



COLORADO
Department of Education

Colorado Public Education & Local Control

December 2022



Colorado Association
of School Boards





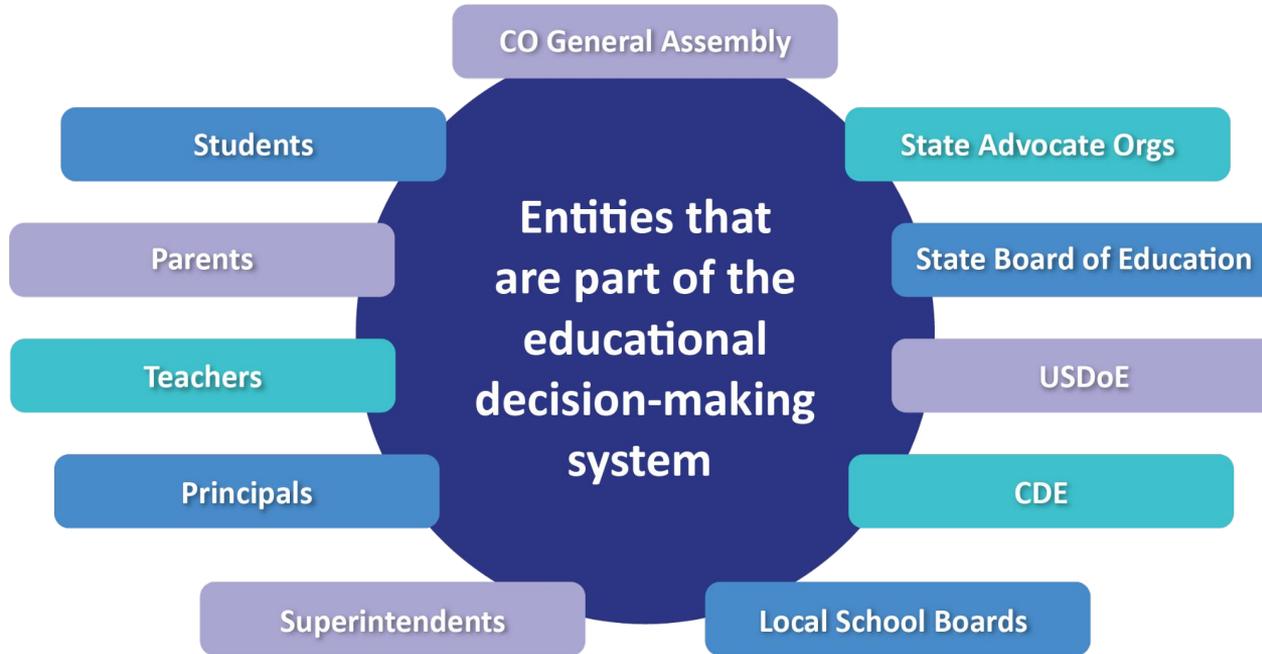
Participants will leave with a better understanding of:

The constitutional and statutory framework for education policy in Colorado

How the roles of different policymaking entities intersect

How this framework impacts the levers of change for various policy issues

Educational Governance



Policy Roles

School/District Policy

- Curriculum
- Instructional methods
- Day-to-day structure
- Hiring teachers
- Local assessments, etc.

State Policy

- Licensure requirements
- Academic Standards
- Specific state assessments, etc.
- State Accountability

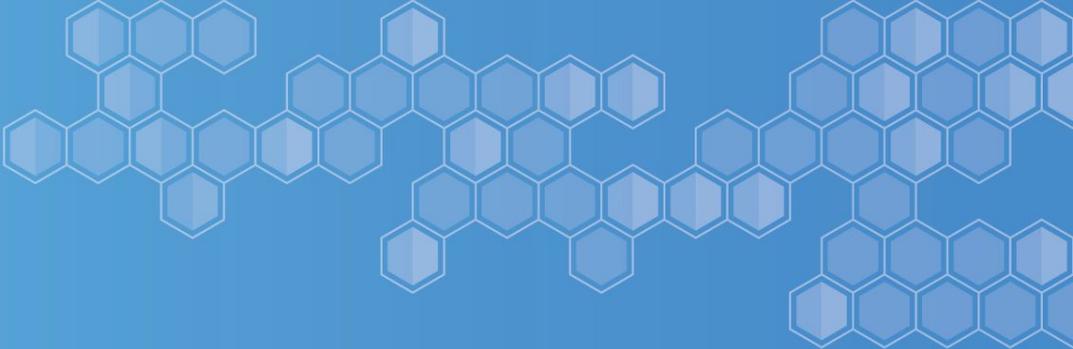
Federal Policy

- Broad goals for students
- Civil rights requirements
- Broad outline for assessments
- Requirements for standards, etc.
- Federal accountability



Colorado Association
of School Boards





Federal Government's Role

Federal Government's Role in Educational Governance

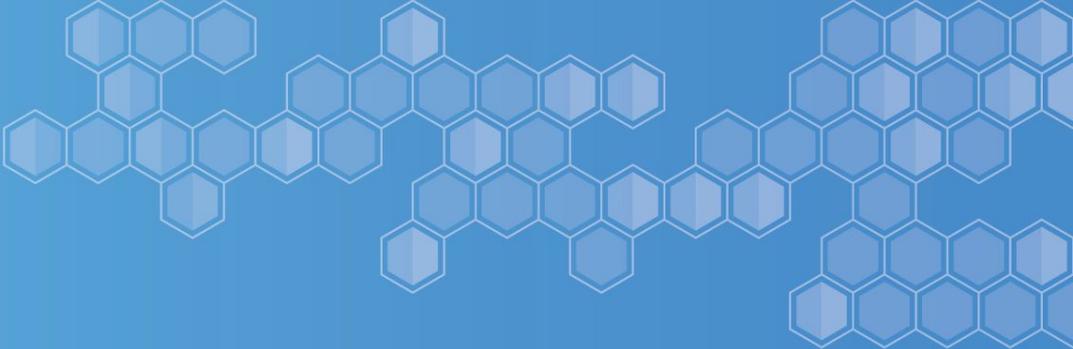


Legal rights

(equal access to education, privacy, free speech, etc.)



Formula and competitive grant funding

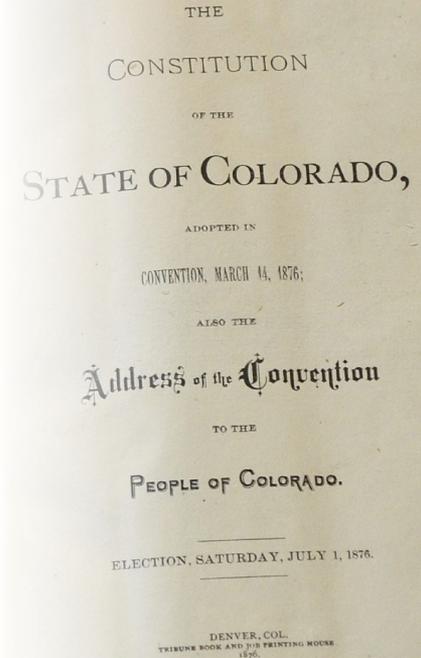


State Legislature's Role

General Assembly's Role in Educational Governance

The Colorado Constitution, in Article IX, Section 2, states:

*“The General Assembly shall...provide for the establishment and maintenance of a **thorough and uniform** system of free public schools throughout the state, wherein all residents of the state, between the ages of six and twenty-one years, may be educated gratuitously.”*



Colorado General Assembly's Lawmaking Authority



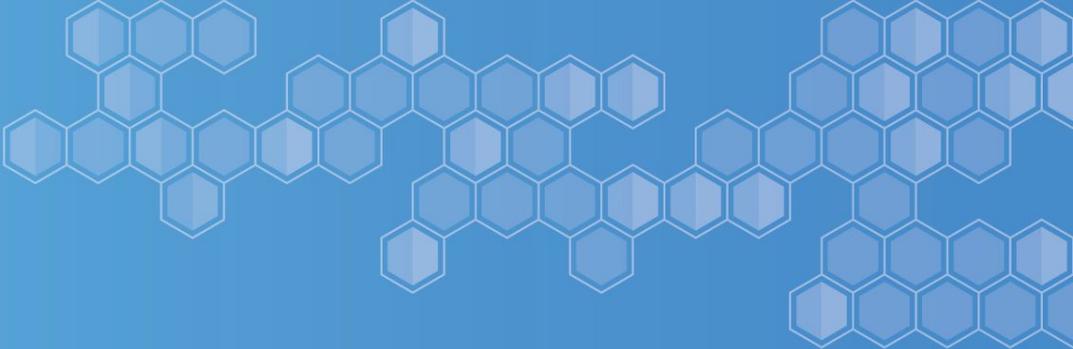
Colorado Constitution provides the Colorado General Assembly with authority to create law



Legislature considers and adopts bills that either create new law, amend existing law, or repeal existing law



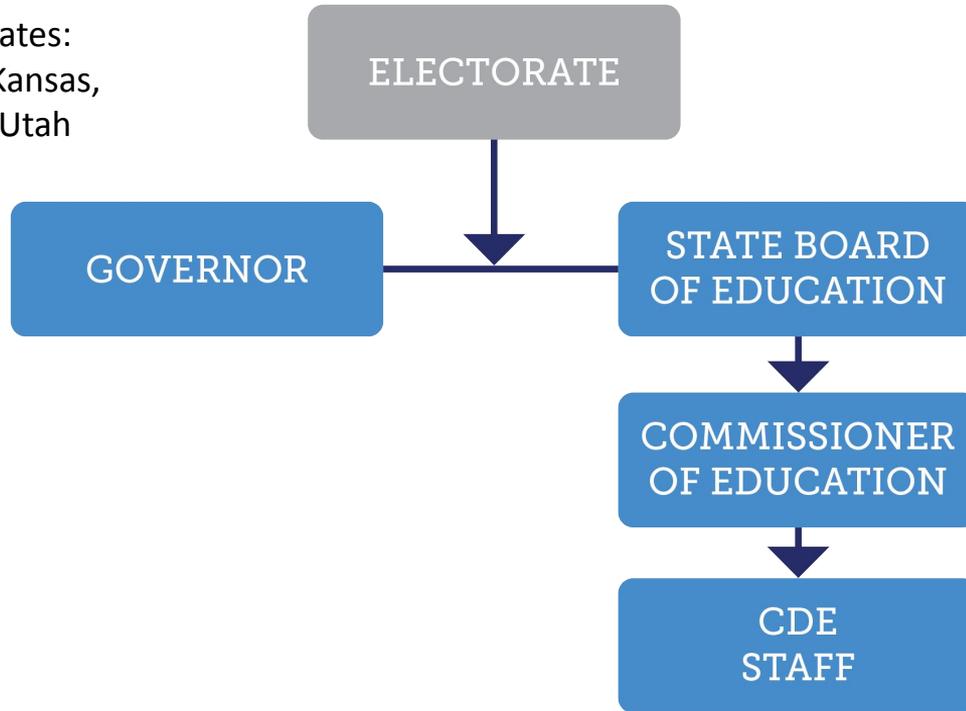
State statutes may not violate the Colorado Constitution, the U.S. Constitution, or federal law



State Board of Education's Role

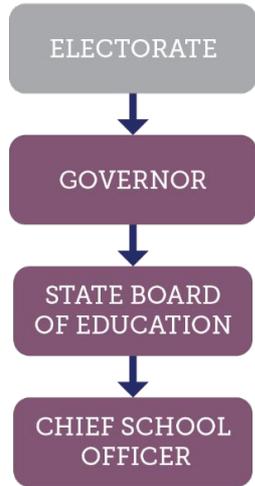
Colorado's Education Governance Model

Model shared by 6 states:
Alabama, Colorado, Kansas,
Michigan, Nebraska, Utah

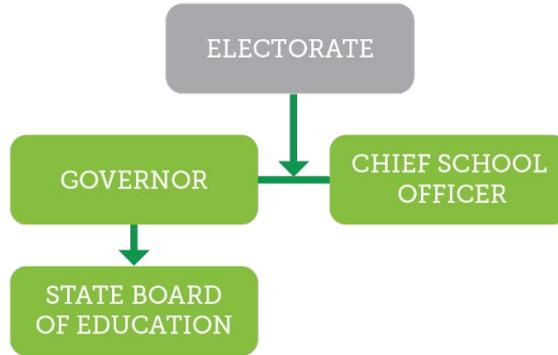


Other Models of Educational Governance

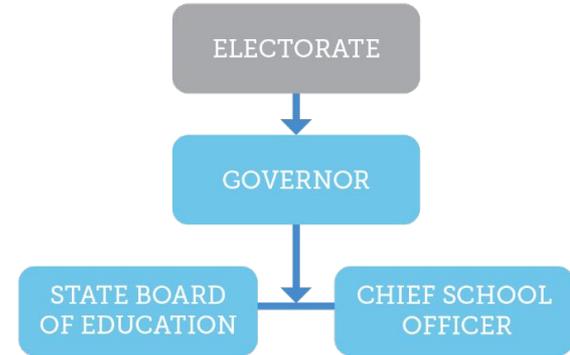
Governor Appoints Board, Board Appoints Chief, 12 states:
AK, AR, CT, FL, HA, IL, KY, MD, MA, MO, RI, WV



Governor Appoints Board and Chief, 10 states:
DE, IA, ME, NH, NJ, PA, SD, TN, VT, VA

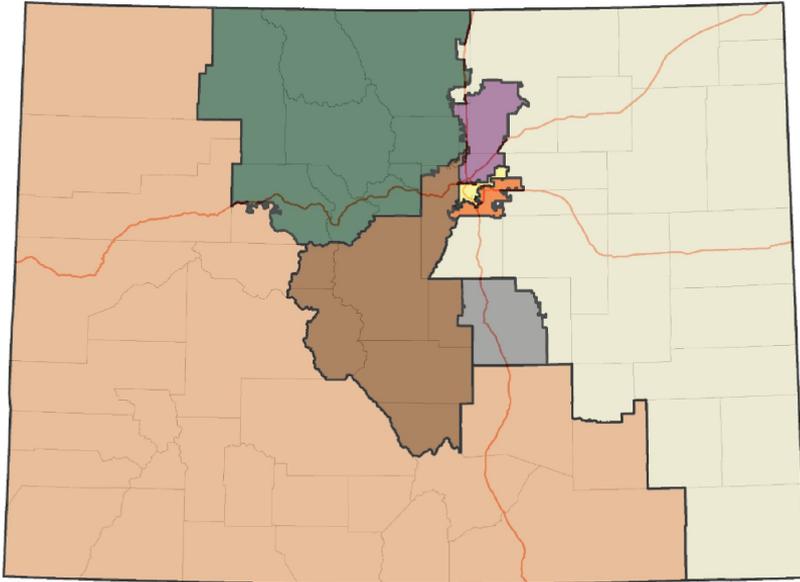


Governor Appoints Board, Elected Chief, 10 states:
AZ, CA, GA, ID, IN, MT, NC, ND, OK, WY



Colorado State Board of Education

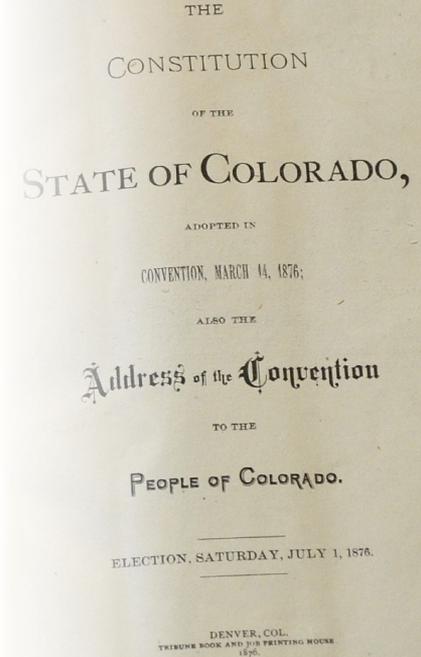
Composed of 9* elected officials, each elected to 6-year terms. Eight members are elected to represent their congressional district and one member is elected at large.



- **Lisa Escarcega (D)**, 1st Cong. District, Denver
- **Angelika Schroeder (D)**, 2nd Cong. District, Boulder
- **Joyce Rankin (R)**, 3rd Cong. District, Carbondale
- **Debora Scheffel (R)**, 4th Cong. District, Parker
- **Steve Durham (R)**, 5th Cong. District, Colo. Springs
- **Rebecca McClellan (D)**, 6th Cong. District, Centennial
- **Karla Esser (D)**, 7th Cong. District, Arvada
- **Rhonda Solis (D)**, 8th Cong. District, Brighton
- **Kathy Plomer (D)**, At-large Member

The Colorado Constitution, in Article IX, Section 1, states:

*“The **general supervision** of the public schools of the state shall be vested in a board of education whose powers and duties shall be as now or hereafter prescribed by law.”*



State Board Statutory Authority



Title 22 of the Colorado Revised Statutes outlines the roles and responsibilities of the state board, including:

*Overseeing
Commissioner and
Department of
Education*

*Adopting state
standards, assessments
and graduation
guidelines*

*Evaluating and
monitoring school
performance (i.e.,
annual targets, district
accreditation, etc.)*

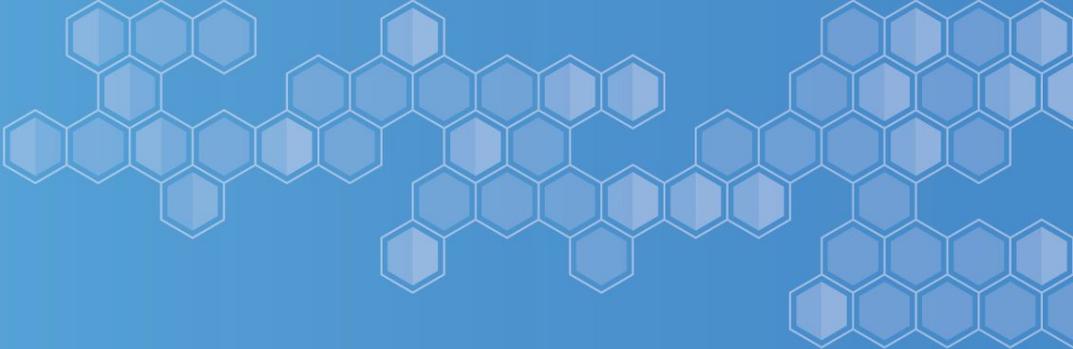
*Adopting rules for
education programs
and grants*

*Adopting educator
performance standards
and licensure
requirements*

*Hearing charter school
appeals*

*Approving grant
recipients and amounts*

*Granting waivers from
state education statutes*

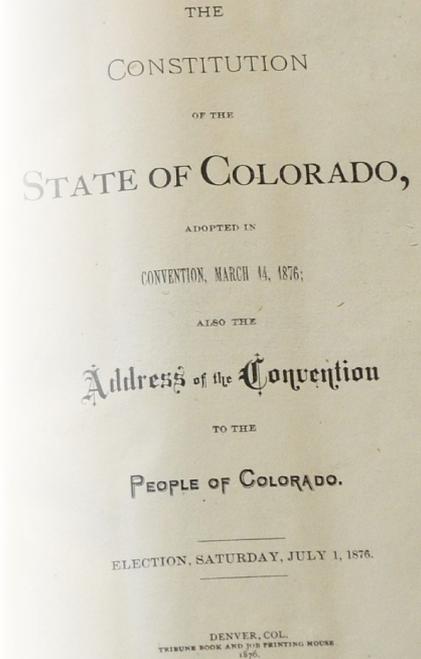


Commissioner's Role

Commissioner's Constitutional Authority

The Colorado Constitution, in Article IX, Section 1, states:

“(2) The commissioner of education shall be appointed by the board of education and shall not be included in the classified civil service of the state. (3) The qualifications, tenure, compensation, powers, and duties of said commissioner shall be as prescribed by law, subject to the supervision of said board.”



Commissioner's Statutory Authority



Title 22 of the Colorado Revised Statutes outlines the roles and responsibilities of the Commissioner, including but not limited to:

Advise state board on status of education system

Carry out policies and rules adopted by the state board

Evaluate performance of schools and accredit school districts

Provide guidance and technical assistance on education laws

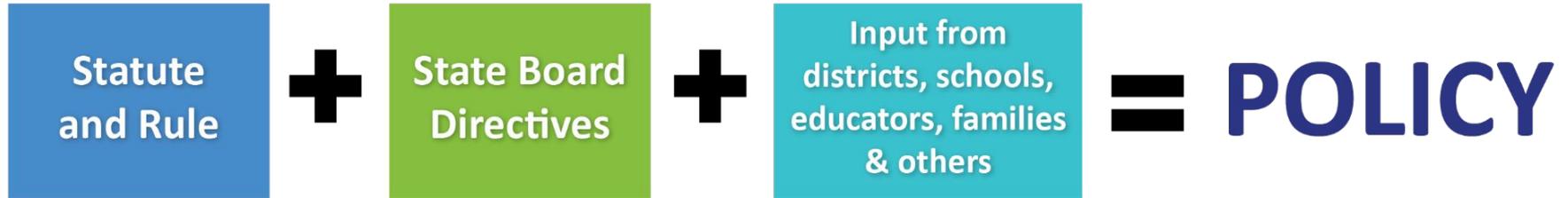
Distribute funding in accordance with statute

Establish and maintain data systems

Administer grant programs

Conduct finance audits

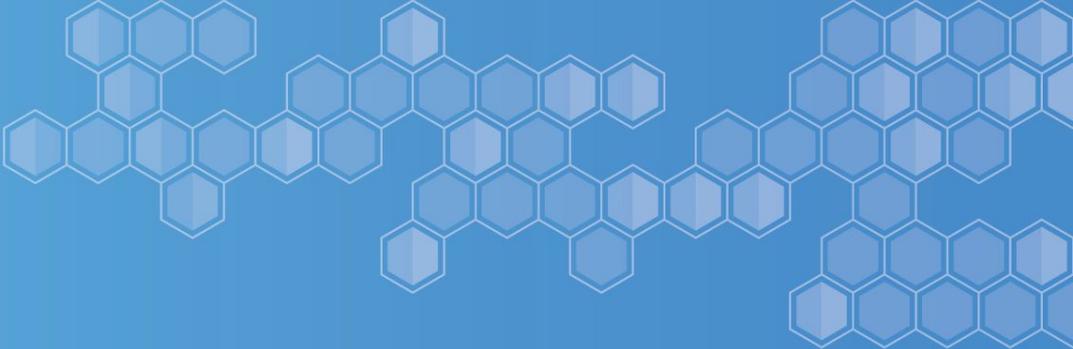
Submit departmental budget to state board



Administrative arm
of the State Board
of Education

Commissioner and staff
have discretion when
making certain decisions
about how to apply a
statute or rule

Written policies or guidelines
describe how CDE intends to
exercise discretion
(a roadmap that ensures executive
functions are carried out in an objective,
fair, and consistent manner)

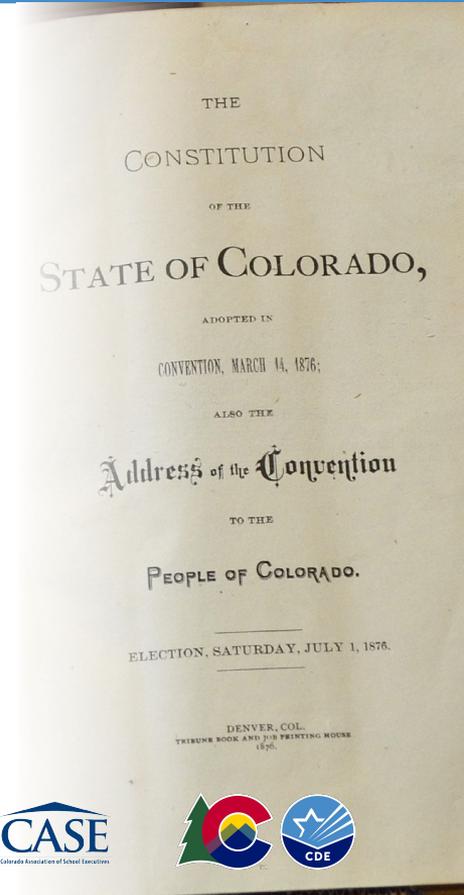


Local School Board's Role



The Colorado Constitution, in Article IX, Section 15, provides for the establishment of local school boards:

*“The general assembly shall, by law, provide for organization of school districts of convenient size, in each of which shall be established a board of education, to consist of 3 or more directors to be elected by the qualified electors of the district. Said directors **shall have control of instruction in the public schools of their respective districts.**”*



Local School Board Statutory Authority



Title 22 of the Colorado Revised Statutes outlines the roles and responsibilities of a local school board, including but not limited to:

Adopting policies and regulations for the district

Employing a chief executive officer

Approving employment contracts for district personnel

Adopting academic content standards

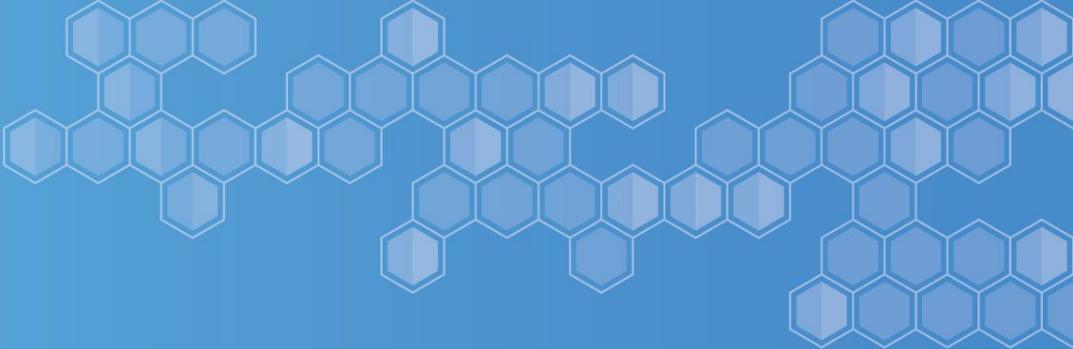
Accrediting schools of the district

Adopting district calendar and schedule

Authorizing charter schools

Setting attendance boundaries

Maintaining and posting financial/ accounting records



Educational Governance Caselaw



Constitutional principles related to educational governance:

- “Thorough and uniform”
- “General supervision”
- “Control of instruction”

Legal cases decided by the Colorado Supreme Court:

- Denver Board of Education v. Booth (1999)
- Owens v. Congress of Parents, Teachers and Students (2004)
- Lobato v. State of Colorado (2013)

Denver Board of Education v. Booth (1999)

ISSUE

Is the legislature's "second-appeal" provision in Charter Schools Act constitutional? May the state board order a local school board to approve a charter school application that the local board has twice rejected, if the state board finds that approval is in the best interests of the pupils, school district or community?

FINDING

Yes. "[T]he second-appeal provision strikes an appropriate balance between the respective constitutional powers of the State Board and local boards. In other words, it does not infringe unconstitutionally on a local board's control of instruction."

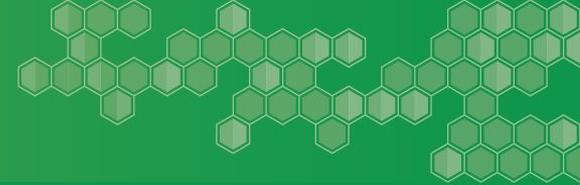
Defining “General Supervision”:

*“We conclude that, pursuant to article IX, section 1(1), the constitutional framers contemplated general supervision to include **direction, inspection, and critical evaluation** of Colorado's public education system from a statewide perspective, that they intended the State Board to serve as both a conduit of and a source for educational information and policy, and that they intended the General Assembly to have broad but not unlimited authority to delegate to the State Board ‘powers and duties’ consistent with this intent.”*

Balancing “general supervision” and “local control”:

*“For circumstances in which the State Board and local boards have potentially conflicting authority, the reviewing court must **strike a balance between local control of instruction and the State Board's general supervision**. That balance will rarely be rigid. Indeed, it cannot be. Both local boards and the State Board exist to promote and serve the educational welfare of public school students in this state and, more broadly, to serve the state's democratic interest in a well-educated population. Inevitably, **there will be instances in which the efforts of the two entities to fulfill their respective obligations will coincide or overlap.**”*

Owens v. Congress of Parents, Teachers and Students (2004)



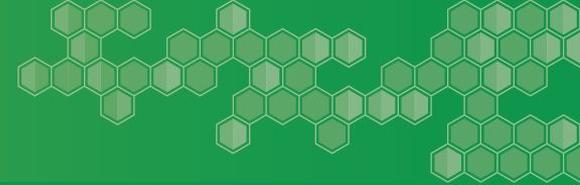
ISSUE

Is the legislature's Colorado Opportunity Contract Pilot Program constitutional?

FINDING

No. “[T]he Pilot Program violates the local control requirements of our state Constitution **because it directs the school districts to turn over a portion of their locally-raised funds to nonpublic schools over whose instruction the districts have no control**...[T]he local boards do not retain any authority to determine which schools or which students are eligible to participate in the program, the amount of district funds to be devoted to the program, or the character of instruction paid for by those funds.”





Defining “Local Control”

*“We have consistently held that control over instruction requires the local boards to retain **substantial discretion** ‘as to the character of... instruction ... **pupils shall receive at the cost of the district**’ ...Local authority over locally-raised funds preserves the representative body created by section 15 and gives substance to the constitutional requirement that local boards ‘shall have control of instruction in the public schools of their respective districts.’”*



Lobato v. State of Colorado (2013)

ISSUE

Is the legislature's public school financing system unconstitutional because it fails to provide sufficient funding to support a "thorough and uniform" system of free public schools and because it prevents districts from exerting meaningful control over educational instruction?

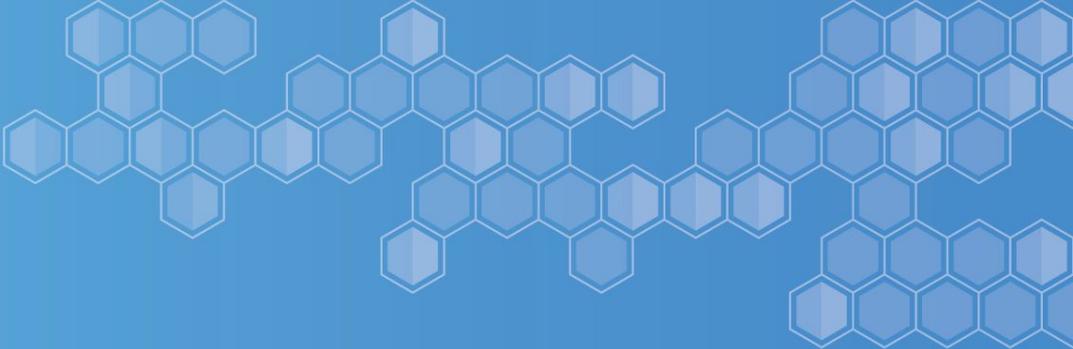
FINDING

No. The public school financing system is rationally related to the "thorough and uniform" mandate and *"unlike the unconstitutional pilot program in Owens...the public school financing system does not affirmatively require school districts to use their locally raised revenue in any particular manner."*

Defining “Thorough and Uniform”

*“We hold that the phrase ‘thorough and uniform’ in the Education Clause describes a free public school system that is of a quality **marked by completeness, is comprehensive, and is consistent across the state.**”*

*“Providing a public school system that is of a quality marked by completeness, is comprehensive, and is consistent across the state **does not demand absolute equality** in the state’s provision of educational services, supplies, or expenditures.”*



Recap

Check Your Understanding

Now that we have completed our session:



Can you name the three key constitutional principles guiding Colorado education policy?



Do you understand the authority and limitations of various policymaking entities in Colorado?



Do you know how to better guide your advocacy efforts depending on the policy issue at hand?