

Waiver Requests

Colorado law (22-2-117(1)(a), C.R.S.) allows districts to request waivers from certain areas of state statute and rule. These waivers can apply to the full district or individual schools within their district. These waivers are granted by the Colorado State Board of Education to enhance educational opportunity and quality.

Waiver Application Contents

For a district to be considered for a waiver, the following needs to be included in the application (to be submitted to Carol Earle at earle_c@cde.state.co.us)

- A description and rationale for the waiver(s) being requested. The state board shall grant the waiver if it determines that it would enhance educational opportunity and quality within the school district and that the costs to the school district of complying with the requirements for which the waiver is requested significantly limit educational opportunity within the school district. (C.R.S., 22-2-117(1)(a)) It is important to note that the board is given the ability in statute to consider each waiver request separate from previous district requests. They may consider differences in district context and as such, rely on different criteria for making each decision.
- A replacement plan that describes the manner in which the school/district shall comply with the intent of the waived statutes or rules and shall be accountable to the state for such compliance.
- If the district has a pupil count of 3,000 or more, majority consent must be demonstrated by each of the three groups:
 - majority of school accountability committee (SAC)
 - licensed administrators
 - and teachers
- Include evidence of notice of public hearing in three public places within the district for at least 30 calendar days prior to the local hearing. This notice must include the time and location of the hearing and a description of the waiver request. If a newspaper is published within the county, documentation of public notice in the newspaper is required once each week for at least four weeks. This may be demonstrated through a copy of the public notices posted (including location and dates) or a statement that includes a summary of this information.
- A signed board resolution from the local board of education demonstrating approval to apply for the waiver and specifying the statutes and rules for which the board will request waivers.

Note: Districts below 3,000 are exempt from having to demonstrate majority consent as outlined in the third bullet.

The State Board of Education shall not waive any requirements specified in the following statutory provisions (22-2-117(1)(B), C.R.S.):

- The Public School Finance Act of 1994, Title 22, Article 54, C.R.S.
- The Exceptional Children's Educational Act, Title 22, Article 20, C.R.S.
- Any provision of part 5 of article 11 of this title pertaining to the data necessary for performance reports
- Any provision of this title that relates to fingerprinting and criminal history record checks of educators and school personnel
- The "Children's Internet Protection Act", article 87 of this title.
- 22-2-117(1.5), C.R.S.
Notwithstanding any provision of this section or any other provision of law, the state board shall not waive requirements contained in article 11 of this title or sections 22-7-1006.3, 22-32-105, 22-32-109 (1) (bb) (I) and (2), 22-32-109.1 (2) (a), 22-32-146, and 22-33-104 (4)



Submission of Waiver Materials to CDE

Districts will likely have a better chance of success if CDE staff is engaged in providing information and feedback to the district on the waiver submission. To have time to receive and incorporate this feedback, it is suggested that the request be submitted to CDE two to three months prior to its desired approval date as identified in the process section below. This timeline is based on the requirement that all materials and feedback to the board be finalized three to four weeks prior to the board meeting.

Process

****For a better likelihood of a successful application, districts and schools making requests for waivers under this statute should allow two to three months for review and feedback from CDE staff and time to revise the request if necessary prior to submission to the Colorado State Board of Education.***

1. When a waiver application is submitted to CDE pursuant to C.R.S. 22-2-117, staff reviews the application for completeness to ensure all requirements outlined in statute are included.
2. When the application is deemed “complete,” additional staff members are engaged based on content area expertise and the waivers being requested to conduct a review of the replacement plans. CDE staff will consider a number of factors when reviewing the replacement plan and submitting information to the state board. Considerations include, but are not limited to, the clarity of the replacement plan, whether it is an allowable waiver under both state law as well as the federal ESEA waiver*, the context of the school/district including size, geography, number of staff and students, district performance, stakeholder engagement in the plan, etc.
3. Should an application require revisions, CDE staff will support the district in revising their requests.
4. The final draft of the application is then submitted to the state board for approval.
5. The board determines how they want to review each waiver. The board may decide that a presentation to the board is required, or they may decide to place an item on the consent agenda. Even when placed on the consent agenda, any waiver request may be pulled from the consent agenda at the start of the board meeting.

Difference from Other Waiver Requests

Typically waiver requests pursuant to 22-2-117, C.R.S. come from districts rather than individual schools (contract schools). Frequently, the board asks districts to present, which gives the state board the opportunity to have conversations with the district/school related to the waivers being requested and comments provided by CDE staff. It is at the board’s discretion whether they would like the district to present their request.

Notes

Districts with Exclusive Chartering Authority are exempt from having to demonstrate majority consent of their SAC, administrators and licensed teachers (C.R.S. 22-2-117(6)). For charters and innovation schools, there are differing requirements.

Where can I learn more?

- For the statutory reference on waivers please see C.R.S. 22-2-117.
- For questions, contact Carol Earle, Earle_c@cde.state.co.us or 303-866-6817.
- To view all CDE fact sheets, visit: www.cde.state.co.us/Communications/factsheetsandfaqs