



October 10, 2025

Peter Hilts, Superintendent
District 49
[REDACTED]

Ken Witt, Executive Director
Education ReEnvisioned BOCES
[REDACTED]

RE: Riverstone Academy

Dear Mr. Hilts and Mr. Witt:

The Colorado Department of Education recently became aware that Education ReEnvisioned BOCES ("ERBOCES") has opened a fully outsourced and privately contracted "public school" called Riverstone Academy that is located within District 49 (D49) boundaries.

According to public advertising of the school, Riverstone Academy is not operating in a nonsectarian nature. Riverstone Academy has the following banner at the top of its website:

Riverstone Academy is a tuition-free public elementary school located on the Pueblo County Mesa, serving students in grades K–5. Our unique program blends strong academics with classical values, hands-on trade-based learning, and a Christian foundation to help students grow in both knowledge and character. With a focus on creativity, problem-solving, virtue, and moral development, Riverstone offers a well-rounded, values-driven education that equips young learners for lifelong success—all at no cost to families.



The website also explains that the school uses curriculum from Masterbooks and Berean Builders, both of which are sectarian in nature. The school's Facebook page also includes a number of references to the religious nature of the public school.



Before we address our questions, let us provide a quick explanation on the rationale for having both D49 and ERBOCES on this letter. As it is October, D49 is completing its count of pupils and that count will be submitted to the state to receive per pupil funding for the submitted pupils. We presume that D49 will be submitting the students of Riverstone Academy in its 2025 October count and will be seeking full-time funding for those students. We also presume that D49 will retain some of that funding and pass along a contractually determined amount on to ERBOCES. In turn, ERBOCES will retain some of that funding from D49 and pass along a contractually determined amount to its private contractor that is operating Riverstone Academy. If any of those assumptions are incorrect, please let us know.

Our first question is whether you believe that a school district can contract with a BOCES, which can in turn can create a fully outsourced "contract school" through a private entity. Can you provide us with your rationale under statute, and particularly section 22-32-122, C.R.S., that permits an entity such as Riverstone Academy to be set up and advertised as a "full-time public school"?

Our second question is whether you believe the educational program offered by Riverstone Academy, which appears to be sectarian, is eligible for funding under the School Finance Act and State Board Rules?

Public schools are generally required to be nonsectarian in nature. COLO. CONST. art. IX, § 8 ("No sectarian tenets or doctrines shall ever be taught in the public school[.]"); *see also* U.S. CONST. amend. I; COLO. CONST. art. II, § 4. ERBOCES is a public entity bound by the federal and state constitutions. Thus, any school that ERBOCES operates must be nonsectarian in nature.



This requirement is true regardless of whether ERBOCES operates the school directly or contracts with a private entity to provide the educational services. Section 22-32-122(1) authorizes contracting “for the performance of a service, including educational service, activity, or an undertaking that a school may be authorized by law to perform or undertake.” Any contract for educational services must “be of comparable quality and meet the same requirements and standards that would apply if performed by [ERBOCES].” § 22-32-122(3)(a).

If ERBOCES seeks to run a public school via a contract with a private entity, the private entity can only operate in a manner that a public school is legally authorized to operate. In other words, ERBOCES cannot do indirectly what it is not authorized to do directly.

D49 and/or ERBOCES have presumably signed or will sign a commitment to this effect on CDE Form AUD-108, [Annual Assurances for Statutory Compliance for Contracted Services](#), as you prepare for this year’s pupil count. *Cf.* § 22-32-122(3), C.R.S.; 1 CCR 301-39, Rule 5.11(1)(a). This form is required by State Board of Education Rule to ensure that contracted services can “count” as fundable education time for students. The form acts as an assurance to the state that contracted services are in compliance with law and eligible for funding.

Based on the publicly available information viewed by CDE, the department is concerned that D49 and ERBOCES would not be able to complete the assurances on CDE Form AUD-108 because Riverstone Academy is not meeting the same requirements and standards that apply to public schools. As such, any pupils that D49 submits for funding from Riverstone Academy would not be eligible for funding. Can you confirm whether you intend to submit these pupils for full-time funding and, if yes, your rationale on why these students would be eligible for public school funding?

Sincerely,



Jennifer Okes
District Operations Special Advisor

cc: Sheldon Rosenkrance, Chief District Operations Officer

