

Charter School Waiver Requests

Pursuant to Title 22, Article 30.5, C.R.S.



COLORADO
Department of Education

Overview

The Charter School Act (title 22, article 30.5, C.R.S.), allows charter schools to receive waivers from specified areas of state statute and rule. This flexibility is intended to provide charters with the autonomy to fully implement the educational plan outlined in the school's contract with the authorizing school district or Colorado Charter School Institute. Once a contract is signed or amended, the authorizer submits a waiver request to the Colorado State Board of Education (State Board) on behalf of the charter school.

There are two types of waivers for charter schools: automatic and non-automatic. Please note that the authorizing district may also approve waivers to district policy for a charter within their district. These kinds of waivers are granted by the authorizing school district and do not need to be approved by the State Board.

Automatic Waivers

Pursuant to section 22-30.5-103, C.R.S., automatic waivers are defined as those being granted automatically to all charter schools upon the establishment of a charter contract, renewal or extension, for the term of the contract. A charter school is **not required** to submit a Rationale and Replacement Plan (RRP) for an automatic waiver; however, a charter school must identify which automatic waivers it plans to invoke. The list of automatic waivers that are available to charters schools are outlined in state board rule, in 1 CCR 301-35, and listed in Table 1.

Non-Automatic Waivers

All other waivers from state statute and rule are considered non-automatic waiver requests and must be reviewed and approved by the State Board. Each waiver being requested must contain a Rationale and Replacement Plan (RRP), meaning a **rationale** as to why the waiver is being requested and a **replacement plan** indicating how the school will continue to meet the intent of the law that is being waived. Two or more statutes can be combined under the same RRP if the plan explains why each waiver is being requested and addresses how the intent of each statute will still be met.

In addition to a rationale and replacement plan, the Colorado Department of Education (CDE) recommends as best practice that the charter school includes the following information:

- Anticipated financial impact of waiving out of the law or policy
- How the impact of the waivers will be evaluated
- Expected outcome from waiving out of this law or policy

Section 22-30.5-104(6)(c), C.R.S. prohibits the State Board of Education from waiving any of the following statutory provisions to charters:

- School accountability committees as described in §22-11-401, C.R.S.
- Assessments required to be administered pursuant to §22-7-1006.3, C.R.S.
- School performance reports pursuant to Title 22, Article 11, Part 5, C.R.S.
- The Public School Finance Act of 1994, Title 22, Article 54, C.R.S.
- The Children's Internet Protection Act, Title 22, Article 87, C.R.S.
- The Exceptional Children's Educational Act, Title 22, Article 20, C.R.S.
- The requirement to post on the internet the statutes for which waivers are granted as provided in §22-44-305, C.R.S.
- Any provision of §22-1-130, relating to notification to parents of alleged criminal conduct by charter school employees
- Suspension and expulsion of students in preschool through second grade pursuant to §22-33-106.1, C.R.S.
- Discrimination based on hair texture, hair type, hair length or a protective hairstyle that is commonly or historically associated with race pursuant to §22-30.5-104(3), §22-32-110(1)(k) and §22-63-206(1), C.R.S.
- The wearing of cultural or religious objects at school graduation ceremonies pursuant to §22-1-142.5, C.R.S.
- Policies regarding data and access pursuant to Title 24, Article 74.1, C.R.S.

In addition, the State Board of Education does not have authority to grant waivers from non-education statutes (statutes outside of title 22) or Federal statutes, including ESSA and IDEA.

A [sample RRP](http://www.cde.state.co.us/cdechart/samplerrp) can be viewed at <http://www.cde.state.co.us/cdechart/samplerrp>.

Table 1: Automatic Waivers from 6/2/2017 to Present

Statutory Citation	Description
22-32-109(1)(f), C.R.S.	Local board duties concerning selection of staff and pay
22-32-109(1)(t), C.R.S.	Determine educational program and prescribe textbooks
22-32-110(1)(h), C.R.S.	Local board powers-Terminate employment of personnel
22-32-110(1)(i), C.R.S.	Local board duties-Reimburse employees for expenses
22-32-110(1)(j), C.R.S.	Local board powers-Procure life, health, or accident insurance
22-32-110(1)(k)(l), C.R.S.	Local board powers-Policies relating to in-service training and official conduct, except as it relates to unlawful discrimination, including discrimination based on hair texture, hair type, or a protective hairstyle that is commonly or historically associated with race
22-32-110(1)(ee), C.R.S.	Local board powers-Employ teachers' aides and other non-certificated personnel
22-32-126, C.R.S.	Employment and authority of principals
22-33-104(4), C.R.S.	Compulsory school attendance-Attendance policies and excused absences
22-63-301, C.R.S.	Teacher Employment Act-Grounds for dismissal
22-63-302, C.R.S.	Teacher Employment Act-Procedures for dismissal of teachers
22-63-401, C.R.S.	Teacher Employment Act-Teachers subject to adopted salary schedule
22-63-402, C.R.S.	Teacher Employment Act-Certificate required to pay teachers
22-63-403, C.R.S.	Teacher Employment Act-Describes payment of salaries
22-1-112, C.R.S.	School Year-National Holidays

Waiver Request Process

- The authorizer must submit the following information to CDE's Schools of Choice Office at soc@cde.state.co.us:
 - A complete copy of the signed charter contract (section 22-30.5-104(6)(d), C.R.S.) within 10 days of approval. The charter contract should include: (1) the start and end date of the contract term; (2) signatures of both the charter school and authorizing local board; (3) a list of automatic waivers the school is invoking; (4) a list of the non-automatic waivers from state statute and rule the school is requesting; and (5) a RRP for each non-automatic waiver requested.
- Upon receipt of a complete charter school waiver request, CDE staff has 45 days to review and submit the request to the State Board for approval or denial. If a decision has not been made on the waiver request within 45 days of submission, the waiver request will be deemed approved.
 - It is important to note that the State Board is given the ability in statute to consider each waiver request separately from previous requests and they may consider differences in context and rely on different criteria. The State Board determines how it wants to review each waiver. The board may decide that a presentation to the board is required (infrequent), or they may decide to place an item on the consent agenda (common). Even when placed on the consent agenda, any waiver request may be pulled from the consent agenda at the start of the board meeting.
- Once a request for state waivers is approved, the waivers are valid through the term of the charter contract and are subject to periodic review by the State Board. If the contract states that the term date may be extended if certain conditions are met, the authorizer will need to request an extension of the state waivers from the state board so the term date of the waiver request can be extended to match the term date of the charter contract extension.
- When a charter school's contract expires, the authorizer must resubmit its waiver request to CDE once a new contract is established.

WHERE CAN I LEARN MORE?

For the statutory and regulatory references on charter waivers, please see C.R.S. 22-30.5-104 and 1 CCR 301-35