more children who are at least seven (7) years of age or have completed the first grade and up to the age of 18 years. This program uses no permanent building on a regular basis for the care of children. Children are cared for in a permanent outdoor or park setting.

D. Children's Resident Camp

A “Children's Residential Camp,” is defined at Section 26-6-102(8), C.R.S. means a facility operating for three or more consecutive 24-hour days during one or more seasons of the year with the purpose of a group living experience offering education and recreation activities in an outdoor environment. The recreational experiences may occur at the permanent camp or on trips off the premises. A children's resident camp is not a considered a single skill program and must obtain a child care license.

1. A residential camp may have a “primitive camp” which is a portion of the permanent camp premises or another site at which the basic needs for camp operation such as places of abode, water supply systems, and permanent toilet and/or cooking facilities are not usually provided.
2. A “travel-trip camp” must be known as a camp in which there is no permanent camp site and children move from one site to another. The travel-trip camp either originates in Colorado or moves into and/or through Colorado from another state and operates for three or more consecutive twenty four (24) hour days during one or more seasons of the year for the care of five (5) or more children who are at least ten (10) years old or have completed the fourth grade. The program must have as its purpose a group learning experience offering educational and recreational activities utilizing an outdoor environment.

E. Day Treatment Center

A “Day Treatment Center,” defined at Section 26-6-102(10), C.R.S., means a facility that provides less than twenty-four (24) hour care for groups of five (5) or more children three (3) to twenty-one (21) years of age. Nothing prohibits a day treatment center from allowing a person who reaches twenty-one (21) years of age after the commencement of an academic year from attending an educational program at the day treatment center through the end of the semester in which the twenty-first 21<sup>st</sup> birthday occurs or until the person completes the educational program, whichever comes first. The center must provide a structured program of various types of psycho-social and/or behavioral treatments to prevent or reduce the need for placement of the child out of the home or community. This definition does not include special education programs operated by a public or private school system or programs that are licensed by other regulations of the Department of Human Services for less than twenty-four (24) hour care of children, such as a child care center or part-day preschool.

F. Child Placement Agency

A “Child Placement Agency,” defined at Section 26-6-102(7), C.R.S., means any corporation, partnership, association, firm, agency, institution, or person unrelated to the child being placed, who places, who facilitates placement for a fee, or arranges for placement any child under the age of eighteen (18) years with any family, person or institution for purposes of foster care, treatment and/or adoption. The natural parents or legal guardian of any child who places that child for care with any facility licensed as a “Family Child Care Home” or “Child Care Center” must not be deemed to be a Child Placement Agency.

To arrange for placement is to act as an intermediary by assisting a parent or guardian or legal custodian to place or plan to place a child with persons unrelated to the child for 24-hour care.

Any agency from out of state placing a child within Colorado must be licensed as a child placement agency by the Colorado Department of Human Services unless the placement services are coordinated with and provided by a county department of social services, Human Services or a child placement agency licensed by the department.

G. Residential Child Care Facility

1. "Residential Child Care Facility," defined at Section 26-6-102(33), C.R.S., must provide twenty-four (24) hour residential group care and treatment for five (5) or more children between the ages of three (3) and eighteen (18) years old and for those persons to twenty-one (21) years old who are placed by court order prior to their eighteenth 18<sup>th</sup> birthday. A residential child care facility must offer opportunities for a variety of experiences through a group living program and specialized services that can be used selectively in accordance with an individual plan for each child. A residential child care facility includes "Shelter Care Facilities", "Residential Child Care Facilities", and "Psychiatric Residential Treatment Facilities".
2. A "Transition Program" may be a component of an RCCF program in which the child is residing in the RCCF part of the time and in a living situation that child is expected to move to after treatment in the RCCF is completed. The purpose of transition is to enable the child to transition to the home or a less restrictive setting in a manner that prepares the child for success in the new setting.

H. Secure Residential Treatment Center

A "Secure Residential Treatment Center," defined at Section 26-6-102(35), C.R.S., means a facility operated under private ownership that provides twenty-four (24) hour group care and treatment in a secure setting for five (5) or more children or persons from age ten (10) up to the age of twenty-one (21) who are committed by a court pursuant to an adjudication of delinquency or pursuant to a determination of guilt of a delinquent act or having been convicted as an adult and sentenced for an act that would be a crime if committed in Colorado, or in the committing jurisdiction, to be placed in a secure facility.

I. Neighborhood Youth Organization

A "Neighborhood Youth Organization," defined at Section 26-6-102(26)(a), C.R.S., means a nonprofit organization that is designed to serve youth as young as six (6) years of age and up to the age of eighteen (18) years of age. A Neighborhood Youth Organization that operates primarily during times of the day when school is not in session and provides research-based, age-appropriate, and character-building activities designed exclusively for the development of youth from six (6) years to eighteen (18) years of age. These activities must occur primarily in a facility leased or owned by the Neighborhood Youth Organization. The activities must occur in an environment in which youth have written parental or legal guardian consent to become a youth member of the neighborhood youth organization and to arrive at and depart from the primary location of the activity on their own accord, without supervision by a parent, legal guardian, or organization.

A Neighborhood Youth Organization must not include faith-based centers, organizations or programs operated by state or city parks or special districts, or departments or facilities that are currently licensed as child care centers as defined in Section 26-6-102(5), C.R.S.

J. Other Definitions

1. "Affiliate of a licensee," means any person or entity that owns more than five (5) percent of the ownership interest in the business operated by the licensee; applicant for a license, or any person who is directly responsible for the care and welfare of children served, any executive; officer; member of the governing board; employee of a licensee; or a relative

of a licensee, when the relative provides care to children at the licensee's facility, or is otherwise involved in the management or operations of the licensee's facility.

2. For the purposes of all child care licensing rules, the terms "child battering," "child abuse," "child molesting," and "child neglect" are terms to be considered within the definition of abuse set forth in Section 19-1-103, C.R.S., unless otherwise indicated.
3. "Citizen/legal resident" means a citizen of the United States, current legal resident of the United States, or lawfully present in the United States.
4. The "Consumer Product Safety Commission", as referred to in rules Regulating Child Care Facilities, means the National Commission that establishes standards for the safety of children's equipment and furnishings and for playground safety. Information about these guidelines may be obtained from the Office of Information and Public Affairs, U.S. Consumer Product Safety Commission (CPSC), Washington, D.C. 20207. The CPSC web address is <http://www.cpsc.gov>. The local U.S. Consumer Product Safety Commission Office is located at 1961 Stout Street, Denver, CO 80294. You may contact a Senior Resident Investigator in the Denver office for information. This rule refers to the current edition of the Consumer Product Safety Commission standards, in effect when rules referencing the Commission are referenced, and does not include later amendments to or editions of the standards. The standards may be examined at any State Publications Depository Library.
5. A "critical incident" is a serious incident or concern or potential incident or concern that poses a danger to a child or children at the facility or of a staff member at the facility.
6. "Department" is the Colorado Department of Human Services.
7. "Employee" or "applicant for employment," for the purpose of the child abuse or neglect records check required in section 7.701.32, is defined as: an individual (other than an individual who is related to all children for whom child care services are provided):
  - a. Who is employed by a licensed or qualified exempt child care provider for compensation, including contract employees or self-employed individuals;
  - b. Whose activities involve the care or supervision of children for a licensed or qualified exempt child care provider or unsupervised access to children who are cared for or supervised by a licensed or qualified exempt child care provider; or
  - c. Any individual residing in a licensed or qualified exempt family child care home who is age 18 and older.
8. "Facility" is any business or operation established for the purpose of providing child care services that are required to be licensed pursuant to the Child Care Licensing Act, Section 26-6-101 et seq., C.R.S.
9. "Final Agency Action" means the determination made by the State Department, after opportunity for hearing to deny, suspend, revoke, or demote to probationary status a license issued pursuant to the Child Care Licensing Act or an agreement between the Department and the licensee concerning the demotion of such a license to a probationary license.

10. "Governing Body" is the individual, partnership, corporation, or association in whom ultimate authority and legal responsibility are vested for the administration and operation of the child care facility.
11. "Licensee" is the entity or individual to whom the license is issued and has the legal capacity to enter into agreements or contracts, assume obligations, incur and pay debts, sue and be sued in its own right, and to be held responsible for its actions. The licensee may be a governing body.
12. "Licensing Specialist" is the authorized representative of the Colorado Department of Human Services who inspects and audits child care facilities to ensure compliance with licensing requirements and to investigate possible violations of those requirements.
13. "Negative licensing action" means a Final Agency Action resulting in the denial, suspension, or revocation of a license issued pursuant the Child Care Licensing Act or the demotion of such a license to a probationary license.
14. "Serious emotional disturbance" means a diagnosable mental, behavioral, or emotional disorder that is of sufficient duration and has resulted in a functional impairment that substantially interferes with or limits a child's role or functioning in family, school, or community activities. Serious emotional disturbances do not include developmental disorders, substance-related disorders, or conditions or problems that may be a focus of clinical attention unless they occur with another diagnosable serious emotional disturbance.

#### **7.701.21 Homeless Youth Services - Definitions**

"Homeless Youth" is defined at Sections 24-32-723 and 26-5.7-102(2), C.R.S.

"Homeless Youth Shelter" is defined at Sections 26-5.7-102(3) and 26-6-102(5.1), C.R.S.

"Licensed Host Family Home" is a home that is certified by the county department or a child placement agency as meeting the requirements for providing shelter to homeless youth.

#### **7.701.3 APPLICATION PROCESS**

##### **7.701.31 Original Application**

- A. A completed original application accompanied by the appropriate fee and proof of lawful presence in the United States (see Section 3.140.11) must be submitted to the State Department a minimum of sixty (60) days prior to the proposed opening date for the facility. For 24-hour agencies or facilities, the addendum with specific requirements must be completed and submitted with the application.
- B. A licensing evaluation will occur only after the department has received the complete application and appropriate fee.
- C. If a county or agency establishes and plans to sponsor a Specialized Group Facility, the governing body for the Specialized Group Facility is the applicant for the license. A written plan for the supervision of the Specialized Group Facility must accompany the application.

##### **7.701.32 Use of Records and Reports of Child Abuse or Neglect for Background and Employment Inquiries**

- A. An operator of a licensed facility, guest care facility, or an exempt family child care home provider must submit a request to determine if an operator, applicant for employment or current employee has been found responsible for a confirmed report of child abuse or neglect in the State Department's automated system (Trails).
- B. Foster Homes must also obtain a child abuse or neglect records check for each adult eighteen (18) years of age or older living in the home in every state where the adult has resided in the five 5 years immediately preceding the date of application.
- C. An inquiry is not necessary regarding out-of-state employees of a children's resident camp or school-age child care center for a camp or center that is in operation for fewer than ninety (90) calendar days; out-of-state employees operating under this exemption must be supervised at all times by a staff member who has successfully completed all background checks.
- D. The request must be made on the State prescribed form, accompanied by the required fee (for fee assessment see section 7.000.73) within the following required time frames:
  - 1. Child care centers (less than 24-hour care), school-aged child care facilities, family child care homes, and qualified exempt providers must meet the following:
    - a. For all individuals whose activities involve the care or supervision of children or who has unsupervised access to children, requests must be submitted and successfully completed prior to caring for children or allowing unsupervised access to children.
      - 1) Individuals who have obtained a successfully completed CBI or FBI record check may care for children, for no longer than ninety (90) calendar days, while waiting for all other required background checks to be completed. The individual must be supervised at all times by an individual who has successfully completed all required background checks.
    - b. For each adult eighteen (18) years of age or older, residing in a licensed family child care home or a qualified exempt provider home, requests must be submitted at time of application.
    - c. For each adult eighteen (18) years of age or older, who begin residing in the home after care begins, requests must be submitted within five (5) calendar days, and these adults must not be allowed unsupervised access to children in care until all background checks have been successfully completed.
  - 2. All other requests except those specified in section 7.701.32.C.1 must be submitted within ten (10) calendar days of the first day of employment for each employee or facility.
- E. The request must be made within ten (10) calendar days of the first day of employment for each employee or facility on the State prescribed form, accompanied by the required fee paid by check or money order (for fee assessment see section 7.000.73).
- F. The request must be accompanied by the individual's written authorization to obtain such information from the State automated system, if applicable.
- G. The State Department will inform the requesting party in writing of whether the individual has been confirmed to be a person responsible for an incident of child abuse or neglect.

1. If the result of the inquiry is that the individual has been confirmed as responsible for an incident of child abuse or neglect, the State Department must provide the requesting party with information regarding the date of the reported incident, the type of abuse or neglect with the severity level, and the county department that confirmed the report.
  2. If the result of the inquiry is that the individual has not been confirmed to be responsible for an incident of child abuse or neglect, the State Department must notify the requesting party of this fact.
- H. The information provided by the State Department must serve only as the basis for further investigation. The director or operator may inform an applicant or employee that the report from the State Department's automated system was a factor in the director or operator's decision with regard to the applicant or employee's employment.
- I. Any person who willfully permits or who encourages the release of data or information related to child abuse or neglect contained in the State Department's automated database to persons not permitted access to such information commits a Class 1 misdemeanor and must be punished as provided in Section 18-1.3-501, C.R.S.
- J. Every five (5) years, all child abuse and neglect inquiry background checks must be renewed by resubmitting an inquiry form and current fee to the department for processing. An updated clearance letter or verification of the submission of the inquiry form must be obtained before prior to five (5) years from the date reflected on the current clearance letter.
- K. The results of the abuse and neglect inquiry must be maintained at the center, facility, or agency and must be available for review upon request by a licensing specialist.

### **7.701.33 Criminal Record Check**

- A. Criminal records checks are required under the following circumstances:
1. Each applicant listed below must submit to the Colorado Bureau of Investigation (CBI) and the Federal Bureau of Investigation (FBI) a complete set of fingerprints taken by a qualified law enforcement agency or any third party vendor approved by CBI including county departments of human or social services that use fingerprint machines pursuant to section 19-3-406(1)(c),(2), C.R.S., to obtain any fingerprint criminal history record held by the CBI and FBI. If a third party takes the individual's fingerprints, the fingerprints may be electronically captured using CBI's approved LiveScan equipment. Payment of the fee for the criminal record check is the responsibility of the individual being checked, identified as follows:
    - a. Each applicant for an original license for a center, facility, or agency and any adult eighteen (18) years of age or older who resides in the licensed center, facility or agency.
    - b. Each exempt family child care home provider who provides care for a child and each individual who provides care for a child who is related to the individual (referred collectively in this section as a "qualified provider"), if the child's care is funded in whole or in part with money received on the child's behalf from the publicly funded Colorado Child Care Assistance Program; and, any adult eighteen (18) years of age or older who resides with a qualified provider where the care is provided.
    - c. Applicants for an original certificate for a foster care home, and any adult eighteen (18) years of age or older who resides in the foster care home.
    - d. Any person working in a twenty-four (24) hour child care agency or facility.



2. Each applicant for an original license for a Neighborhood Youth Organization must comply with the criminal background check requirements found at Section 26-6-103.7(4), C.R.S.

The applicant must ascertain whether the person being investigated has been convicted of felony child abuse as specified in Section 18-6-401, C.R.S., or a felony offense involving unlawful sexual behavior as defined in Section 16-22-102(9), C.R.S. The Neighborhood Youth Organization must not hire a person as an employee or approve a person as a volunteer after confirmation of such a criminal history.

- B. Only in the case of a children's resident camp or school-age child care center, out-of-state persons employed in a temporary capacity for less than ninety (90) days are not required to be fingerprinted to obtain a criminal record check. Each person exempted from fingerprinting and being checked with the State Department's automated system must sign a statement which affirmatively states that she/he has not been convicted of any charge of child abuse or neglect, unlawful sexual offense, or any felony. Out-of-state employees operating under this exemption must be supervised at all times by a staff member who has successfully completed all background checks.

Prospective employers of such exempted persons must conduct reference checks of the prospective employees in order to verify previous work history and must conduct personal interviews with each such prospective employee.

- C. At the time the annual declaration of compliance is submitted to the Department, except as required per section 7.701.33.C.1 and 7.701.33.C.2, a criminal record check is required only for adults living at the licensed facility who have not previously obtained one. Because the Colorado Bureau of Investigation (CBI) provides the Department with ongoing notification of arrests, owners, applicants, licensees, and persons who live in the licensed facility who have previously obtained a criminal record check, they are not required to obtain additional criminal record checks.

1. A complete set of fingerprints must be submitted to obtain any criminal record held by CBI or FBI, fourteen (14) calendar days prior to a resident of the family child care home or qualified exempt provider home turning eighteen (18) years of age.
2. A complete set of fingerprints must be submitted within five (5) calendar days for any new resident, eighteen (18) years of age or older, of a family child care home or qualified exempt provider home. Adults must not be allowed unsupervised access to children in care until all background checks have been successfully completed.

- D. Each owner, employee of a facility or agency must submit to CBI a complete set of fingerprints to obtain any criminal record held by the CBI and FBI. Payment of the fee for the criminal record check is the responsibility of the individual being checked or the facility or agency. The results of the criminal record check, CBI and FBI clear letter, must be maintained at the home, center, facility, or agency and must be available for review upon request by a Licensing Specialist.

1. Employees and volunteers who are transferring from one child care facility to another may have their CBI, but not their FBI, fingerprints transferred if they complete the following process:
  - a. Employees must contact CBI to determine if they are eligible for transfer. If eligible, employees must visit a CBI approved third party vendor and indicate they are completing a criminal background check (CBC) transfer per C.R.S. 26-6-107(1)(a)(I)(C.7). Employees must pay the current transfer fee.
  - b. When an individual leaves employment, the facility must submit to the Department a completed Notification of Name Removal form to request the

removal of the individual's name from their facility license number in the CBI database.

- c. School district employees who currently work at a child care facility must have their criminal history report linked to the license number of the child care facility.
2. Except as required per section 7.701.33.D.3, any adult volunteer, working as a staff member to meet the required staff-child ratio or staff qualifications, who works fourteen (14) days (112 hours) or more in a calendar year, must submit to CBI a complete set of fingerprints taken by a qualified law enforcement agency or any party approved by CBI to obtain a criminal record check. The results of the criminal record check must be maintained at the facility or agency and must be available for inspection by a Licensing Specialist. An employee operating as a volunteer to meet required staff-child ratio that does not have a completed background check on file must be supervised at all times by a qualified staff member who has successfully completed all background checks.
3. Criminal background check requests for volunteers, whose activities involve the care and supervision of children; or who has unsupervised access to children must be submitted and successfully completed prior to caring for children or allowing the individual unsupervised access to children in child care centers (less than 24-hour care), school-aged child care facilities, family child care homes, and qualified exempt provider homes.
4. Requests for a criminal record check, other than those required per section 7.701.33.D.4.a, must be submitted to the CBI within five (5) working days of the day that the individual begins to work at the facility or agency.
  - a. Criminal background check requests must be submitted and successfully completed prior to an individual caring for children or allowing the individual unsupervised access to children in child care centers (less than 24-hour care), school-aged child care facilities, family child care homes, and qualified exempt provider homes.
5. Every five (5) years requests for FBI criminal record checks must be renewed by resubmitting a complete set of fingerprints and the required fee to CBI for processing. An updated clearance letter or verification of the submission of the request must be obtained prior to five (5) years from the date reflected on the current clearance letter.
6. For the purposes of these rules, "convicted" means a conviction by a jury or by a court and shall also include a deferred judgment and sentence agreement, a deferred prosecution agreement, a deferred adjudication agreement, an adjudication, and a plea of guilty or *nolo contendere*.
7. Facilities and agencies that hire individuals who have been convicted of any felony, except those listed in a-f below, unlawful sexual behavior, or any misdemeanor, the underlying factual basis of which has been found by the court on record to include an act of domestic violence must inform the department of that hiring within fifteen (15) calendar days of receiving knowledge of the conviction.
8. A child care facility shall not employ, or a child placement agency shall not employ or certify, an individual who has been convicted of:
  - a. Child abuse, as specified in Section 18-6-401, C.R.S.
  - b. A crime of violence, as defined in Section 18-1.3-406, C.R.S.

- c. An offense involving unlawful sexual behavior, as defined in Section 16-22-102(9), C.R.S.
  - d. A felony, the underlying factual basis of which has been found by the court on the record to include an act of domestic violence, as defined in Section 18-6-800.3, C.R.S.
  - e. A felony involving physical assault, battery, or a drug-related offense within the five years preceding the date of application for a license or certificate.
  - f. A pattern of misdemeanor convictions within the ten (10) years immediately preceding submission of the application. "Pattern of misdemeanor" shall include consideration of Section 26-6-108(2), C.R.S., regarding suspension, revocation and denial of a license, and shall be defined as:
    - 1. Three (3) or more convictions of third (3<sup>rd</sup>) degree assault as described in Section 18-3-204, C.R.S., and/or any misdemeanor, the underlying factual basis of which has been found by any court on the record to include an act of domestic violence as defined in Section 18-6-800.3, C.R.S.; or
    - 2. Five (5) misdemeanor convictions of any type, with at least two (2) convictions of third (3<sup>rd</sup>) degree assault as described in Section 18-3-204, C.R.S., and/or any misdemeanor, the underlying factual basis of which has been found by any court on the record to include an act of domestic violence as defined in Section 18-6-800.3, C.R.S. or,
    - 3. Seven (7) misdemeanor convictions of any type.
  - g. Any offense in any other state, the elements of which are substantially similar to the elements listed in a- f.
9. No license or certificate to operate any agency or facility shall be issued by the Department, a county department of human or social services, or a licensed Child Placement Agency if the person applying for such license or certificate or an affiliate of the applicant, a person employed by the applicant, or a person who resides with the applicant of the facility has been determined to be insane or mentally incompetent by a court of competent jurisdiction and, should a court enter, pursuant to Part 3 or Part 4 of Article 14 of Title 15, C.R.S. or Section 27-65-109(4) or 27-65-127, C.R.S., an order specifically finding that the mental incompetency or insanity is of such degree that the applicant is incapable of operating a family child care home, foster care home, child care center, or child placement agency, the record of such determination and entry of such order being conclusive evidence thereof.
- E. Payment of the fee for the FBI check is the responsibility of the individual who is obtaining the check or the facility or agency. Certified foster parent(s) or any person eighteen (18) years of age or older who resides with a certified foster parent must obtain a criminal record check from the FBI regardless of the length of residence in Colorado.
- F. The Department may deny, revoke, suspend, change to probationary or fine a child care facility or child placement agency if the applicant(s), an affiliate of the applicant, or any person living with or employed by the applicant has:
- 1. Been convicted in Colorado or in any other state of any felony, or has entered into a deferred judgment agreement or a deferred prosecution agreement in Colorado or in any other state to any felony other than those offenses specified in Section 26-6-104(7), C.R.S., or child abuse, as specified in Section 18-6-401, C.R.S., the record of conviction being conclusive evidence thereof, notwithstanding Section 24-5-101, C.R.S.; or

2. Been convicted of third degree assault, as described in Section 18-3-204, C.R.S., any misdemeanor, the underlying factual basis of which has been found by the court on any record to include an act of domestic violence, as defined in Section 18-6-800.3, C.R.S., any misdemeanor violation of a restraining order, as described in Section 18-6-803.5, C.R.S., any misdemeanor offense of child abuse as defined in Section 18-6-401, C.R.S., or any misdemeanor offense in any other state, the elements of which are substantially similar to the elements of any one of the offenses described in this paragraph; or
3. Used any controlled substance as defined in Section 12-22-303(7), C.R.S. or consumed any alcoholic beverage or been under the influence of a controlled substance or alcoholic beverage during the operating hours of the facility; or
4. Been convicted of unlawful use of a controlled substance as specified in Section 18-18-404, C.R.S., unlawful distribution, manufacturing, dispensing, sale, or possession of a controlled substance as specified in Section 18-18-405, C.R.S., or unlawful offenses relating to marijuana or marijuana concentrate as specified in Section 18-18-406, C.R.S.; or
5. Consistently failed to maintain standards prescribed and published by the Colorado Department of Human Services; or
6. Furnished or made any misleading or any false statement or report to the Colorado Department of Human Services; or
7. Refused to submit to the Colorado Department of Human Services any reports, or refused to make available to the Department any records required by it in an investigation of the facility for licensing purposes; or
8. Failed or refused to submit to an investigation or inspection by the Colorado Department of Human Services or to admit authorized representatives of the Department at any reasonable time for the purpose of investigation or inspection; or
9. Failed to provide, maintain, equip, and keep in safe and sanitary condition premises established or used for child care pursuant to standards prescribed by the Colorado Department of Public Health and Environment and the Colorado Department of Human Services or by ordinances or regulations applicable to the location of the foster care home; or
10. Willfully or deliberately violated any of the provisions of the Child Care Licensing Act; or
11. Failed to maintain financial resources adequate for the satisfactory care of children served in regard to upkeep of premises and provision for personal care, medical services, clothing, and other essentials in the proper care of children; or
12. Been charged with the commission of an act of child abuse or an unlawful sexual offense, as specified in Section 18-3-411(1), C.R.S., if:
  - a. Such individual has admitted committing the act or offense and the admission is documented or uncontroverted; or
  - b. An Administrative Law Judge finds that such charge is supported by substantial evidence.
13. Admitted to an act of child abuse or if substantial evidence is found that the licensee, person employed by the licensee, or person who resides with the licensee in the foster home has committed an act of child abuse, as defined at Section 19-1-103(1), C.R.S.; or
14. Been the subject of a negative licensing action; or

15. Misuse any public funds that are provided to any foster care home or any child placement agency that places, or arranges for placement of a child in foster care for the purposes of providing foster care services, child placement services related to the provision of foster care, or any administrative costs related to the provision of such foster care services or such foster-care-related child placement services.
- G. The Department may deny an application for a child care facility license or a child placement agency license if the applicant is a relative affiliate of a licensee, as described in Section 26-6-102(1)(d), C.R.S., of a child care facility or child placement agency, which is the subject of a previous negative licensing action or is the subject of a pending investigation by the Department that may result in a negative licensing action.
  - H. For all CBI fingerprint-based criminal history record information checks required in this Section 7.701.33, including those confirming a criminal history as well as those confirming no criminal history, the Department will conduct a comparison search on the State Judicial Department's court case management system and the sex offender registry of the Colorado Department of Public Safety. The court case management search must be based on name, date of birth, and address, in addition to any other available criminal history data that the Department deems appropriate, is used to determine the type of crime(s) for which a person was arrested or convicted and the disposition thereof. The sex offender registry search is used to determine whether the address of a licensee or prospective licensee is listed as belonging to a registered sex offender, except that:
    1. County departments of human or social services must conduct sex offender searches in the CBI sex offender registry and the national sex offender public website operated by the United States Department of Justice prior to certification and annually; include a copy in the provider record using the following criteria at a minimum:
      - a. Known names and addresses of each adult residing in the foster care home or kinship foster care home; and,
      - b. Address only, of the foster care home or the kinship foster care home.
    2. Child placement agencies must conduct sex offender searches in the CBI sex offender registry and the national sex offender public website operated by the United States Department of Justice prior to certification and annually, includes copy in the provider record using the following criteria at a minimum:
      - a. Known names and addresses of each adult residing in the foster care home or kinship foster care home; and,
      - b. Address only of each adult residing in the foster care home or the kinship foster care home.
  - I. Portability of Background Checks
    1. Where two or more individually licensed facilities are wholly owned, operated, and controlled by a common ownership group or school district, a fingerprint-based criminal history records check and a check of the Records and Reports of child abuse or neglect maintained by the department, completed for one of the licensed facilities of the common ownership group or school district pursuant to this section for whom a criminal records check is required under Section 26-6-107, C.R.S., may satisfy the records check requirement for any other licensed facility under the same common ownership group or school district. A new fingerprint-based criminal history records check or new check of the child abuse or neglect Records and Report must not be required of such an individual if the common ownership group or school district maintains a central records management system for employees of all its licensed facilities; takes action as required pursuant to Section 26-6-104, C.R.S., when informed of the results of a fingerprint-based criminal

history records check or check of the of child abuse or neglect Records and Report that requires action pursuant to Section 26-6-107 C.R.S.; and informs the Department whenever an additional licensed facility comes under or is no longer under its ownership or control.

2. When a licensee is inspected pursuant to the Child Care Licensing Act and records regarding CBI and FBI fingerprint-based criminal background checks, as well as records and reports of child abuse and neglect maintained by the State Department, and the comparison search on the ICON system at the State Judicial system are held at a central records management system, the licensee must be afforded fourteen (14) calendar days to provide to the State Department documentation necessary to verify that employees at the licensed facility have the required records related to fingerprint-based criminal background checks.

#### **7.701.34 Fire and Health Inspections, Zoning Codes**

- A. Prior to the original license being issued, following the renovation of the facility that would affect the licensing of the facility and at least every two (2) years thereafter, all child care facilities except family child care homes and Neighborhood Youth Organizations must be inspected and obtain an approving inspection report from the local department of health or the Colorado Department of Public Health and Environment and from the local fire department. These reports must be maintained at the facility and be available for review upon request by a Licensing Specialist.
- B. Prior to the original license being issued, all child care facilities, except for foster homes and specialized group facilities, that are providing care for three or fewer children who are determined to have a developmental disability by a community centered board or who have a serious emotional disturbance, must submit to the State Department written approval from the local zoning department approving operation of the facility. The approval must include the address of the child care facility and the ages and numbers of children to be served. The facility must also submit written zoning department approval to the State Department any time there is a change to the license, including moving the facility to another location, increasing the capacity, or adding different ages of children.
- C. All child care facilities must operate in compliance with local planning and zoning requirements of the municipality, city and county, or county where the facility is located.

#### **7.701.35 Changes Requiring a New Application**

A license is deemed surrendered and a new application is required in any of the following circumstances:

- A. Change of licensee, owner, or governing body;
- B. Change in classification of facility or service offered; or
- C. Change in location of the facility.

#### **7.701.36 Types of Licenses**

##### **7.701.361 Permanent License**

- A. A permanent license is granted when the Department is satisfied that the facility or agency is in compliance with the appropriate Department rules and the Child Care Licensing Act. The permanent license remains in effect until surrendered or revoked.

- B. Once a permanent license has been issued, the licensee must annually submit to the Department a declaration of compliance with the applicable licensing rules and notice of continuing operation on the form prescribed by the Department, along with the appropriate annual fee as set forth at Section 7.701.4.
- C. Failure to submit the annual Continuation Notice and fee will constitute a consistent failure to maintain Department standards and may result in fines or the revocation of the license.

#### **7.701.362 Time-Limited License**

- A. A time-limited license is granted for specific types of child care facilities or agencies when the Department is satisfied that the facility or agency is in compliance with the appropriate Department rules and the Child Care Licensing Act. The time-limited license will expire on a set date.
- B. Once a time-limited license has been issued, the licensee must submit a renewal application and appropriate fee prior to the expiration of the time-limited license. This will keep the license in effect until a new time-limited license can be issued.
- C. Failure to submit the renewal application prior to the expiration of the time-limited license will result in the expiration of the license and closure of the facility.

#### **7.701.363 Provisional License**

- A. A provisional license or certificate may be issued only for the initial six (6) month licensing period.
- B. This license permits the facility to operate while it is temporarily unable to conform to all rules upon proof by the applicant that attempts are being made to comply with the rules.
- C. If an applicant holds a valid provisional license at the time of application for a permanent license, the provisional license will remain in effect until the application is acted on by the Department.

#### **7.701.364 Probationary License**

- A. A probationary license or certificate may be granted to a licensed facility or agency as provided in Section 26-6-108(2), C.R.S.
- B. If the applicant holds a valid probationary license and submits the renewal application and appropriate fee for a permanent license, the current license will remain in effect until the renewal application is acted on by the Department.

#### **7.701.365 Multiple Licenses**

- A. If a licensee wishes to assume child care responsibility in more than one classification of care, separate applications, fees, and licensing evaluations are required for each classification. A Family Child Care Home and a Specialized Group Home may only be licensed as one type of classification at any one location address.
- B. If a licensee wishes to operate more than one facility of the same classification but at different locations, a separate application, fee, and evaluation are required for each location.
- C. Operating multiple licenses of the same classification at a single location by the same licensee or governing body is prohibited.

#### **7.701.4 Fees**

- A. **7.700 CHILD CARE FACILITY LICENSING**

## 7.701 GENERAL RULES FOR CHILD CARE FACILITIES

### 7.701.4 FEES

- A. The appropriate application fee outlined in 7.701.4, c, must be submitted to the department with the application for a child care, agency or neighborhood youth organization license at least sixty (60) calendar days prior to the anticipated opening date of the facility or the expiration date of the provisional or probationary license.
- B. The appropriate annual continuation fee outlined in 7.701.4, c, must be submitted to the department annually, at least sixty (60) calendar days prior to the anniversary date of the license, along with a completed continuation declaration.
- C. Following is a schedule of original and annual continuation fees for all types of child care facilities and agencies:

<b>FAMILY CHILD CARE HOMES (1-6 CHILDREN)</b>			
	<u>Beginning JULY 1, 2018</u>	<u>Beginning JULY 1, 2019</u>	<u>JULY 1, 2020 and beyond</u>
<b>Original Application</b>	\$35.00	\$55.00	\$65.00
<b>Continuation</b>	\$35.00	\$55.00	\$65.00
<b>*(ONE YEAR FROM LICENSED ANNIVERSARY DATE)</b>			

<b>LARGE FAMILY CHILD CARE HOMES (7-12 CHILDREN)</b>			
	<u>Beginning JULY 1, 2018</u>	<u>Beginning JULY 1, 2019</u>	<u>JULY 1, 2020 and beyond</u>
<b>Original Application</b>	\$55.00	\$75.00	\$100.00
<b>Continuation</b>	\$55.00	\$75.00	\$100.00
<b>*(One year from licensed anniversary date)</b>			

<b>EXPERIENCED FAMILY CHILD CARE PROVIDER (UP TO 9 CHILDREN)</b>			
	<u>Beginning JULY 1, 2018</u>	<u>Beginning JULY 1, 2019</u>	<u>JULY 1, 2020 and beyond</u>
<b>Original Application</b>	\$55.00	\$75.00	\$100.00
<b>Continuation</b>	\$55.00	\$75.00	\$100.00
<b>*(One year from licensed anniversary date)</b>			

<b>SMALL CHILD CARE CENTERS, PRESCHOOLS, SCHOOL AGE CHILD CARE, CHILDREN'S RESIDENT CAMPS AND NEIGHBORHOOD YOUTH ORGANIZATIONS (5-15 CHILDREN)</b>			
	<u>Beginning JULY 1, 2018</u>	<u>Beginning JULY 1, 2019</u>	<u>JULY 1, 2020 and beyond</u>



<b>Original Application</b>	\$125.00	\$150.00	\$200.00
<b>Continuation</b>	\$125.00	\$150.00	\$200.00
<b>*(One year from licensed anniversary date)</b>			

<b>LARGE CHILD CARE CENTERS, PRESCHOOLS, SCHOOL AGE CHILD CARE, CHILDREN'S RESIDENT CAMPS AND NEIGHBORHOOD YOUTH ORGANIZATIONS (16-30 CHILDREN)</b>			
<b>Facilities in this category will pay a base fee + a per child in capacity fee not to exceed \$1,800</b>			
	<b><u>Beginning JULY 1, 2018</u></b>	<b><u>Beginning JULY 1, 2019</u></b>	<b><u>JULY 1, 2020 and beyond</u></b>
<b>Original Application</b>	Base \$150.00+ \$2.00 Per Child	Base \$175.00+ \$2.00 Per Child	Base \$175.00+ \$3.00 Per Child
<b>Continuation</b>	Base \$150.00+ \$2.00 Per Child	Base \$175.00+ \$2.00 Per Child	Base \$175.00+ \$3.00 Per Child
<b>*(One year from licensed anniversary date)</b>			

<b>LARGE CHILD CARE CENTERS, PRESCHOOLS, SCHOOL AGE CHILD CARE, CHILDREN'S RESIDENT CAMPS AND NEIGHBORHOOD YOUTH ORGANIZATIONS (31 OR MORE CHILDREN)</b>			
<b>Facilities in this category will pay a base fee + a per child in capacity fee not to exceed \$1,800</b>			
	<b><u>Beginning JULY 1, 2018</u></b>	<b><u>Beginning JULY 1, 2019</u></b>	<b><u>JULY 1, 2020 and beyond</u></b>
<b>Original Application</b>	Base \$200.00 + \$2.00 Per Child	Base \$250.00 + \$2.00 Per Child	Base \$300.00 + \$3.00 Per Child
<b>Continuation</b>	Base \$200.00 + \$2.00 Per Child	Base \$250.00 + \$2.00 Per Child	Base \$300.00 + \$3.00 Per Child
<b>*(one year from licensed anniversary date)</b>			

<b>Day Treatment Facilities</b>			
	<b><u>Beginning 2018</u></b>	<b><u>Beginning 2019</u></b>	<b><u>2020 and beyond</u></b>
<b>Original Application</b>	\$500.00	\$665.00	\$884.00
<b>Continuation 0-12 Students</b>	\$340.00	\$438.00	\$535.00
<b>Continuation 13-25</b>	\$556.00	\$716.00	\$875.00
<b>Continuation 26-50 Students</b>	\$770.00	\$992.00	\$1,216.00
<b>Continuation 51 or more Students</b>	\$1,003.00	\$1,291.00	\$1,580.00
<b>*(one year from licensed anniversary date)</b>			

<b>Specialized Group Facilities</b>			
	<b><u>Beginning 2018</u></b>	<b><u>Beginning 2019</u></b>	<b><u>2020 and beyond</u></b>
<b>Original Application</b>	\$200.00	\$266.00	\$354.00
<b>Continuation</b>	\$169.00	\$217.00	\$267.00
<b>*(one year from licensed anniversary date)</b>			

<b>Child Placement Agency- Foster Care</b>			
	<b><u>Beginning 2018</u></b>	<b><u>Beginning 2019</u></b>	<b><u>2020 and beyond</u></b>
Original Application	\$880.00	\$1,133.00	\$1,386.00
Continuation 0-5 Homes	\$448.00	\$577.00	\$705.00
Continuation 6-15 Homes	\$571.00	\$732.00	\$899.00
Continuation 16-30 Homes	\$710.00	\$914.00	\$1,108.00
Continuation 31-50 Homes	\$834.00	\$1,074.00	\$1,313.00
Continuation 51 or More Homes	\$973.00	\$1,253.00	\$1,532.00
*(one year from licensed anniversary date)			

<b>Child Placement Agency- Adoption</b>			
	<b><u>Beginning 2018</u></b>	<b><u>Beginning 2019</u></b>	<b><u>2020 and beyond</u></b>
Original Application	\$672.00	\$865.00	\$1,059.00
Continuation 0-5 Finalized Adoptions	\$340.00	\$423.00	\$513.00
Continuation 6-11 Finalized Adoptions	\$379.00	\$488.00	\$597.00
Continuation 12-17 Finalized Adoptions	\$401.00	\$516.00	\$632.00
Continuation 18-23 Finalized Adoptions	\$448.00	\$577.00	\$705.00
Continuation 24 or More Finalized Adoptions	\$463.00	\$596.00	\$730.00
*(one year from licensed anniversary date)			

A child placement agency licensed for both foster care and adoptions will pay only one fee, either the foster care fee or the adoption fee, whichever is greater. The annual report required by regulation 7.710.72, b, must be attached.

<b>Homeless Youth Shelter</b>			
	<b><u>Beginning 2018</u></b>	<b><u>Beginning 2019</u></b>	<b><u>2020 and beyond</u></b>
Original Application	\$500.00	\$665.00	\$884.00
Continuation	\$463.00	\$596.00	\$729.00

<b>Residential Childcare Facility</b>			
	<b><u>Beginning 2018</u></b>	<b><u>Beginning 2019</u></b>	<b><u>2020 and beyond</u></b>
Original Application	\$1,111.00	\$1,430.00	\$1,750.00
Continuation 0-12 Children/Youth	\$340.00	\$438.00	\$535.00
Continuation 13-25 Children/Youth	\$556.00	\$716.00	\$875.00
Continuation 26-50 Children/Youth	\$770.00	\$992.00	\$1,216.00
Continuation 51-100 Children/Youth	\$1,003.00	\$1,291.00	\$1,580.00
Continuation 101 or more Children/Youth	\$1,235.00	\$1,570.00	\$1,800.00
*(one year from licensed anniversary date)			
**(With Shelter add 100.00 to all listed license fees)			

\*\*\* (With PRTF add 200.00 to all listed license fees)

<b>Secure Residential Childcare Facility</b>			
	<u>Beginning 2018</u>	<u>Beginning 2019</u>	<u>2020 and beyond</u>
<b>Original Application</b>	\$1,297.00	\$1,670.00	\$1,800.00
<b>Continuation</b>	\$1,297.00	\$1,670.00	\$1,800.00

<b>Changes Made to All License Types</b>			
	<u>Beginning JULY 1, 2018</u>	<u>Beginning JULY 1, 2019</u>	<u>2020 and JULY 1, beyond</u>
<b>Changes to Licensed Capacity</b>	\$62.00	\$80.00	\$97.00
<b>Changes to Physical Premises</b>	\$62.00	\$80.00	\$97.00
<b>Duplicate Licenses</b>	\$40.00		

- E. International adoption agencies with out-of-state offices will be required to reimburse the State for actual and necessary charges involved with travel to out-of-state offices.
- F. The appropriate fee must be submitted for each appeal request submitted within each licensing year. There will be no charge for waiver requests or emergency appeals.

<b>LESS THAN 24 HOUR APPEAL AND FEES (PER CALENDAR YEAR)</b>	
Initial appeal request	Free
Second appeal request	\$10.00 Each
Three or more requests	\$25.00 Each
Emergency Appeals	Free

- G. Any eligible child care facility providing less than 24 hour care that holds a Colorado shines level 3-5 and an average annual enrollment of at least fifty (50) percent of total children enrolled receiving CCCAP or enroll on average at least fifty (50) percent of the county's total CCCAP population may receive a discounted continuation fee of up to fifty (50) percent of their respective license type. The Colorado shines rating and CCCAP enrollment must be verified by the department.

## **7.701.5 ADMINISTRATION**

### **7.701.51 Governing Body**

- A. The governing body must be identified by its legal name on the original application and annual continuation notice. The names and addresses of individuals who hold primary financial control and officers of the governing body must be fully disclosed to the Department.
- B. The governing body must demonstrate to the Department, upon request, that there is sufficient financial support to operate and maintain the facility in accordance with all rules in Section 7.701, the rules regulating the specific type of facility, and the goals and objectives of the facility.

## 7.701.52 Reports

Critical incident reporting for 24-hour agencies, facilities and day treatment:

Within twenty four (24) hours, excluding weekends and holidays, of the occurrence of a critical incident at the facility or within twenty four (24) hours of a child's return to the facility:

## 1. Death

- a. Report any child/youth death in the facility or foster home while a child has an open placement, to include while a child is on or off grounds;
- b. Report death of a child/ youth while a child is on the premises of day treatment;
- c. Report death of staff while on duty;
- d. Report death of foster parent with child(ren)/ youth in placement;
- e. Report death of volunteer or visitor while on premises.

2. Abuse and neglect

- a. Report any allegation, suspicion, reasonable cause to know, observation or condition of physical, sexual, verbal, emotional, psychological, or financial abuse to a child/ youth when they are in placement or on the premises;
- b. Report any allegation, suspicion, reasonable cause to know, observation or condition of physical, deprivation of needs, medical, supervisory, emotional, psychological, or financial neglect to a child/ youth while they are in placement or on the premises;
- c. Report notification of an open investigation conducted by the county department.

### 3. Injury

- a. Report any serious injury to a child/youth that requires emergency medical attention by a health care professional outside of the facility or admission to a hospital;
- b. Report any serious injury in which there is no known cause or due to alleged lack of supervision;
- c. Report any injury, bruise or abrasion on the individual that occurs as a result of a physical management.
- d. Report any injury to a foster parent, staff, volunteer or visitor as a result of an altercation with a child/youth.

#### 4. Illness

- a. Report any serious illness that requires emergency medical attention by a health care professional outside of the facility or admission to a hospital;
- b. Report when the wrong medication or dosage is given, or when the prescribed medication is not given to the client child/youth, which results in an adverse side effect (physiological or psychological) which requires treatment from a medical professional outside of the facility to address the adverse effects and ensure the safety of the child/ youth to sustain life;
- c. A mandatory reportable illness, as required by the Colorado Department Of Public Health And Environment, of a child or staff member;
- d. Report any suicidal attempt by a child/youth that requires emergency medical attention by a health care professional outside of the facility or admission to a hospital;
- e. Report any self-injurious behavior by a child/youth that requires emergency medical attention by a health care professional outside of the facility or admission to a hospital;
- f. Report if a child/youth is placed on a 72-hour/ M1 hold;
- g. Report if a child, foster parent, or staff on duty receives medical or emergency attention outside of the facility as a result of a drug or alcohol related incident.

#### 5. Emergency response

- a. Report if a fire department responds and extinguishes a fire;
- b. Report a hazardous situation that occurs that could have possibly threatened the lives of other people around a facility or foster home;
- c. Report incidents that result in law enforcement taking control of a situation or taking control of a facility or foster home;
- d. Report any major/ credible threat to the security and/or safety of a facility, foster home, or child/youth in out-of-home care;
- e. Report if a law enforcement agency files charges; issues a summons or citation to a child/ youth, and/or a child/youth is arrested while child/youth has an open placement at the facility or foster home, to include when child/youth is on or off grounds;
- f. Report if a child/ youth leaves without consent if under the age of 18 and does not return to the facility or foster home within 24 hours;
- g. Report if division of youth services child/ youth escapes the facility or foster home.

A report of a critical incident must be submitted directly through the Colorado Department of Human Services, Division of Child Welfare, Trails automated system.

B. Reporting For Family Child Care Homes, Child Care Centers, Preschools, School Age Child Care, Children's Resident Camps And Neighborhood Youth Organizations

1. Within twenty four (24) hours, excluding weekends and holidays, of the occurrence of a critical incident at the facility or within twenty four (24) hours of a child's return to the facility the licensee must report in writing to The Office of Early Childhood, Division of Early Care And Learning the following critical incidents involving a child in the care of the facility or a staff member on duty:
  - a. All deaths including the death of a child, staff member or volunteer as a result of an accident, suicide, assault, Sudden Unexpected Infant Death or any natural cause while at the facility, or while on authorized or unauthorized leave from the facility. This report must be completed in the online injury system within 24 hours of an incident. If a provider is unable to access the online system, you must use the paper form, and submit the form within 24 hours of the incident.
  - b. An injury to a child or staff member that requires emergency medical attention by a health care professional or admission to a hospital. Whether or not treatment was given. This report must be completed in the online injury system within 24 hours of an incident. If a provider is unable to access the online system, you must use the paper form, and submit the form within 24 hours of the incident.
  - c. A mandatory reportable illness, as required by the Colorado Department of Public Health and Environment, of a child or staff member that requires emergency medical attention by a health care professional or admission to a hospital. This report must be completed in the online injury system within 24 hours of an incident. If a provider is unable to access the online system, you must use the paper form, and submit the form within 24 hours of the incident.
  - d. Any allegation of physical, sexual, or emotional abuse or neglect to a child that results in reporting to a law enforcement, county department of human or social services agency.
  - e. Any fire that is responded to by a local fire department.
  - f. Any major threat to the security of a facility including, but not limited to, a threat to kidnap a child, riots, bomb threats, hostage situations, use of a weapon, or drive by shootings active shooter situation, or lock down, lock out situations.

- g. A drug or alcohol related incident involving a staff member or a child that requires outside medical or emergency response.
- h. An assault, as defined by Sections 18-3-201 through 18-3-204, C.R.S., by a child upon a child, a child upon a staff member, volunteer or other adult; a staff member, volunteer or other adult upon a child, other staff member or other adult which results in a report to law enforcement.
- i. A suicide attempt by a child at the facility which requires emergency intervention.
- j. Felony theft or destruction of property by a child at the facility for which law enforcement is notified.
- k. Any police or sheriff contact with the facility for a crime committed by a resident while in placement at the facility.
- l. Any damage to the facility as a result of severe weather, fire, flood, mold or other natural disaster or damage to the facility that prevents the facility from normal operation.

C. Reports Made to the Department Within Ten (10) Working Days

- 1. Any legal action against a facility, agency, owner, operator, or governing body that relates to or may impact the care or placement of children.
- 2. Change of director of facility or agency;
- 3. Closure of the facility or agency;
- 4. Change of placement supervisor for a child placement agency.
- 5. Change in Trails CPA supervisor or trails public provider profile.

D. Changes to a License Requiring Written Notification to the Department Prior to Department Approval

- 1. Proposed change in the number, sex, or age of children for whom the facility is licensed that differs from that authorized by the license.
- 2. Changes in the physical facility or use of rooms for child care at a facility.
- 3. Change of name of the facility or agency.
- 4. Change of residents in the facility, not to include those residents placed in the facility by a county department or a child placement agency.

#### **7.701.53        Reporting of Child Abuse**

- A.     A child care facility must require each staff member of the facility to read and sign a statement clearly defining child abuse and neglect pursuant to state law and outlining the staff member's personal responsibility to report all incidents of child abuse or neglect according to state law.
- B.     Any caregiver or staff member in a child care facility who has reasonable cause to know or suspect that a child has been subjected to abuse or neglect or who has observed the child being subjected to circumstances or conditions that would reasonably result in abuse or neglect must immediately report or cause a report to be made of such fact to the state hotline, county department of human or social services or local law enforcement agency.
- C.     If the suspected child abuse occurred at the child care facility, the report of suspected child abuse must be made to the county department of human or social services, police department, or other law enforcement agency in the community or county in which the child care facility is located.
- D.     If the suspected child abuse did not occur at the child care facility, the report of suspected child abuse must be made to the county department of human or social services in the county in which the child resides or to the local law enforcement agency in the community in which the incident is believed to have occurred.
- E.     At the time of admission the facility must give the child's parent or guardian information that explains how to report suspected child abuse or child neglect.

#### **7.701.54        Investigation of Child Abuse**

- A.     Staff members of the county department of human or social services or a law enforcement agency that investigates an allegation of child abuse must be given the right to interview staff and children in care, and to obtain names, addresses, and telephone numbers of parents or legal guardians of children enrolled at the child care facility.
  - 1.     An agency or facility must not interfere or refuse to cooperate with a child protection investigation.
  - 2.     An agency or facility must not interview staff or children regarding the specific allegation(s) of child abuse or child neglect until the department of human or social services and/or local law enforcement agency has had the opportunity to interview all appropriate individuals and completed their investigation.
- B.     Any report made to the law enforcement authorities or a county department of human or social services of an allegation of abuse of any child at the child care facility will result in the temporary suspension or reassignment of duties of the alleged perpetrator to remove the risk of harm to the child/children if there is reasonable cause to believe that the life or health of the victim or other children at the facility is in imminent danger due to continued contact between the alleged perpetrator and the child/children at the facility. Such suspension or reassignment of duties will remain in effect pending the outcome of the investigation by the appropriate authorities.

#### **7.701.55        Reporting of Licensing Complaints**

Child care facilities must provide written information to parents or legal guardians at the time of admission and staff members at the time of employment on how to file a complaint concerning suspected licensing violations. For family child care homes, child care centers, preschools, school age child care, children's resident camps and neighborhood youth organizations, the information must include the complete name, mailing address, and telephone number of the Colorado Department of Social or Human Services, Division of Early Care And Learning. For 24-hour care agencies and facilities providing out-of-home care and day treatment facilities, the information must include the complete name, mailing address, and telephone number of the Colorado Department of Human Services, Division of Child Welfare.



#### **7.701.56 Posting Licensing Information**

- A. At all times during the operating hours of the facility, except for foster care homes, the facility/agency must post the current child care license in a prominent and conspicuous location easily observable by those entering the child care facility or agency. For foster care homes, the certificate must be available for review/upon request.
- B. At all times during the operating hours of a family child care home, child care center, school-age child care center, or children's resident camp, the facility must post its most recent licensing inspection report or a notice as to where the report may be reviewed at the facility by the parent or legal guardian of a child or their designee.
- C. At all times during the operating hours of a Family Child Care Home, Child Care Center, Preschool, School Age Child Care, Children's Resident Camp And Neighborhood Youth Organization, the facility must post in a prominent and conspicuous location information regarding the procedures for filing a complaint with the Colorado Department of Human Services, Division Of Early Care And Learning, including the telephone number and mailing address. All 24-hour care agencies and facilities providing out-of-home care and Day Treatment facilities must post in prominent and conspicuous location information regarding the procedures for filing a complaint with the Colorado department of human services, division of child welfare, including the telephone number and mailing address. For foster care homes and child placement agencies, information for filing a complaint must be made available upon request.
- D. All facilities, except Family Child Care Homes must post in every room of the child care facility, excluding bedrooms and living areas, the license capacity of the room and the staff-to-child ratio required by regulation to be maintained for the age of children cared for in the room.

#### **7.701.6 Confidentiality of Records**

- A. The records concerning the licensing of facilities and agencies are open to the public except as provided below.
- B. Anyone wishing to review a record must make a written request to the Department.
- C. The following documents are confidential and not available for review:
  - 1. Information identifying children or their families;
  - 2. Scholastic records, health reports, social or psychological reports. These are available only to the person in interest;
  - 3. Personal references requested by the Department; and
  - 4. Reports and records received from other agencies, including police and child protection investigation reports.

#### **7.701.7 Parental Accessibility**

- A. During hours of operation, a facility must allow access to parents and guardians having legal custody of a child in care to those areas of the facility that are licensed for child care.
- B. During the hours of operation, the facilities most recent licensing, fire department, and health department inspection reports must be accessible to parents and legal guardians of children in care or their designee and to parents and legal guardians considering placing their children in care at the facility.

- C. A facility does not violate this section when it restricts access by a parent, guardian or their designee to a child during an emergency as instructed by local authorities.

#### **7.701.8 Perjury Statement - Application Forms for Employment with a Child Care Provider**

Every application used in the State of Colorado for employment with a child care provider or facility, or for the certification of a foster home, must include the following notice to the applicant:

“Any applicant who knowingly or willfully makes a false statement of any material fact or thing in the application is guilty of perjury in the second degree as defined in Section 18-8-503, C.R.S., and, upon conviction thereof, shall be punished accordingly.”

#### **7.701.9 General Health Rules**

##### **7.701.91 Smoking and Tobacco Products**

Pursuant to 26-6-106(2)(e), C.R.S., 25-14-103.5, C.R.S., and 18-13-121, C.R.S., tobacco and nicotine products are prohibited by law from use in and around licensed child care facilities.

- A. Smoking and tobacco product use is prohibited at all times while transporting children on field trips and excursions.
- B. Smoking and tobacco product use is not prohibited in Family Child Care Homes during non-business hours.
- C. Foster parents are exempt from this rule when no children are in placement.

#### **7.701.100 Emergency and Disaster Preparedness for Child Care Centers, Family Child Care Homes, School-Age Programs, and Children’s Resident Camps**

- A. Prior to caring for children, all staff must complete a department-approved training in emergency and disaster preparedness. For seasonal children’s resident camp programs, operating no more than 90 days per calendar year, at least one on site director must be trained in the department approved training.
- B. Evacuation, Shelter in Place, Lockdown, and Active Shooter on Premises Plans for Children in Care

All child care providers must have a written plan for evacuating and safely moving children to an alternate site, as well as lockdown, shelter in place, and active shooter on premises. The plan must include provisions for multiple types of hazards, such as floods, fires, tornadoes, and active shooter situations. All employees of a child care provider must also be trained on the programs written plan prior to caring for children.

- 1. “Lockdown drill” means a drill in which the occupants of a building are restricted to the interior of the building and the building is secured.
  - 2. “Shelter-in-place drill” means a drill in which the occupants of a building seek shelter in the building from an external threat.
  - 3. “Active shooter on premises drill” means a drill to address an individual actively engaged in killing or attempting to kill people in a confined space or other populated area.
- C. Reuniting Families After an Emergency or Disaster

All child care providers must have a written plan for emergency notification of parents and reunification of families following an emergency or disaster.

D. Children with Disabilities and Those with Access and Functional Needs

All child care providers must have a written plan that accounts for children with disabilities and those with access and functional needs. The plan must include a specific requirement indicating how all children with special needs will be included in the emergency plan.

E. Continuity of Operations After a Disaster

1. All child care providers must have a written plan for continuity of operations in the aftermath of an emergency or disaster. Components of the plan must include:
  - A. Responsibility for essential staffing needs and predetermined roles during and after the emergency or disaster;
  - B. Procedure for backing up or retrieving staff and children's files; and
  - C. Procedure for protecting confidential and financial records.
2. During an emergency or other significant, unexpected event, a child care facility may request an emergency waiver to move to a temporary location or exceed capacity, on a temporary basis, to accept children and families from affected areas.

F. Fire, Natural Disaster, and Emergency Drills

1. Each staff member of the facility must be trained in fire safety and the use of available fire extinguishers and fire alarms.
2. Emergency drills, lockdown and active shooter on premises drills must be held at least quarterly but often enough so that all occupants are familiar with the drill procedure and their conduct during a drill is a matter of established routine. Fire drills must be held monthly and be consistent with local fire department procedures. Tornado drills must be held monthly from March to October. A record of all emergency drills held over the past twelve (12) months must be maintained by the facility or center, including date and time of drill, number of adults and children participating, and the amount of time taken to evacuate.
3. Drills must be held at unexpected times and under varying conditions to simulate the conditions of an actual fire or other emergency event.
4. Drills must emphasize orderly evacuation under proper discipline rather than speed. No running should be permitted.
5. Drills must include suitable procedures for ensuring that all persons in the building, or all persons subject to the drill, actually participate.
6. Fire alarm equipment must be used regularly in the conduct of fire exit drills. Hand bells or other alarm emanating devices may be used in lieu of fire alarm equipment if use of fire alarm equipment is not feasible including, but not limited to, facilities operating in buildings where multiple unrelated tenants share a common fire alarm system.
7. If appropriate to the location of the center, forest fire, tornado and/or flood drills must be held often enough that all occupants are familiar with the drill procedure and their conduct

during a drill is a matter of established routine. A record of drills held over the past twelve (12) months must be maintained by the center.

8. For children's resident camps, at least one fire drill must be held within twenty-four (24) hours of the commencement of each camp session. The dates of the fire drills must be recorded in the camp office.
9. There must be a carbon monoxide detector installed in the area of the child care facility as recommended by the manufacturer and in the area where children and youth sleep.

**7.701.200 The Reasonable and Prudent Parent Standard Requirements for Facilities Providing Twenty-Four (24) Hour Out-Of-Home Care to Approve Activities for a Child or Youth in Foster Care**

Children and youth in foster care are entitled to participate in age or developmentally appropriate extracurricular, enrichment, cultural, and social activities as part of their well-being needs.

Providers must use a "reasonable and prudent parent standard" when determining whether to allow a child or youth in foster care, under the responsibility of the county or in non-secure residential settings under the Division of Youth Services (DYS), to participate in such activities following the criteria in A and B:

- A. For an activity to be approved consistent with the reasonable and prudent parent standard, the activity must:
  1. Maintain the health, safety, and best interests of each child or youth;
  2. Encourage his/her emotional and developmental growth;
  3. Be age or developmentally appropriate; and,
  4. Be otherwise appropriate for the provider to approve.
- B. When applying the reasonable and prudent parent standard and prior to approval of the activity, the provider must take reasonable steps to obtain or determine:
  1. Adequate information about the child or youth, including the youth's particular religious, cultural, social, or behavioral attributes and preferences;
  2. Behavioral and/or mental health stability of the child or youth;
  3. The age or developmental appropriateness of the activity; and,
  4. Whether the risk of reasonably foreseeable harm involved in the activity is at an acceptable level.
- C. The responsible county department of human or social services or DHS must receive the same state training in applying the reasonable and prudent parent standard, and must receive ongoing training by their respective certifying or sponsoring agencies or governing body, as needed.
- D. At least one trained one (1) staff or administrator in a specialized group facility or Residential Child Care Facility (RCCF) must be designated as authorized to apply the reasonable and prudent parent standard to decisions involving the participation of a child or youth in extracurricular, enrichment, cultural, or social activities.

- E. The rationale used to authorize an activity for a child or youth must be clearly documented in the facility records and provided in a timely manner to the county department of human or social services or DYS using the contracted, written reporting format.
1. The facility must consult with and obtain a current copy of the policy from the responsible county department of human or social services or DYS regarding activities that are considered appropriate for the facility to approve.  
  
The responsible county department of human or social services or DYS may restrict certain activities based upon the documented exceptional needs and circumstances of a child or youth in foster care, which impact his/her unique safety needs.
  2. The wishes of the parents/legal custodian must be considered, including cultural implications, whenever practical.
  3. The facility may consult with the responsible agency for guidance about individual cases.
- F. Providers must not incur liability to the State Department or to the county department of human or social services because of an extracurricular, enrichment, cultural, or social activity approved by the provider if the provider demonstrates compliance with the reasonable and prudent parent standard. In a child welfare investigation arising out of such an activity approved by the provider, the facility must not be founded for institutional neglect if the provider demonstrates compliance with the reasonable and prudent parent standard.

**PHILIP J. WEISER**  
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**NATALIE HANLON LEH**  
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**Office of the Attorney General**

Tracking number: 2019-00030

**Opinion of the Attorney General rendered in connection with the rules adopted by the**

Social Services Rules (Volume 7; Child Welfare, Child Care Facilities)

**on 04/05/2019**

12 CCR 2509-8

**CHILD CARE FACILITY LICENSING**

The above-referenced rules were submitted to this office on 04/11/2019 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

April 23, 2019 15:33:03

A handwritten signature in blue ink, appearing to read "Philip J. Weiser".

**Philip J. Weiser**  
Attorney General  
by Eric R. Olson  
Solicitor General

## **Emergency Rules Adopted**

### **Department**

Department of Natural Resources

### **Agency**

Colorado Parks and Wildlife (406 Series, Wildlife)

### **CCR number**

2 CCR 406-5

### **Rule title**

2 CCR 406-5 CHAPTER W-5 - MIGRATORY BIRDS 1 - eff 04/10/2019

### **Effective date**

04/10/2019

**EMERGENCY REGULATIONS - CHAPTER W-5 - MIGRATORY BIRDS**

**ARTICLE I – GENERAL PROVISIONS**

**#500 – DEFINITIONS:**

- A. "Migratory birds" means those migratory birds included in the terms and conventions between the United States and any foreign country for the protection of migratory birds.
- B. "Migratory game birds" means sora, Virginia rail, sandhill crane, Wilson's snipe, mourning dove, white-winged dove, band-tailed pigeon, crows, ducks, coots, and geese.
- C. "Waterfowl" means ducks and geese.
- D. "Dark geese" means Canada geese, white-fronted geese, brant, cackling geese and all other species of geese except light geese.
- E. "Light geese" means snow (including blue) geese, and Ross' geese.
- F. "Manipulation" means the alteration of natural vegetation or agricultural crops by activities that include but are not limited to mowing, shredding, discing, rolling, chopping, trampling, flattening, burning, or herbicide treatments. Manipulation does not include the distributing or scattering of grain, seed, or other feed after removal from or storage on the field where grown.
- G. "Natural vegetation" means any non-agricultural, native, or naturalized plant species that grows at a site in response to planting or from existing seeds or other propagules. Natural vegetation does not include planted millet. However, planted millet that grows on its own in subsequent years after the year of planting is considered natural vegetation.
- H. "Normal agricultural operation" means a normal agricultural planting, harvesting, post-harvest manipulation or agricultural practice that is conducted in accordance with 50 C.F.R. 20.11 (U.S. Fish and Wildlife Service, October 1, 2013).
- I. "Normal agricultural planting, harvesting, or post-harvest manipulation" means a planting or harvesting undertaken for the purpose of producing and gathering a crop, or manipulation after such harvest and removal of grain, that is conducted in accordance with 50 C.F.R. 20.11 (U.S. Fish and Wildlife Service, October 1, 2013).
- J. "Normal soil stabilization practice" means a planting for agricultural soil erosion control or post-mining land reclamation conducted in accordance with 50 C.F.R. 20.11 (U.S. Fish and Wildlife Service, October 1, 2013).
- K. "Non-toxic shot" means any shot type approved for use to take migratory game birds by the US Fish and Wildlife Service in 50 C.F.R. 20.21, November 6, 2017. This federal regulation, but not later amendments to or editions thereof, has been incorporated by reference and can be viewed and copies obtained as set forth in the "Incorporated References" section of Chapter 0 of these regulations.
- L. "Sinkbox" means a raft or any type of low floating device having a depression which affords a hunter a means of concealing himself below the surface of the water.

**#501 – HUNTING HOURS**

- A. One-half (1/2) hour before sunrise to sunset, except as otherwise provided in this chapter.



## **#502 – MANNER OF TAKING**

The following are legal methods of take for game species listed in this chapter. Any method of take not listed herein shall be prohibited, except as otherwise provided by statute or Commission regulation.

### **A. Waterfowl and other migratory game birds:**

1. Shotgun - Any shotgun not larger than 10 gauge, not firing single slugs and incapable of holding more than three (3) shells in the magazine and chamber combined and fired from the shoulder. Shotguns of any description originally capable of holding more than three (3) shells total capacity shall have the magazine so cut off, altered or plugged with a one-piece filler which is incapable of removal without disassembling the gun, so as to reduce the total gun capacity to hold no more than three (3) shells in the magazine and chamber combined.
2. Hand-held bow - With any hand-held bow provided that the arrow or bowstring is not held or drawn mechanically, except no bows may be used on any firing line designated by the Commission.
3. Blinds - In the open or from a blind or other place of concealment on land or water except a sink box. When camouflaged with vegetation from agricultural crops, such camouflaging must not result in the exposing, depositing, distributing or scattering of grain or other feed.
4. Vessels - From or by means of any vessel (excluding a sinkbox) having a motor or sails attached when the motor has been shut off and/or the sails furled, and its progress therefrom has ceased or from a vessel that is drifting or being propelled by hand, or by the aid of a vessel when used solely as a means of picking up dead or injured birds.
5. Hawking or Falconry - By means of hawking or falconry.
6. Decoys, dogs, and calls - By the aid of a dog, artificial decoys, or with the aid and use of birdcalls except recorded or electrically amplified calls or sounds, unless their use has been authorized elsewhere in this chapter.

### **B. Non-toxic shot requirements**

1. Shot size - No person shall possess or use non-toxic shot of size larger than size T while taking or attempting to take ducks, geese, or coots anywhere in Colorado.
2. Statewide, including all counties in Colorado in both the Central and Pacific flyways;
  - a. No person shall use or possess shot (either in shot-shells or as loose shot for muzzle-loading) other than non-toxic shot while taking or attempting to take ducks, geese or coots.
3. Non-toxic shot is required on commercial wildlife parks, during field trials, and during dog training activities when taking captive-reared mallards in Colorado.

### **C. Prohibition of baiting**

1. Migratory game birds and waterfowl may not be taken by the aid of baiting, or on or over any baited area, if the person knows or reasonably should know that the area is a baited area. It is unlawful to place or direct the placement of bait on or adjacent to an area for

the purpose of causing, inducing, or allowing any person to take or attempt to take any migratory game bird by the aid of baiting or on or over the baited area.

2. As used in this sub-paragraph "baiting" means the direct or indirect placing, exposing, depositing, distributing or scattering of salt, grain, or other feed that could serve as a lure or attraction for migratory game birds to, on or over any areas where hunters are attempting to take them. "Baited area" means any area on which salt, grain, or other feed has been placed, exposed, deposited, distributed, or scattered, if that salt, grain, or other feed could serve as a lure or attraction for migratory game birds to, on, or over areas where hunters are attempting to take them. Any such area will remain a baited area for ten days following the complete removal of all such salt, grain, or other feed.
3. Nothing in this regulation shall prohibit the taking of any migratory game bird, including waterfowl, coots, and cranes, on or over the following lands or areas that are not otherwise baited areas:
  - a. Standing crops or flooded standing crops (including aquatics); standing, flooded, or manipulated natural vegetation; flooded harvested croplands; or lands or areas where seeds or grains have been scattered solely as the result of a normal agricultural planting, harvesting, post-harvest manipulation or normal soil stabilization practice; or standing or flooded standing agricultural crops where grain is inadvertently scattered solely as a result of a hunter entering or exiting a hunting area, placing decoys, or retrieving downed birds.
4. Nothing in this regulation shall prohibit the taking of any migratory game bird, except waterfowl, coots, and cranes, on or over the following lands or areas that are not otherwise baited areas:
  - a. Areas where grain or other feed has been distributed or scattered solely as the result of the manipulation of an agricultural crop or other feed on the land where grown, or solely as the result of a normal agricultural operation.

### **#503 – LICENSE AND STAMP REQUIREMENTS**

#### **A. License required**

1. A small game license is required to take all migratory game birds listed in #500(B) for which an open season exists.
2. Each hunter must call 1-866-COLOHIP (1-866-265-6447) or register online ([www.colohip.com](http://www.colohip.com)) prior to their first hunting trip of the season to register their intent to hunt migratory birds, and to obtain permit numbers if hunting sandhill cranes, and to provide harvest information for the previous season. "Season" means the period September 1 through March 15.

#### **B. Federal Migratory Bird Hunting and Conservation Stamp**

Except as otherwise provided in this chapter, no person who has attained the age of sixteen (16) years shall take any migratory waterfowl (ducks, geese and swans) unless at the time of such taking they have on their person an unexpired Federal Migratory Bird Hunting and Conservation Stamp (commonly called duck stamp), validated by their signature written across the face of the stamp in ink, or an electronic stamp issued through the Total Licensing System that provides a receipt as proof of purchase. This proof of purchase contains a unique code given to the purchaser instantly, and constitutes valid proof of purchase of a Federal Migratory Bird Hunting and Conservation Stamp for a period not to exceed 45 days from the date of purchase.

#### **C. Colorado State Waterfowl Hunting Stamp**

In addition to the Federal Migratory Bird Hunting and Conservation Stamp, no person who has attained the age of sixteen (16) years shall take any migratory waterfowl (ducks and

geese) unless they possess and carry on their person a valid Colorado State Waterfowl Hunting Stamp, validated by their signature written, in ink, across the face of the stamp.

1. A Colorado State Waterfowl Stamp may be obtained for collection or personal purposes, but shall not serve as the required state stamp for waterfowl hunting purposes.

D. Band-Tailed Pigeon Permit

Beginning with the 2016 band-tailed pigeon hunting season, no hunter shall take any band-tailed pigeons unless at the time of such taking they have on their person an annual band-tailed pigeon permit in addition to a small game license. An annual band-tailed pigeon permit can be purchased for \$5.00.

## **#504 - SPECIAL CLOSURES AND RESTRICTIONS**

A. General

The State of Colorado is divided into two migratory waterfowl flyways consisting of the Pacific Flyway which includes all lands west of the Continental Divide, and the Central Flyway which includes all lands east of the Continental Divide.

1. A person may take in any one day, during the open season prescribed, not to exceed the number of migratory game birds and waterfowl permitted in this chapter. When so taken such birds may be possessed in the numbers specified in this chapter, except that no person on the opening day of the season may possess any migratory game birds or waterfowl in excess of the applicable daily limits and no person may possess any freshly killed migratory game birds or waterfowl during the closed season for such birds.
2. Nothing in this chapter shall be deemed to permit the taking of migratory game birds or waterfowl on any Federal reservation or sanctuary, or any area of the United States set aside under any law, proclamation, or executive order for use as a bird, game, or other wildlife reservation, breeding ground, or refuge, or on any area designated as a closed area under the Migratory Bird Treaty Act except as may be permitted by these regulations.
3. No migratory game bird or waterfowl may be taken at any time, or by any means, from, on or across any highway, road, designated trail, or other right-of-way, whether public or private, within the exterior boundaries of any established national wildlife refuge.
4. Open seasons are established only on such migratory game birds and waterfowl as are herein designated. Exceptions to daily bag and possession limits and to the hours of hunting stated in Federal Migratory Bird regulations shall be as prescribed in this chapter.
5. Descriptions of all closures, specific areas, and areas with special restrictions in this chapter begin with the northern boundary and are described in clockwise rotation, with all roads or designations listed connecting to the next in the progression. The following standard abbreviations are used throughout this chapter:  
Colorado State highways: Colo  
County: Co  
County roads: Co Rd  
Interstate highways: I-  
Road: Rd  
U.S. (Federal) highways: US

Note: Migratory bird hunting closures and special provisions and restrictions for Division properties are found in Chapter 9.

B. Possession of Live Birds

Every migratory game bird wounded by hunting and reduced to possession by the hunter shall be immediately killed and become a part of the daily bag limit. No person shall at any time, or by any means, possess or transport live migratory game birds taken under the provisions of this chapter.

C. Possession of Plumage and Skin of Migratory Birds and Waterfowl.

1. No permit is necessary to possess and transport for his own use the plumage and skins of lawfully taken migratory game birds and waterfowl.
2. Personal use of feathers or skins - any person for his own use may possess, transport, ship, import, and export without a permit the feathers and skins of lawfully taken migratory game birds.

D. Commercial Use of Feathers

Any person may possess, purchase, sell, barter, or transport for the making of fishing flies, bed pillows, and mattresses, and for similar commercial uses the feathers of migratory waterfowl (ducks, geese, and swans) killed by hunting pursuant to these regulations, or seized and condemned by Federal or State game authorities except that:

1. No person shall purchase, sell, barter, or offer to purchase, sell, or barter for millinery or ornamental use the feathers of migratory game birds taken under authority of this chapter, and;
2. No person shall purchase, sell, barter, or offer to purchase, sell or barter mounted specimens of migratory game birds taken under authority of this chapter.

E. Most Restrictive Federal or State Law Shall Apply -

Federal and State laws and regulations govern the taking of all migratory birds, in all cases, the most restrictive State or Federal regulation shall apply by species.

F. Processing, Storage and Tagging Required

No person shall put or leave any migratory game birds at any place (other than at his personal abode), or in the custody of another person for picking, cleaning, processing, or storage (including temporary storage), or for the purpose of having taxidermy services performed, unless such birds or package or container of such birds has a tag attached, signed by the hunter, stating the hunter's address, the total number and species of birds, the date such birds were killed, and the hunter's hunting license number.

G. Custody of Birds of Another Person

No person shall receive or have in custody any migratory game birds belonging to another person unless such birds are tagged as required in item F.

H. Migratory Bird Preservation Facilities

No preservation facility shall:

1. Receive, possess or have in custody any migratory game birds belonging to another person for purposes of picking, cleaning, freezing, processing, storage or shipment, unless accurate records are maintained showing (1) the number of each species, (2) the date such birds were received, (3) the date such birds were disposed of, and (4) the name and address of the person to whom such birds were delivered, or
2. Destroy any records required to be maintained under this section for a period of one (1) year following the last entry on the record, or

3. Prevent any person authorized to enforce the provisions of this regulation from entering such facilities at all reasonable hours and inspecting the records and the premises where such operations are being carried on.

I. Closures

1. Waterfowl hunting is prohibited within the area bounded on the north by the Colorado-Wyoming state line; on the east and south by I-76, Colo 71, US 36, and I-70; and on the west by the Continental Divide and the Larimer-Jackson county line and in Bent, Crowley, Kiowa, Mesa, Otero, and Prowers counties.
  - a. Within fifty (50) yards on each side of the center line of any public road.
  - b. Within one-hundred-fifty (150) yards of any dwelling including the air space directly above this closure, without first obtaining permission from the owner, occupant, or person in charge of the dwelling.
2. Hunting is restricted as specified below:
  - a. Barr Lake State Park, Adams County
    1. A reservation is required to hunt and hunters must check-in and out at the check station. Reservations must be made in accordance with #901.A of these regulations.
    2. Waterfowl hunting is prohibited, except on opening day and Saturdays and Wednesdays. Hunters may only hunt the area reserved, and only from designated blinds with a maximum of three (3) hunters per blind.
    3. Dove hunting prohibited, except on opening day and Sundays and Mondays during the month of September. Dove hunters may only hunt from designated stations with a maximum of three (3) hunters per station.
    4. Hunting areas not reserved will be available on a first-come, first-serve basis after 5 am. Reserved hunting areas not occupied by 7:00 am are available on a first-come, first-serve basis.
  - b. Boyd Lake State Park, Larimer County
    1. A reservation is required to hunt waterfowl. Reservations must be made in accordance with #901.A, except that reservations are available on a first-come, first-serve basis starting 14 days in advance of the hunt date and may be made or canceled up to the starting time of the reserved time slot. Hunters may only hunt in the designated zone and time slot reserved.
    2. Leaving decoys set overnight is prohibited.
  - c. Colorado River, Grand County
    1. Waterfowl hunting is prohibited after November 14, from Shadow Mountain Dam downstream to Twin Creek.
  - d. Colorado River, Mesa County
    1. Waterfowl hunting is prohibited on and within 200 yards of the Colorado River from the Grand Avenue Bridge in Grand Junction to the west end of Horsethief Canyon State Wildlife Area (SWA) Wednesday through Friday of each week, except Thanksgiving Day, Christmas Day and New Year's Day.
    2. Waterfowl hunting is prohibited on and within 200 yards of the river from Appleton Drain to the west end of the Walker SWA.
  - e. Grand Lake and Windy Gap Reservoir, Grand County
    1. Waterfowl hunting is prohibited on the lakes and within 100 yards of the high water line.
  - f. Highline Lake State Recreation Area, Mesa County
    1. Waterfowl and small game hunting on Highline Lake is prohibited on Saturdays and Sundays except for youth hunting waterfowl during the youth waterfowl season weekend.
    2. Small game hunting is limited to that portion of Highline Lake State Park bounded on the north and the east by the park property boundaries; on the south by the no wake buoy line; and on the west by Mack Mesa Reservoir.
    3. A reservation is required to hunt waterfowl and hunters must check-in and out at

- the check station. Reservations must be made in accordance with #901.A of these regulations. Hunters may only hunt the area reserved and only from designated blinds with a maximum of four (4) hunters per blind.
4. Hunting areas not reserved are available on a first-come, first-serve basis after 5:00 am. Reserved areas unoccupied by 7:00 am will be available on a first-come, first-serve basis. However, any hunt area must be yielded at any time upon request of a hunter holding a valid and active reservation for that area.
- g. James M. Robb Colorado River State Park, Mesa County
    1. Waterfowl hunting on the 34 Road Parcel is prohibited, except on Saturdays and Sundays. A reservation is required to hunt and hunters must check-in and out at check stations. Reservations must be made in accordance with #901.A of these regulations.
    2. Hunters may only hunt the areas reserved and must park in designated areas. Hunters may only hunt from designated blinds, with a maximum of two (2) hunters per blind on the 34 Road Parcel and four (4) hunters per blind on the remainder of the state park.
    3. Hunting areas not reserved are available on a first-come, first-serve basis after 5:00 am. Reserved areas unoccupied by 7:00 am will be available on a first-come, first-serve basis. However, any hunt area must be yielded at any time upon request of a hunter holding a valid and active reservation for that area.
  - h. Pueblo County - No person shall discharge a firearm or release an arrow for the purpose of hunting waterfowl within 150 yards of any dwelling, including the airspace directly above this closure, without first obtaining permission from the owner, occupant, or person in charge of the dwelling.
  - i. Prewitt Reservoir, Logan and Washington counties
    1. Waterfowl hunting is prohibited as posted.
  - j. Stagecoach State Park, Routt County
    1. Waterfowl hunting is limited to designated waterfowl hunting zones only, with a maximum of six (6) hunters per zone.
    2. Waterfowl hunting on this property is by reservation only. Reservations must be made in accordance with #901.A of these regulations. Hunters with reservations may only hunt the hunt zone specified on the reservation. Hunters must follow check-in and out procedures as posted at the property.
    3. Hunting zones not reserved are available on a first-come, first-serve basis after 5:00 am. Reserved hunting zones unoccupied by 7:00 am will be available on a first-come, first-serve basis. However, any hunting zone must be yielded at any time upon request of a hunter holding a valid and active reservation for that zone.
  - k. Sweitzer Lake, Delta County
    1. Waterfowl hunting is prohibited, except on Saturdays, Sundays, Wednesdays and legal holidays after Labor Day.
  - l. Trinidad State Recreation Area, Las Animas County
    1. Waterfowl hunting is prohibited as posted.
  - m. Turk's Ponds Area, Baca County
    1. All human activity is prohibited within one-quarter (1/4) mile of the high water line around Turk's Pond including the administrative buildings, from the opening day of the regular duck season through the last day of the regular dark goose season as posted. Hunters are allowed inside the closure only to retrieve downed waterfowl. Hunters must leave firearms outside of closure.
    2. No person shall discharge a firearm or release an arrow from, upon or across an area 50 yards on each side of the centerline of any public road.
  - n. Vancil Reservoir, Morgan County
    1. Waterfowl hunting is prohibited as posted.
3. Hunting is prohibited in the areas listed below, as posted by the Division.
    - a. Crawford State Recreation Area, Delta County
      1. Hunting is prohibited, except after Labor Day.
    - b. Lower Latham Reservoir, Weld County

- c. Mack Mesa Reservoir State Recreation Area, Mesa County
  - d. Meredith Reservoir, Crowley County
4. Hunting geese is prohibited as specified in the areas listed below:
- a. Dillon Reservoir, Summit County
    - 1. Hunting geese is prohibited Saturday through Monday of Labor Day weekend.
  - b. Empire Reservoir, Weld and Morgan Counties
    - 1. Hunting geese is prohibited below the high water line and from any portion of the dam and inlet structures.
  - c. Fossil Creek Reservoir, Larimer County
    - 1. Hunting geese is prohibited as posted.
  - d. Jumbo Reservoir, Logan and Sedgwick Counties
    - 1. Hunting geese is prohibited in the area bounded on the north by Logan Co Rd 70/Sedgwick Co Rd 28; on the east by Sedgwick Co Rd 3; on the south by Sedgwick Co Rd 24.8/Logan Co Rd 970; and on the west by Logan Co Rd 95.
  - e. Ovid-Julesburg Corridor, Sedgwick County
    - 1. Hunting geese through the dark geese season is prohibited in the area bounded on the north by US 138; on the east by US 385; on the south by I-76; and on the west by Sedgwick Co Rd 29.

#### **#505 – SORA AND VIRGINIA RAIL**

##### **A. Statewide:**

- 1. Dates: September 1 - November 9 annually.
- 2. Daily Bag Limit: Twenty-five (25) soras or Virginia rails singly or in the aggregate.
- 3. Possession Limit: Three (3) daily bag limits.

#### **#506 – SANDHILL CRANE**

##### **A. All areas east of the Continental Divide except North Park (Jackson County) and the San Luis Valley.**

- 1. Dates: October 5 - December 1, 2019.
- 2. Daily Bag Limit: Three (3).
- 3. Possession Limit: Three (3) daily bag limits.

#### **#507 – WILSON'S SNIPE**

##### **A. Statewide**

- 1. Dates: September 1 - December 16 annually.
- 2. Daily Bag Limit: Eight (8).
- 3. Possession Limit: Three (3) daily bag limits.

#### **#508 – MOURNING DOVE AND WHITE-WINGED DOVE**

##### **A. Statewide.**

- 1. Dates: September 1 - November 29 annually.
- 2. Daily Bag Limit:
  - a. Fifteen (15) mourning doves or white-winged doves singly or in the aggregate.
- 3. Possession Limit:
  - a. Three (3) daily bag limits.
- 4. Special Conditions and Restrictions

- a. While in the field or during transport, all dressed (not fully feathered) doves shall be counted against the daily bag or possession limit for mourning and white-winged doves.

#### **#509 – BAND-TAILED PIGEON**

- A. Statewide.
  1. Dates: September 1 - 14 annually.
  2. Daily Bag Limit: Two (2).
  3. Possession Limit: Three (3) daily bag limits.

#### **#510 – CROW**

- A. Statewide.
  1. Dates: November 1, 2019 - February 29, 2020.
  2. Daily Bag Limit: Unlimited.
  3. Possession Limit: Unlimited.
  4. Special Conditions and Restrictions - Recorded or electronically amplified calls may be used during this season.

#### **#511 – DUCK AND COOT**

- A. Central Flyway Northeast Zone – All areas east of Interstate 25 and north of Interstate 70.
  1. Dates:
    - a. First season: October 12 - December 2, 2019.
    - b. Second season: December 19, 2019 - January 31, 2020.
  2. Daily Bag Limit:
    - a. Ducks: Six (6), excluding mergansers. Of the six (6), no more than five (5) mallards, of which no more than two (2) can be female, one (1) pintail, two (2) canvasback, two (2) redheads, three (3) wood ducks, and three (3) scaup.
    - b. Mergansers: Five (5), of which no more than two (2) may be hooded mergansers.
    - c. Coots: Fifteen (15).
  3. Possession limit: Three (3) daily bag limits.
- B. Central Flyway Southeast Zone – All areas east of Interstate 25 and south of Interstate 70, and all of El Paso, Pueblo, Huerfano and Las Animas Counties.
  1. Dates:
    - a. October 28, 2019 - January 31, 2020.
  2. Daily Bag Limit:
    - a. Ducks: Six (6), excluding mergansers. Of the six (6), no more than five (5) mallards, of which no more than two (2) can be female, one (1) pintail, two (2) canvasback, two (2) redheads, three (3) wood ducks, and three (3) scaup.
    - b. Mergansers: Five (5), of which no more than two (2) may be hooded mergansers.
    - c. Coots: Fifteen (15).
  3. Possession limit: Three (3) daily bag limits.
- C. Central Flyway Mountain/Foothills Zone – All areas west of Interstate 25 and east of the Continental Divide, except El Paso, Pueblo, Huerfano and Las Animas Counties.
  1. Dates:
    - a. First season: October 5 - December 2, 2019.
    - b. Second season: December 26, 2019 - January 31, 2020.
  2. Daily Bag Limit:



- a. Ducks: Six (6), excluding mergansers. Of the six (6), no more than five (5) mallards, of which no more than two (2) can be female, one (1) pintail, two (2) canvasback, two (2) redheads, three (3) wood ducks, and three (3) scaup.
    - b. Mergansers: Five (5), of which no more than two (2) may be hooded mergansers.
    - c. Coots: Fifteen (15).
  - 3. Possession limit: Three (3) daily bag limits.
- D. Pacific Flyway Western Zone – All areas west of the Continental Divide not included in the Eastern Zone.
  - 1. Dates:
    - a. First season: October 5 - October 23, 2019
    - b. Second season: November 7, 2019 - January 31, 2020.
  - 2. Daily Bag Limit:
    - a. Ducks and Mergansers: Seven (7) in the aggregate. Of the 7 (seven), no more than two (2) female mallards, one (1) pintail, two (2) canvasback, two (2) redheads, and three (3) scaup. No scaup may be taken after January 12, 2020.
    - b. Coots: Twenty-five (25).
  - 3. Possession limit:
    - a. Three (3) daily bag limits.
- E. Pacific Flyway Eastern Zone - All of Routt, Grand, Summit, Eagle, and Pitkin counties, those portions of Saguache, San Juan, Hinsdale, and Mineral counties west of the Continental Divide, and those portions of Gunnison County except the North Fork of the Gunnison River Valley (GMUs 521, 53, and 63), and that portion of Moffat County east of the northern intersection of Moffat County Rd 29 with the Moffat-Routt County line, south along Moffat County Rd 29 to the intersection of Moffat County Rd 29 with the Moffat-Routt County line (Elkhead Reservoir State Park).
  - 1. Dates:
    - a. First season: October 5, 2019 - January 16, 2020
  - 2. Daily Bag Limit:
    - a. Ducks and Mergansers: Seven (7) in the aggregate. Of the 7 (seven), no more than two (2) female mallards, one (1) pintail, two (2) canvasback, two (2) redheads, and three (3) scaup. No scaup may be taken after December 29, 2019.
    - b. Coots: Twenty-five (25).
  - 3. Possession limit:
    - a. Three (3) daily bag limits.

## **#512 – GOOSE**

- A. North Park – Jackson County
  - 1. Dates:
    - a. Dark goose:
      - 1. First season: October 5, 2019 - January 16, 2020.
    - b. Light goose: November 2, 2019 - February 16, 2020.
  - 2. Daily Bag Limit:
    - a. Dark goose: Five (5).
    - b. Light goose: Fifty (50).
  - 3. Possession limit:
    - a. Dark goose: Three (3) daily bag limits.
    - b. Light goose: Unlimited.
- B. South Park – All of Chaffee, Custer, Fremont, Lake, Park, and Teller Counties..

1. Dates:
    - a. Dark goose:
      1. First season: October 5, 2019 - January 16, 2020.
    - b. Light goose: November 2, 2019 - February 16, 2020.
  2. Daily Bag Limit:
    - a. Dark goose: Five (5).
    - b. Light goose: Fifty (50).
  3. Possession limit:
    - a. Dark goose: Three (3) daily bag limits.
    - b. Light goose: Unlimited.
- C. San Luis Valley - All of Alamosa, Conejos, Costilla, and Rio Grande counties, and those portions of Saguache, Mineral, and Hinsdale counties east of the Continental Divide.
1. Dates:
    - a. Dark goose:
      1. First Season: October 5 – October 23, 2019.
      2. Second Season: November 23, 2019 - February 16, 2020.
    - b. Light goose: November 2, 2019 - February 16, 2020.
  2. Daily bag limit:
    - a. Dark goose: Five (5).
    - b. Light goose: Fifty (50).
  3. Possession limit:
    - a. Dark goose: Three (3) daily bag limits.
    - b. Light goose: Unlimited.
- D. Northern Front Range - All areas in Boulder, Larimer and Weld Counties from the Continental Divide east along the Wyoming border to Highway 85, south on Highway 85 to the Adams County Line, and all lands in Adams, Arapahoe, Broomfield, Clear Creek, Denver, Douglas, Gilpin, and Jefferson Counties.
1. Dates:
    - a. Dark goose:
      1. First Season: October 5 - October 23, 2019.
      2. Second Season: November 23, 2019 - February 16, 2020.
    - b. Light goose: November 2, 2019 - February 16, 2020.
  2. Daily bag limit:
    - a. Dark goose: Five (5).
    - b. Light goose: Fifty (50).
  3. Possession limit:
    - a. Dark goose: Three (3) daily bag limits.
    - b. Light goose: Unlimited.
- E. Balance of Central Flyway - All areas east of the Continental Divide, except North Park, Northern Front Range, South Park and San Luis Valley.
1. Dates:
    - a. Dark goose: November 4, 2019 - February 16, 2020.
    - b. Light goose: November 2, 2019 - February 16, 2020.
  2. Daily Bag Limit:
    - a. Dark goose: Five (5).
    - b. Light goose Fifty (50).
  3. Possession limit:
    - a. Dark goose: Three (3) daily bag limits.
    - b. Light goose: Unlimited.

- F. Pacific Flyway Western Zone - All areas west of the Continental Divide not included in the Eastern Zone.
1. Dates:
    - a. First season: October 5 - October 14, 2019.
    - b. Second season: November 2, 2019 - January 26, 2020.
  2. Daily Bag Limit:
    - a. Dark goose: Four (4).
    - b. Light goose: Ten (10).
  3. Possession Limit: Three (3) daily bag limits.
- G. Pacific Flyway Eastern Zone - All of Routt, Grand, Summit, Eagle, and Pitkin counties, those portions of Saguache, San Juan, Hinsdale, and Mineral counties west of the Continental Divide, and those portions of Gunnison County except the North Fork of the Gunnison River Valley (GMUs 521, 53, and 63), and that portion of Moffat County east of the northern intersection of Moffat County Rd 29 with the Moffat-Routt County line, south along Moffat County Rd 29 to the intersection of Moffat County Rd 29 with the Moffat-Routt County line (Elkhead Reservoir State Park).
1. Dates:
    - a. First season: October 5, 2019 - January 8, 2020.
  2. Daily Bag Limit:
    - a. Dark goose: Four (4).
    - b. Light goose: Ten (10).
  3. Possession Limit: Three (3) daily bag limits.

### **ARTICLE III - SPECIAL SEASONS, AREAS, DATES AND LIMITS**

#### **#513 - YOUTH WATERFOWL HUNTING DAYS**

- A. Central Flyway Northeast Zone – All areas east of Interstate 25 and north of Interstate 70.
1. Dates: October 5 – October 6, 2019.
  2. Daily bag limit:
    - a. Ducks: Six (6), excluding mergansers. Of the 6 (six), no more than five (5) mallards, of which no more than two (2) can be female, one (1) pintail, two (2) canvasback, two (2) redheads, three (3) wood ducks, and three (3) scaup.
    - b. Mergansers: Five (5), of which no more than two (2) may be hooded mergansers.
    - c. Coots: Fifteen (15).
    - d. Dark Goose: Five (5).
  3. Possession limit: Three (3) daily bag limits.
- B. Central Flyway Southeast Zone – All areas east of Interstate 25 and south of Interstate 70, and all of El Paso, Pueblo, Huerfano and Las Animas Counties.
1. Dates: October 19 - 20, 2019.
  2. Daily bag limit:
    - a. Ducks: Six (6), excluding mergansers. Of the 6 (six), no more than five (5) mallards, of which no more than two (2) can be female, one (1) pintail, two (2) canvasback, two (2) redheads, three (3) wood ducks, and three (3) scaup.
    - b. Mergansers: Five (5), of which no more than two (2) may be hooded mergansers.
    - c. Coots: Fifteen (15).
    - d. Dark Goose: Five (5).
  3. Possession limit: Three (3) daily bag limits.

- C. Central Flyway Mountain/Foothills Zone – All areas west of Interstate 25 and east of the Continental Divide, except El Paso, Pueblo, Huerfano and Las Animas Counties.
1. Dates: September 28 -29, 2019.
  2. Daily Bag Limit:
    - a. Ducks: Six (6), excluding mergansers. Of the six (6), no more than five (5) mallards, of which no more than two (2) can be female, one (1) pintail, two (2) canvasback, two (2) redheads, three (3) wood ducks, and three (3) scaup.
    - b. Mergansers: Five (5), of which no more than two (2) may be hooded mergansers.
    - c. Coots: Fifteen (15).
    - d. Dark Goose: Five (5).
  3. Possession limit: Three (3) daily bag limits.
- D. Pacific Flyway Western Zone – All areas west of the Continental Divide not included in the Eastern Zone.
1. Dates: October 26 - 27, 2019.
  2. Daily bag limit:
    - a. Ducks and Mergansers: Seven (7) in the aggregate. Of the 7 (seven), no more than two (2) female mallards, one (1) pintail, two (2) canvasback, two (2) redheads, and three (3) scaup.
    - b. Coots: Twenty-five (25).
    - c. Dark Goose: Four (4).
    - d. Light Goose: Ten (10).
  3. Possession limit:
    - a. Three (3) daily bag limits.
- E. Pacific Flyway Eastern Zone – All of Routt, Grand, Summit, Eagle, and Pitkin counties, those portions of Saguache, San Juan, Hinsdale, and Mineral counties west of the Continental Divide, and those portions of Gunnison County except the North Fork of the Gunnison River Valley (GMUs 521, 53, and 63), and that portion of Moffat County east of the northern intersection of Moffat County Rd 29 with the Moffat-Routt County line, south along Moffat County Rd 29 to the intersection of Moffat County Rd 29 with the Moffat-Routt County line (Elkhead Reservoir State Park).
1. Dates: September 28 - 29, 2019.
  2. Daily bag limit:
    - a. Ducks and Mergansers: Seven (7) in the aggregate. Of the 7 (seven), no more than two (2) female mallards, one (1) pintail, two (2) canvasback, two (2) redheads, and three (3) scaup.
    - b. Coots: Twenty-five (25).
    - c. Dark Goose: Four (4).
    - d. Light Goose: Ten (10).
  3. Possession limit:
    - a. Three (3) daily bag limits.
- F. Youth seasons are restricted to hunting by youth 17 years of age and younger accompanied by a mentor. A mentor must be 18 years of age or older and hold a valid hunter education certificate or be born before January 1, 1949, and must accompany the youth while in the act of hunting. Mentors are not authorized to hunt ducks, geese, mergansers, or coots during this season.

#### **#514 – SEPTEMBER TEAL**

- A. Lake and Chaffee counties and all areas east of I-25.
1. Dates: September 14 - 22, 2019.

2. Daily bag limit: Six (6).
3. Possession Limit: Three (3) daily bag limits.

#### **#515 – EARLY CANADA GOOSE**

A. Pacific Flyway - All areas west of the Continental Divide.

1. Dates: September 1 - 9 annually.
2. Daily bag limit: Four (4).
3. Possession limit: Three (3) daily bag limits.

### **ARTICLE IV – CONSERVATION ORDER SEASONS, AREAS, DATES AND LIMITS**

#### **#516 – LIGHT GOOSE**

A. Central Flyway – All areas east of I-25.

1. Dates:
  - a. February 17 - April 30, 2020.
2. Daily bag limit: Unlimited.
3. Possession limit: Unlimited.
4. Special Conditions and Restrictions
  - a. Recorded or electronically amplified calls may be used to take light geese during the conservation order season.
  - b. Hunting of light geese is allowed from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset.
  - c. A Federal Migratory Bird Hunting and Conservation Stamp is not required to take light geese during the conservation order season.
  - d. Shotguns capable of holding more than three rounds in the magazine and chamber combined may be used to take light geese during the conservation order season.
  - e. All other regulations applicable to hunting migratory waterfowl in Colorado apply to taking light geese during the conservation order season.

### **ARTICLE V - VACANT**

#### **#517 – VACANT**

### **ARTICLE VI - FALCONRY**

#### **#518 – SPECIAL FALCONRY REGULATIONS**

- A. Falconry is a permitted means of taking migratory game birds during regular or extended seasons.
1. Regular Seasons
    - a. General hunting regulations prescribed in this chapter, including seasons and hunting hours, apply to falconry. General season bag and possession limits do not apply to falconry.
    - b. Daily bag and possession limits for all permitted migratory game birds shall not exceed 3 and 9 birds, respectively, singly or in the aggregate. The falconry bag limit is not in addition to gun limits.
  2. Extended Seasons
    - a. There are no extended seasons.

**Basis and Purpose:**

These emergency regulations reflect changes made to the federal framework for migratory bird regulations in 2019.

The Parks and Wildlife Commission FINDS that adoption of these EMERGENCY REGULATIONS is imperatively necessary to comply with federal law, specifically C.F.R. Title 50, Part 20, as well as to meet federal season selection deadlines. Adoption of these emergency regulations will bring the Parks and Wildlife Commission's regulations into compliance with federal regulations with regard to hunting of pintail ducks in the Central and Pacific Flyway portions of Colorado. In addition, the Parks and Wildlife Commission FINDS that the immediate adoption of these EMERGENCY REGULATIONS is necessary to protect the public welfare- that is it allows the maximum opportunity for waterfowl hunting in Colorado allowed by federal regulations- and that compliance with the generally applicable notice and hearing requirements of the Administrative Procedures Act would prevent the Parks and Wildlife Commission from having an effective regulation in place prior to the season selection deadline. These regulations were noticed for rule-making in March of 2019, but extreme weather events forced the cancellation of that previously-scheduled meeting.

The Parks and Wildlife Commission has, to the extent it could, given notice of its emergency rule-making and allowed for public participation in the adoption of the emergency regulations.

Notice of the proposed emergency rule-making was posted at the state capitol, at the Division of Parks and Wildlife headquarters, Regional Service Centers, and Area Service Centers (area offices), indicating that the Parks and Wildlife Commission would consider the emergency regulation at its meeting on April 10, 2019, and an opportunity to comment was provided to members of the public at that time.

These proposed regulations reflect the upcoming 2019-2020 migratory bird seasons and are the result of an annual review of the entire chapter related to migratory birds. The established seasons are necessary to manage migratory bird populations in Colorado in accordance with federal laws regulating migratory birds. These regulations allow migratory birds to be harvested in a manner, which helps maintain the biological integrity of the migratory bird population while at the same time providing recreational opportunity for hunters and wildlife viewers. The regulations are also consistent with Federal guidelines provided by the U.S. Fish and Wildlife Service and the Migratory Bird Treaty Act.

The statements of basis and purpose for these regulations can be viewed and copies obtained from the Colorado Division of Parks and Wildlife, Office of the Regulations Manager, Policy and Planning Unit, 1313 Sherman, Room 111, Denver, CO 80203.

**The primary statutory authority for these regulations can be found in § 24-4-103, C.R.S., and the state Wildlife Act, §§ 33-1-101 to 33-6-209, C.R.S., specifically including, but not limited to: §§ 33-1-106 and 33-2-104, C.R.S.**

**EFFECTIVE DATE - THESE REGULATIONS SHALL BECOME EFFECTIVE IMMEDIATELY UPON ADOPTION AND SHALL REMAIN IN EFFECT FOR NO MORE THAN 120 DAYS OR UNTIL PERMANENT REGULATIONS ARE OTHERWISE REPEALED, AMENDED, OR SUPERSEDED.**

**APPROVED AND ADOPTED BY THE PARKS AND WILDLIFE COMMISSION OF THE STATE OF COLORADO THIS 10TH DAY OF APRIL, 2019.**

**APPROVED:**  
**John V. Howard**  
**Chairman**

**ATTEST:**  
**James Vigil**  
**Secretary**

**PHILIP J. WEISER**  
Attorney General  
**NATALIE HANLON LEH**  
Chief Deputy Attorney General  
**ERIC R. OLSON**  
Solicitor General  
**JUNE TAYLOR**  
Chief Operating Officer



**STATE OF COLORADO**  
**DEPARTMENT OF LAW**

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**Office of the Attorney General**

Tracking number: 2019-00153

**Opinion of the Attorney General rendered in connection with the rules adopted by the**

Colorado Parks and Wildlife (406 Series, Wildlife)

**on 04/10/2019**

2 CCR 406-5

**CHAPTER W-5 - MIGRATORY BIRDS**

The above-referenced rules were submitted to this office on 04/11/2019 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

April 23, 2019 15:31:05

**Philip J. Weiser**  
Attorney General  
by Eric R. Olson  
Solicitor General



## **Emergency Rules Adopted**

### **Department**

Department of Regulatory Agencies

### **Agency**

Division of Professions and Occupations - Board of Architects, Engineers, and Land Surveyors

### **CCR number**

4 CCR 730-1

### **Rule title**

4 CCR 730-1 BYLAWS AND RULES OF THE STATE BOARD OF LICENSURE FOR ARCHITECTS, PROFESSIONAL ENGINEERS, AND PROFESSIONAL LAND SURVEYORS 1 - eff 05/15/2019

### **Effective date**

05/15/2019

**Bylaws and Rules  
of  
The State Board of Licensure for Architects,  
Professional Engineers and Professional Land Surveyors**

**4.6.5 Short-Term Duration Employment Not Counted.** No engineering or land surveying experience of less than THREE months continuous duration with one employer shall be credited.  
EFFECTIVE 5/15/19

**4.8.1 Applicants Must Receive Board Approval to Take an Examination.** No applicant may take the Architect Registration Examination or the State Specific Land Surveying Examination until the Board has established that the applicant is eligible for the examination. An applicant may be disallowed from taking or re-taking any of the licensing exams if there is evidence of socially unacceptable behavior (e.g. cheating, violence, or threats of violence or other disruptive behavior), in an exam setting. EFFECTIVE 5/15/19



**COLORADO**

Department of  
Regulatory Agencies

Division of Professions and Occupations

Program Branch  
State Board of Licensure for Architects, Professional  
Engineers and Professional Land Surveyors

## STATEMENT OF BASIS, PURPOSE AND JUSTIFICATION

### **Basis:**

The basis for the revision of the following rules are provided in sections 12-25-107(1)(a) and 12-25-207(1)(a) of the Colorado Revised Statutes, and for the preservation of the public welfare pursuant to section 24-4-103(6), C.R.S.

### **Purpose:**

The purpose for the revision of the following rules is to revise existing rules that the Board has found are imperatively necessary to comply with state law, specifically sections 12-24-108(1) and 12-24-208(1), C.R.S, and for the preservation of the public welfare pursuant to section 24-4-103(6), C.R.S. Specifically, the Board finds it is imperatively necessary to adopt revisions to *Section 4, Rules of Administrative Procedure, 4.6 Engineering and Land Surveying Application Criteria*, and *4.8 Examinations*, in order to expedite and facilitate the licensure process as set forth in sections 12-25-110 through 12-25-114, C.R.S. and sections 12-25-210 through 12-25-214, C.R.S., in regards to engineer and land surveyor application for enrollment and licensure in:

- Rule 4.6.5; and
- Rule 4.8.1

### **Justification:**

The public welfare imperatively requires the emergency adoption of the revisions to the rule to ensure a competitive marketplace, increase the number of persons contributing to the state's economy, reduce barriers to timely licensure of qualified individuals, and improve mobility of the profession.

**PHILIP J. WEISER**  
Attorney General  
**NATALIE HANLON LEH**  
Chief Deputy Attorney General  
**ERIC R. OLSON**  
Solicitor General  
**JUNE TAYLOR**  
Chief Operating Officer



**STATE OF COLORADO**  
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Denver, Colorado 80203  
Phone (720) 508-6000

**Office of the Attorney General**

Tracking number: 2019-00165

**Opinion of the Attorney General rendered in connection with the rules adopted by the**  
Division of Professions and Occupations - Board of Architects, Engineers, and Land Surveyors

**on 04/12/2019**

**4 CCR 730-1**

**BYLAWS AND RULES OF THE STATE BOARD OF LICENSURE FOR ARCHITECTS,  
PROFESSIONAL ENGINEERS, AND PROFESSIONAL LAND SURVEYORS**

The above-referenced rules were submitted to this office on 04/15/2019 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

April 18, 2019 15:41:25

A handwritten signature in blue ink, appearing to read "P. J. Weiser".

**Philip J. Weiser**  
Attorney General  
by Eric R. Olson  
Solicitor General

## **Emergency Rules Adopted**

**Department**

Department of State

**Agency**

Secretary of State

**CCR number**

8 CCR 1505-6

**Rule title**

8 CCR 1505-6 RULES CONCERNING CAMPAIGN AND POLITICAL FINANCE 1 - eff  
03/29/2019

**Effective date**

03/29/2019

**COLORADO SECRETARY OF STATE**

**8 CCR 1505-6**

**Rules Concerning Campaign and Political Finance**

**Rules as Adopted – Clean**

**March 29, 2019**

*(Italic blue font text indicate publication notes)*

*[Current 8 CCR 1505-6 is amended as follows:]*

*Amendments to Rule 10.17 regarding campaign finance contribution limits:*

**10.17 Current adjusted limits**

**10.17.1** Adjusted limits made in the first quarter of 2019 and effective until the next adjustment is made in 2023:

- (a) There is no adjustment to the contribution limits on individual donations to small donor committees outlined in Article XXVIII, Section 2(14).
- (b) The aggregate limits on contributions from any person for a primary or a general election, described in Colo. Const. Article XXVIII, Section 3(1), are adjusted as follows:
  - (1) \$625 to any one:
    - (A) Governor candidate committee for the primary election, and Governor and Governor and Lieutenant Governor candidate committee, as joint candidates under section 1-1-104, C.R.S., or any successor section, for the general election;
    - (B) Secretary of State, State Treasurer, or Attorney General candidate committee.
  - (2) There is no adjustment to the limits on contributions to any one State Senate, State House of Representatives, State Board of Education, Regent of the University of Colorado, or any District Attorney candidate committee.
- (c) The aggregate limits on contributions from a small donor committee for a primary or a general election, described in Colo. Const. Article XXVIII, Section 3(2), are adjusted as follows:
  - (1) \$6,750 to any one:
    - (A) Governor candidate committee for the primary election, and Governor and Lieutenant Governor candidate committee, as joint candidates under section 1-1-104, C.R.S., or any successor section, for the general election;
    - (B) Secretary of State, State Treasurer, or Attorney General

candidate committee; and

- (2) \$2,675 to any one State Senate, State House of Representatives, State Board of Education, Regent of the University of Colorado, or any District Attorney candidate committee.
- (d) The aggregate limits on contributions from any person to a political party, described in Colo. Const. Article XXVIII, Section 3(3)(a), are adjusted as follows:
  - (1) \$4,025 per year at the state, county, district, and local level combined; and
  - (2) Of such, no more than \$3,350 at the state level.
- (e) The aggregate limits on contributions from a small donor committee to a political party, described in Colo. Const. Article XXVIII, Section 3(3)(b), are adjusted as follows:
  - (1) \$20,325 per year at the state, county, district, and local level combined; and
  - (2) Of such, no more than \$16,925 at the state level.
- (f) The aggregate limits on pro-rata contributions or dues made to political committees, described in Colo. Const. Article XXVIII, Section 3(5), are adjusted to \$625 per house of representatives election cycle.
- (g) This table contains the contribution limits listed in subsections (a)-(g).

Contributor:

Recipient	Natural Person	Person, other than a natural person	Political committee	Small donor committee	Political party
Political committee	\$625 per election cycle	\$625 per election cycle	\$625 per election cycle	\$625 per election cycle	\$625 per election cycle
Small donor committee	\$50 per year	Prohibited	Prohibited	Prohibited	Prohibited
Governor (governor & lt. governor)	\$625 per election cycle*	\$625 per election cycle*	\$625 per election cycle*	\$6,750 per election cycle*	\$679,025 per election cycle
Secretary of state, state treasurer, attorney general	\$625 per election cycle*	\$625 per election cycle*	\$625 per election cycle*	\$6,750 per election cycle*	\$135,775 per election cycle
State senate	\$200 per election cycle*	\$200 per election cycle*	\$200 per election cycle*	\$2,675 per election cycle*	\$24,425 per election cycle

State house of representatives, state board of education, regent of the University of Colorado, district attorney	\$200 per election cycle*	\$200 per election cycle*	\$200 per election cycle*	\$2,675 per election cycle*	\$17,625 per election cycle
Political party	\$4,025 (\$3,350 at the state level) per year	\$4,025 (\$3,350 at the state level) per year	\$4,025 (\$3,350 at the state level) per year	\$20,325 (\$16,925 at the state level) per year	Transfers within a party may be made without limitation.

\* A candidate may accept the contribution limit for both the primary election and the general election.

- (h) The voluntary spending limits for a candidate described in Colo. Const. Article XXVIII, Section 4(1), are adjusted as follows:
- (1) The spending limit for Governor, and Governor and Lieutenant Governor as joint candidates under section 1-1-104, C.R.S., or any successor section is adjusted to \$3,395,275.
  - (2) The spending limit for a candidate for Secretary of State, Attorney General, or Treasurer is adjusted to \$679,025.
  - (3) The spending limit for a candidate for State Senate is adjusted to \$122,200.
  - (4) The spending limit for a candidate for State House of Representatives, State Board of Education, Regent of the University of Colorado, or any District Attorney is adjusted to \$88,225.

Candidate	Voluntary Spending Limit
Governor, and Governor and Lieutenant Governor as joint candidates	\$3,395,275
Secretary of State, Attorney General, or State Treasurer	\$679,025
State Senate	\$122,200
State House of Representatives, State Board of Education, Regent of the University of Colorado, or District Attorney	\$88,225





## **Statement of Justification and Reasons for Adoption of Temporary Rules**

### **Office of the Secretary of State Rules Concerning Campaign and Political Finance 8 CCR 1505-6**

**March 29, 2019**

Amended Rule: 10.17

In accordance with Colorado campaign and political finance laws,<sup>1</sup> the Secretary of State finds that certain amendments to the existing campaign and political finance rules must be adopted and effective immediately to ensure the uniform and proper administration and enforcement of Colorado campaign and political finance laws during the 2019 election cycle. Temporary adoption is necessary both to comply with law and to preserve the public welfare generally.

Adoption of these rules on a temporary basis is necessary to provide clear guidance concerning contribution limits to interested parties, including, but not limited to: candidates, political parties, political organizations, and committees before the end of the 2019 first quarter reporting period. Adoption of these rules on a temporary basis is also necessary to comply with Article XXVIII Section 3(13) of the Colorado Constitution, which requires the Secretary of State to promulgate rules adjusting contribution limits for inflation no later than the first quarter of 2019.

For these reasons, and in accordance with the State Administrative Procedure Act, the Secretary of State finds that adoption and immediate effect of the amendments to existing campaign and political finance rules is imperatively necessary to comply with state and federal law and to promote public interests.<sup>2</sup>

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<sup>1</sup> Article XXVIII, Section 9(1)(b), of the Colorado Constitution and section 1-45-111.5(1), C.R.S. (2018).

<sup>2</sup> Section 24-4-103(3)(6), C.R.S. (2018).

**PHILIP J. WEISER**  
Attorney General  
**NATALIE HANLON LEH**  
Chief Deputy Attorney General  
**ERIC R. OLSON**  
Solicitor General  
**JUNE TAYLOR**  
Chief Operating Officer



**STATE OF COLORADO**  
**DEPARTMENT OF LAW**

**RALPH L. CARR**  
**COLORADO JUDICIAL CENTER**  
1300 Broadway, 10th Floor  
Denver, Colorado 80203  
Phone (720) 508-6000

**Office of the Attorney General**

Tracking number: 2019-00134

**Opinion of the Attorney General rendered in connection with the rules adopted by the**

Secretary of State

**on 03/29/2019**

8 CCR 1505-6

**RULES CONCERNING CAMPAIGN AND POLITICAL FINANCE**

The above-referenced rules were submitted to this office on 03/29/2019 as required by section 24-4-103, C.R.S. This office has reviewed them and finds no apparent constitutional or legal deficiency in their form or substance.

April 17, 2019 14:09:14

**Philip J. Weiser**  
Attorney General  
by Eric R. Olson  
Solicitor General

## Terminated Rulemaking

**Department**

Department of Education

**Agency**

Colorado State Board of Education

**CCR number**

1 CCR 301-92

**Tracking number**

2019-00119

**Termination date**

04/25/2019

**Reason for termination**

Will be making more revisions based on legislation.

## **Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices**

**Filed on** 05/02/2019

### **Department**

Department of Health Care Policy and Financing

### **Agency**

Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)

## **PUBLIC NOTICE**

**May 10, 2019**

### **Family Medicine Supplemental Payment:**

The Department of Health Care Policy and Financing (Department) intends to submit a State Plan Amendment to the Centers for Medicare and Medicaid Services (CMS) to update existing payment amounts for the Rural Family Medicine Residency Development Payment, the Family Medicine Residency Program Payment, the State University Teaching Hospital Payments, and the Pediatric Major Teaching Payment effective July 01, 2019. Combined with federal matching funds, the sum of these four payments is expected to be \$32,127,614. For State Fiscal Year 2020 (July 01, 2019-June 30, 2020), expected total funds for: all Family Medicine Residency Development Payment will remain unchanged at \$5,030,890, the Rural Family Medicine Residency Development Payment will remain unchanged at \$3,000,000, the State University Teaching Hospital Payment will increase to \$4,602,326, and the Pediatric Major Teaching Payment will decrease to \$19,494,398. These changes stem from the annual state revenue and budget process by the Colorado general Assembly.

The annual aggregate increase in total fund expenditures for all four payments (including state funds and federal funds) is expected to be \$31,839 in Federal Fiscal Year (FFY) 2018-19 and \$95,517 in FFY 2019-20.

### **General Information**

A link to this notice will be posted on the [Department's website](#) starting on May 10, 2019. Written comments may be addressed to:

Director, Health Programs Office  
Colorado Department of Health Care Policy and Financing  
1570 Grant Street  
Denver, CO 80203

## County Contact Information

Copies of the proposed changes are available for public review at the following county locations:

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Arapahoe	Arapahoe County Human Services	14980 E. Alameda Dr., Aurora, CO 80012	14980 E. Alameda Dr., Aurora, CO 80012
Arapahoe	Satellite Office	1690 W. Littleton Blvd., Littleton, CO 80120	
Archuleta	Archuleta County Human Services	551 Hot Springs Blvd., Pagosa Springs, CO 81147	PO Box 240, Pagosa Springs, CO 81147
Baca	Baca County Department of Social Services	772 Colorado St. Ste #1, Springfield, CO 81073	Same as physical
Bent	Bent County Social Services	138 6th Street, Las Animas, CO 81054	Same as physical
Boulder	Boulder County Department of Housing & Human Services	3400 Broadway, Boulder, CO 80304	PO Box 471, Boulder, CO 80306
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Chaffee	Chaffee County Department of Human Services	448 E. 1st St, Ste 166, Salida, CO 81201	PO Box 1007, Salida, CO 81201
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Conejos	Conejos County Department of Social Services	12989 Cty. Rd. G.6, Conejos, CO 81129	PO Box 68, Conejos, CO 81129
Costilla	Costilla County Department of Social Services	233 Main St, San Luis, CO 81152	Same as physical
Crowley	Crowley County Department of Human Services	631 Main Street Ste 100, Ordway, CO 81063	Same as physical



Custer	Custer County Department of Human Services	205 S. 6th St., Westcliffe, CO 81252	PO Box 929 Westcliffe, CO 81252
Delta	Delta County Department of Human Services	560 Dodge St, Delta, CO 81416	Same as physical
Denver	Denver Department of Human Services	1200 Federal Blvd, Denver, CO 80204	Same as physical
Dolores	Dolores County Department of Social Services	409 Main Street, Dove Creek, CO 81324	PO Box 485 Dove Creek, CO 81324
Douglas	Douglas County Department of Human Services	4400 Castleton Court, Castle Rock, CO 80109	Same as physical
Eagle	Eagle County Department of Human Services	551 Broadway, Eagle, CO 81631	PO Box 660, Eagle, CO 81631
El Paso	El Paso County Department of Human Services	1675 W. Garden of the Gods Road, Colorado Springs, CO 80907	Same as physical
Elbert	Elbert County Health and Human Services	75 Ute. Ave, Kiowa, CO 80117	PO Box 924, Kiowa, CO 80117
Fremont	Fremont County Department of Human Services	172 Justice Center Road, Canon City, CO 81212	Same as physical
Garfield	Garfield County Department of Human Services	195 W. 14th St., Rifle, CO 81650	Same as physical
Gilpin	Gilpin County Department of Human Services	2960 Dory Hill Rd. Ste 100, Black Hawk, CO 80422	Same as physical
Grand	Grand County Department of Social Services	620 Hemlock St., Hot Sulphur Springs, CO 80451	PO Box 204, Hot Sulphur Springs, CO 80451
Huerfano	Huerfano County Department of Social Services	121 W. 6th St., Walsenburg, CO 81089	Same as physical
Jackson	Grand County Department of Social Services	620 Hemlock St., Hot Sulphur Springs, CO 80451	PO Box 204, Hot Sulphur Springs, CO 80451
Jefferson	Jefferson County Human Services	900 Jefferson County Parkway, Golden, CO 80401	Same as physical
Kiowa	Kiowa County Department of Social Services	1307 Maine St., Eads, CO 81036	PO Box 187, Eads, CO 81036-0187



Kit Carson	Kit Carson County Department of Human Services	252 S. 14th St., Burlington, CO 80807	PO Box 70, Burlington, CO 80807
La Plata	La Plata County Department of Human Services	10 Burnett Court 1st Floor, Durango, CO 81301	Same as physical
Lake	Lake County Department of Human Services	112 W. 5th St. Leadville, CO 80461	PO Box 884 Leadville, CO 80461
Larimer	Larimer County	1501 Blue Spruce Drive	Same as physical
Las Animas	Las Animas County Department of Human Services	204 S. Chestnut St., Trinidad, CO 81082	Same as physical
Lincoln	Lincoln County Department of Human Services	103 3rd Ave, Hugo, CO 80821	PO Box 37, Hugo, CO 80821
Logan	Logan County Department of Human Services	508 S. 10th Ave, STE B, Sterling, CO 80751	Same as physical
Mesa	Mesa County Department of Human Services	510 29 1/2 Rd, Grand Junction, CO 81504	PO Box 20000, Grand Junction, CO 81502
Mineral	Rio Grande/Mineral County Department of Social Services	1015 6th St, Del Norte, CO 81132	Same as physical
Moffat	Moffat County Department of Social Services	595 Breeze St., Craig, CO 81625	Same as physical
Montezuma	Montezuma County Department of Social Services	109 W. Main St. Room 2013, Cortez, CO 81321	Same as physical
Montrose	Montrose County Health & Human Services	1845 S. Townsend Ave., Montrose, CO 81401	PO Box 216, Montrose, CO 81402-216
Morgan	Morgan County Department of Human Services	800 E. Beaver Ave., Fort Morgan, CO 80701	PO Box 220, Fort Morgan, CO 80701
Otero	Otero County Department of Human Services	215 Raton Ave, La Junta, CO 81050	PO Box 494, La Junta, CO 81050
Ouray	Ouray DSS	177 Sherman St., Unit 104, Ridgway, CO 81432	PO Box 530 Ridgway, CO 81432
Phillips	Phillips County Department of Social Services	127 E Denver St., Holyoke, CO, 80734	Same as physical





Pitkin	Pitkin County Department of Health and Human Services	0405 Castle Creek Rd., Suite 104, Aspen, CO 81611	Same as physical
Pueblo	Pueblo County Department of Social Services	201 W. 8th St, Pueblo, CO 81003	320 W. 10th St, Pueblo, CO 81003
Rio Blanco	Rio Blanco County Department of Health and Human Services	345 Market St., Meeker, CO 81641	Same as physical
Routt	Routt County Department of Human Services	135 6th St., Steamboat Springs, CO 80477	PO Box 772790, Steamboat Springs, CO 80477
Saguache	Saguache County Department of Social Services	605 Christy Ave, Saguache, CO 81149	PO Box 215, Saguache, CO 81149
San Miguel	San Miguel DSS	333 W. Colorado Ave, Telluride, CO 81435 (San Miguel);	PO Box 96 Telluride, CO 81435
Sedgwick	Sedgwick County Human Services	118 W. 3rd St., Julesburg, CO 80737	PO Box 27, Julesburg, CO 80737
Washington	Washington County DHS	126 W. 5th St., Akron, CO 80720	PO Box 395, Akron, CO 80720
Yuma	Yuma County Department of Human Services	340 S. Birch, Wray, CO 80758	Same as physical



## **Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices**

**Filed on** 05/02/2019

### **Department**

Department of Health Care Policy and Financing

### **Agency**

Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)

## **PUBLIC NOTICE**

**May 10, 2019**

### **University of Colorado School of Medicine Supplemental Payment for Physicians and Professional Services:**

The Department of Health Care Policy and Financing (Department) intends to submit a State Plan Amendment to the Centers for Medicare and Medicaid Services (CMS) to Update the existing Average Commercial Rate (ACR) percentage and payment amount for the University of Colorado School of Medicine Supplemental Payment for Physicians and Professional Services rendered to Health First Colorado beneficiaries effective July 01, 2019. For State Fiscal Year 2019-20 (July 01, 2019-June 30, 2020) the ACR percentage is being updated to comply with current federal regulation, and the total funds is expected to be increased to \$155,996,320 due to an increase in reappropriated funds from the Department of Higher Education by the Colorado General Assembly during the annual state revenue and budget process. This supplemental payment is limited by an Upper Payment Limit (UPL), the Medicare Equivalent of the Average Commercial Rate.

The annual aggregate expected increase in supplemental payment expenditures to the University of Colorado School of Medicine (including state funds and federal funds) is \$4,844,440 in Federal Fiscal Year (FFY) 2018-19 and \$14,574,305 in FFY 2019-20.

### **General Information**

A link to this notice will be posted on the [Department's website](#) starting on May 10, 2019. Written comments may be addressed to:

Director, Health Programs Office  
Colorado Department of Health Care Policy and Financing  
1570 Grant Street  
Denver, CO 80203

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Ouray	Ouray DSS	177 Sherman St., Unit 104, Ridgway, CO 81432	PO Box 530 Ridgway, CO 81432
Phillips	Phillips County Department of Social Services	127 E Denver St., Holyoke, CO, 80734	Same as physical



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Sedgwick	Sedgwick County Human Services	118 W. 3rd St., Julesburg, CO 80737	PO Box 27, Julesburg, CO 80737
Washington	Washington County DHS	126 W. 5th St., Akron, CO 80720	PO Box 395, Akron, CO 80720
Yuma	Yuma County Department of Human Services	340 S. Birch, Wray, CO 80758	Same as physical



## **Nonrulemaking Public Notices and other Miscellaneous Rulemaking Notices**

**Filed on** 05/08/2019

### **Department**

Department of Health Care Policy and Financing

### **Agency**

Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)



## **PUBLIC NOTICE**

**May 10, 2019**

The Department of Health Care Policy and Financing (the Department) intends to make the following Medicaid reimbursement rate changes:

### **Insert Community Mental Health Center Reimbursement Methodology into Rehabilitative Services: Behavioral Health Services Section**

The Department of Health Care Policy and Financing (Department) intends to submit a State Plan Amendment to the Centers for Medicare and Medicaid Services (CMS) to insert the Community Mental Health Center (CMHC) reimbursement methodology into the rehabilitative services: behavioral health services section of the State Plan, effective July 1, 2019. The insertion moves the CMHC reimbursement methodology into rehabilitative services, rather than clinic services where it was previously located. This insertion does not involve a change to CMHC reimbursement methodology, it is intended to include CMHC reimbursement methodology under the correct service, so there are no associated changes to CMHC reimbursement.

The annual aggregate increase in CMHC expenditures (including state funds and federal funds) is \$0 in FFY 2018-19 and \$0 in FFY 2019-20.

### **Medicaid Fee-for-Service Reimbursement Rate Increases**

Per the current state budget bill, the Department intends to submit SPAs to CMS to increase certain Medicaid provider rates by 1.0% for certain services. Among the affected benefit categories are: physician and clinic services, Dental Services; Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) services; family planning services; inpatient hospital services; outpatient hospital services; laboratory & x-ray services; durable medical equipment (excluding those impacted by Section 1903(i)(27) of the Social Security Act), supplies, and prosthetics; mental health fee-for-service; non-physician practitioner services; tobacco cessation counseling for pregnant women; ambulatory surgery center services; dialysis center services; physical, occupational, and speech therapy, and audiology services; screening, brief intervention, and referral to treatment (SBIRT) services; rehabilitation/behavioral health services; outpatient substance abuse services; case management services for substance abuse treatment;

vision services; extended services for pregnant women; home and community based services; private duty nursing; acute and long term home health; psychiatric residential treatment facilities (PRTF); residential child care facility (RCCF); IDD targeted case management; and Targeted Case Management-Transition Services. Rates paid to certain managed care organizations may also include corresponding increases, as HCPF pays these rates based on fee-for-service expenditures.

The rate increases will be effective July 1, 2019. Upon CMS approval of the State Plan Amendment, an updated fee schedule reflecting these rate changes will be posted on the Department's website at <https://www.colorado.gov/hcpf/provider-rates-fee-schedule>.

### **Medicaid Targeted Fee-for-Service Reimbursement**

The Department also intends to submit SPAs to CMS to apply targeted rate increases and decreases to Medicaid provider rates. The targeted increase to certain services under the following benefit categories:

- Increase to emergency transportation services; brokered and non-brokered non-emergent medical transportation services;
- Maternity services;
- Aquatic Therapy;
- Polysomnography;
- Tracheae Prosthesis

The targeted decrease to certain services under the following benefit categories:

- Anesthesia Services;
- Laboratory and Pathology Services;
- Diabetes Testing Strips.

These targeted rate increases and decreases will be effective July 1, 2019. Upon CMS approval of the State Plan Amendments, an updated fee schedule reflecting these rate changes will be posted on the Department's website at <https://www.colorado.gov/hcpf/provider-rates-fee-schedule>.

The annual aggregate increase in service expenditures for all rate changes outlined under the Medicaid Fee-for-Service Reimbursement Rate Increases and the Medicaid



Targeted Fee-for-Service Reimbursement sections above (including state funds and federal funds) is \$6,333,290 in FFY 2018-19 and \$26,292,624 in FFY 2019-20.

### General Information

A link to this notice will be posted on the [Department's website](#) starting on May 10, 2019. Written comments may be addressed to:

Director, Health Programs Office  
Colorado Department of Health Care Policy and Financing  
1570 Grant Street  
Denver, CO 80203

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Grand	Grand County Department of Social Services	620 Hemlock St., Hot Sulphur Springs, CO 80451	PO Box 204, Hot Sulphur Springs, CO 80451



Huerfano	Huerfano County Department of Social Services	121 W. 6th St., Walsenburg, CO 81089	Same as physical
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Kiowa	Kiowa County Department of Social Services	1307 Maine St., Eads, CO 81036	PO Box 187, Eads, CO 81036-0187
Kit Carson	Kit Carson County Department of Human Services	252 S. 14th St., Burlington, CO 80807	PO Box 70, Burlington, CO 80807
La Plata	La Plata County Department of Human Services	10 Burnett Court 1st Floor, Durango, CO 81301	Same as physical
Lake	Lake County Department of Human Services	112 W. 5th St. Leadville, CO 80461	PO Box 884 Leadville, CO 80461
Larimer	Larimer County	1501 Blue Spruce Drive	Same as physical
Las Animas	Las Animas County Department of Human Services	204 S. Chestnut St., Trinidad, CO 81082	Same as physical
Lincoln	Lincoln County Department of Human Services	103 3rd Ave, Hugo, CO 80821	PO Box 37, Hugo, CO 80821
Logan	Logan County Department of Human Services	508 S. 10th Ave, STE B, Sterling, CO 80751	Same as physical
Mesa	Mesa County Department of Human Services	510 29 1/2 Rd, Grand Junction, CO 81504	PO Box 20000, Grand Junction, CO 81502
Mineral	Rio Grande/Mineral County Department of Social Services	1015 6th St, Del Norte, CO 81132	Same as physical
Moffat	Moffat County Department of Social Services	595 Breeze St., Craig, CO 81625	Same as physical
Montezuma	Montezuma County Department of Social Services	109 W. Main St. Room 2013, Cortez, CO 81321	Same as physical
Montrose	Montrose County Health & Human Services	1845 S. Townsend Ave., Montrose, CO 81401	PO Box 216, Montrose, CO 81402-216
Morgan	Morgan County Department of Human Services	800 E. Beaver Ave., Fort Morgan, CO 80701	PO Box 220, Fort Morgan, CO 80701



Otero	Otero County Department of Human Services	215 Raton Ave, La Junta, CO 81050	PO Box 494, La Junta, CO 81050
Ouray	Ouray DSS	177 Sherman St., Unit 104, Ridgway, CO 81432	PO Box 530 Ridgway, CO 81432
Phillips	Phillips County Department of Social Services	127 E Denver St., Holyoke, CO, 80734	Same as physical
Pitkin	Pitkin County Department of Health and Human Services	0405 Castle Creek Rd., Suite 104, Aspen, CO 81611	Same as physical
Pueblo	Pueblo County Department of Social Services	201 W. 8th St, Pueblo, CO 81003	320 W. 10th St, Pueblo, CO 81003
Rio Blanco	Rio Blanco County Department of Health and Human Services	345 Market St., Meeker, CO 81641	Same as physical
Routt	Routt County Department of Human Services	135 6th St., Steamboat Springs, CO 80477	PO Box 772790, Steamboat Springs, CO 80477
Saguache	Saguache County Department of Social Services	605 Christy Ave, Saguache, CO 81149	PO Box 215, Saguache, CO 81149
San Miguel	San Miguel DSS	333 W. Colorado Ave, Telluride, CO 81435 (San Miguel);	PO Box 96 Telluride, CO 81435
Sedgwick	Sedgwick County Human Services	118 W. 3rd St., Julesburg, CO 80737	PO Box 27, Julesburg, CO 80737
Washington	Washington County DHS	126 W. 5th St., Akron, CO 80720	PO Box 395, Akron, CO 80720
Yuma	Yuma County Department of Human Services	340 S. Birch, Wray, CO 80758	Same as physical



## Calendar of Hearings

Hearing Date/Time	Agency	Location
06/03/2019 02:00 PM	Division of Insurance	1560 Broadway, Ste 110 D, Denver CO 80202
05/31/2019 02:30 PM	Division of Professions and Occupations - Audiology and Hearing Aid Provider Licensure	1560 Broadway, Conference Room 1250A (19th Floor), Denver, CO 80202
05/31/2019 01:30 PM	Division of Professions and Occupations - Audiology and Hearing Aid Provider Licensure	1560 Broadway, Conference Room 1250A (19th Floor), Denver, CO 80202
05/31/2019 10:30 AM	Division of Professions and Occupations - Occupational Therapy Licensure	1560 Broadway, Suite 1250A (19th Floor), Denver, CO 80202
06/14/2019 09:15 AM	Division of Professions and Occupations - Board of Architects, Engineers, and Land Surveyors	1560 Broadway, Ste TBD; Denver, CO
07/18/2019 09:00 AM	Air Quality Control Commission	Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Sabin Conference Room
07/18/2019 09:00 AM	Air Quality Control Commission	Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Sabin Conference Room
07/18/2019 09:00 AM	Air Quality Control Commission	Colorado Department of Public Health and Environment, 4300 Cherry Creek Drive South, Sabin Conference Room
06/14/2019 09:00 AM	Medical Services Board (Volume 8; Medical Assistance, Children's Health Plan)	1900 East Pikes Peak Avenue, Colorado Springs, CO 80909