

DEPARTMENT OF EDUCATION

Colorado State Board of Education

RULES FOR THE ADMINISTRATION OF THE WAIVER OF STATUTE AND RULE

1 CCR 301-35

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

2217-R-1.00 General Requirements

1.01 Definitions

1.01 "Charter School" means a public school that enters into a charter contract pursuant to Article 30.5 of Title 22.

1.02 "Institute Charter School" means a charter school authorized pursuant to Article 30.5 of Title 22.

1.03 "State Board" means the state board of education.

1.04 "Automatic Waiver" means the waiver of a state statute or state board rule:

- (a) That is included on the list of automatic waivers adopted by rule of the state board;
- (b) That is available to each charter school, including an Institute Charter School, and is valid for the initial or subsequent renewal, term of the charter contract; and
- (c) For which a charter school, including an Institute Charter School, is not required to submit a statement that specifies the manner in which the charter school intends to comply with the intent of the automatically waived state statute or state board rule.

2217-R-2.00 Waiver Requests by School Districts

2.01 Legal Standard for granting waivers

The State Board shall grant waivers to school districts when it determines that such waivers would enhance educational opportunity and quality within the school district and when the costs to the school district of complying with the requirements for which the waiver is requested significantly limit educational opportunities within the school district

2.02 Duration/Revocation

Any waiver granted by the State Board of Education to a school district (not involving a charter school) shall continue **indefinitely** unless:

2.02(a) The school district board of education that holds the waiver by resolution requests revocation of the waiver; or

2.02(b) The State Board receives evidence that constitutes good and just cause for revocation of the waiver, as determined by the State Board.

2.03 Pre-Application Process

2.03(a) Prior to submitting an application for a waiver, a school district board of education, in a public meeting including a public hearing, shall adopt a resolution stating the board's intent to apply for a waiver and specifying the statutes and rules for which the board will request waivers.

2.03(b) The school district board of education shall post notice of such public meeting in three public places within the school district for a period of not less than thirty calendar days prior to such meeting, giving the time and location of such meeting and a description of the waiver request, and, if a newspaper is published within the county, shall publish such notice once each week for at least four weeks prior to the meeting in such newspaper.

2.03(c) At least sixty days prior to such public meeting and hearing, the school district board of education shall meet with the school district accountability committee to consult with the committee concerning the intent to seek the waiver(s).

2.04 Application Process

Waiver requests by school districts shall be submitted as follows:

2.04(a) Written requests for waivers shall be submitted electronically to the State Board of Education by emailing state.board@cde.state.co.us and electronically copying the Schools of Choice Unit at schoolsofchoice@cde.state.co.us.

2.04(b) A complete request for a waiver shall include:

2.04(b)(i) A list of statutes and/or rules requested for waiver;

2.04(b)(ii) A statement explaining how the waiver would enhance educational opportunity and quality within the school district;

2.04(b)(iii) A statement explaining how costs to the school district of complying with the requirement for which the waiver is requested significantly limit educational opportunity within the school district;

2.04(b)(iv) A statement describing the manner in which the school district shall comply with the intent of the waived rules or statutes as well as how it shall be accountable to the state board for such compliance;

2.04(b)(v) Documentation of legal requirements for district's public hearing process; and

2.04(b)(vi) Additionally, a school district of 3,000 or more pupils shall provide signatures demonstrating that its application has the consent of a majority of the appropriate accountability committee, a majority of the affected licensed administrators, and a majority of the affected school district teachers and shall indicate how the affected staff and committee were determined.

2.05 State Board Ruling

The State Board of Education will rule on a waiver request by a school district within 90 days of receipt of a complete request for waiver.

2.06 Sections Of Law Ineligible For Waiver

The State Board of Education shall not waive any of the requirements specified in the following statutory provisions:

- 2.06(a) The Public School Finance Act Of 1994, Title 22, Article 54, C.R.S.
- 2.06(b) The Exceptional Children's Educational Act, Title 22, Article 20, C.R.S.
- 2.06(c) Any provision of Title 22, Article 11, Part 5, C.R.S., pertaining to the data necessary for performance reports
- 2.06(d) Any provision of Title 22, C.R.S., that related to fingerprinting and criminal history record checks of educators and school personnel.
- 2.02(e) The Children's Internet Protection Act, Title 22, Article 87, C.R.S.
- 2.02(f) Accountability, pursuant to Title 22, Article 11, C.R.S.
- 2.06(g) Assessments, pursuant to section 22-7-1006.3, C.R.S.
- 2.06(h) Duties of the president and vice president of a school district board of education, pursuant to 22-32-105, C.R.S.
- 2.06(i) Duty of a school district board of education to adopt a policy mandating prohibition against the use of all tobacco products on school property and at school-sponsored activities by students, teachers, staff, and visitors, and to adopt rules to enforce such prohibition, excluding expulsion of any student solely for such tobacco use pursuant to 22-32-109(1)(bb)(l), C.R.S.
- 2.06(j) Conduct and school discipline codes, pursuant to 22-32-109.1(2)(a), C.R.S.
- 2.06(k) Use of on-site peace officers as school resource officers and notifications of arrests and notices issued, pursuant to 22-32-146, C.R.S.
- 2.06(l) Duty of each school district board of education to adopt a written policy setting forth the district's attendance requirements, pursuant to 22-33-104(4), C.R.S.

2217-R-3.00 Waiver Requests by Charter Schools and Automatic Waivers

3.01 List of Automatically Waived Statutes for all charter schools:

The following statutes will be automatically waived for Charter Schools, including an Institute Charter School. These waivers will be automatically granted to a charter school upon entering into a charter contract with its authorizer, pursuant to section 22-30.5-105, C.R.S.

- 3.01(A) 22-32-109(1)(b), C.R.S. Local board duties concerning competitive bidding
- 3.01(B) 22-32-109(1)(f), C.R.S. Local board duties concerning selection of staff and pay
- 3.01(C) 22-32-109(1)(n)(II)(A), C.R.S. Determine teacher-pupil contact hours
- 3.01(D) 22-32-109(1)(t), C.R.S. Determine educational program and prescribe textbooks
- 3.01(E) 22-32-110 (1)(h), C.R.S. Local board powers-Terminate employment of personnel

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- 3.01(F) 22-32-110(1)(i), C.R.S. Local board duties-Reimburse employees for expenses
- 3.01(G) 22-32-110(1)(j), C.R.S. Local board powers-Procure life, health, or accident insurance
- 3.01(H) 22-32-110(1)(k), C.R.S. Local board powers-Policies relating the in-service training and official conduct
- 3.01(I) 22-32-110(1)(y), C.R.S. Local board powers-Accepting gifts, donations, and grants
- 3.01(J) 22-32-110(1)(ee), C.R.S. Local board powers-Employ teachers' aides and other non- certificated personnel
- 3.01(K) 22-32-126, C.R.S. Employment and authority of principals
- 3.01(L) 22-33-104(4), C.R.S. Compulsory school attendance-Attendance policies and excused absences
- 3.01(M) 22-63-301, C.R.S. Teacher Employment Act- Grounds for dismissal
- 3.01(N) 22-63-302, C.R.S. Teacher Employment Act-Procedures for dismissal of teachers
- 3.01(O) 2-63-401, C.R.S. Teacher Employment Act-Teachers subject to adopted salary schedule
- 3.01(P) 22-63-402, C.R.S. Teacher Employment Act-Certificate required to pay teachers
- 3.01(Q) 22-63-403, C.R.S. Teacher Employment Act-Describes payment of salaries
- 3.01(R) 22-1-112, C.R.S School Year-National Holidays
- 3.02 Legal Standard for granting waivers to charter schools
- 3.02(a) Pursuant to contract, a charter school may operate free from specified school district regulations and state regulations. Pursuant to contract, a local board of education may waive locally imposed school district requirements, without seeking approval of the State Board.
- 3.02(b) The State Board of Education shall grant waivers of state statutory requirements or rules promulgated by the State Board to charter schools when in the judgment of the State Board it deems waivers necessary.
- 3.02(c) Upon request of the charter applicant, the State Board and the charter school authorizer shall provide summaries of such regulations and policies to use in preparing a charter school application.
- 3.03 Duration/Revocation
- 3.03(a) Any waiver of state or local school district regulations shall be for the term of the charter for which the waiver is made.
- 3.03(b) A waiver of state statutes or regulations by the State Board shall be subject to review periodically, but at least every five years. A waiver may be revoked if the waiver is deemed no longer necessary by the State Board of Education.
- 3.04 Application Process

Waiver requests by charter schools shall be submitted for the term of the charter as follows:

Within ten days after the charter school contract is approved, a complete copy of the signed charter contract must be submitted to the State Board of Education by the charter school authorizer and charter school.

3.05 Sections of Law Ineligible for Waiver

The State Board of Education shall not waive any of the requirements specified in the following statutes and/or related rules:

3.05(a) School accountability committees as described in section 22-11-401, C.R.S.

3.05(b) Assessments required to be administered pursuant to section 22-7-1006.3, C.R.S.;

3.05(c) School performance reports pursuant to Title 22, Article 11, Part 5, C.R.S.;

3.05(d) The Public School Finance Act of 1994, Title 22, Article 54, C.R.S.; or

3.05(e) The Children's Internet Protection Act, Title 22, Article 87, C.R.S.

2217-R-4.00 Statement of Basis and Purpose

The basis of these rules, adopted by the State Board of Education on (January 11, 1990) is found in 22-2-106(1) (A) and (C), 22-2-107(1)(C) and 22-2-117, C.R.S. The purpose of these amendments is to clarify the process that schools and school districts must follow in order for the State Board of Education to consider waiver requests involving statutes and rules and regulations that have been imposed on schools and school districts.

4.01 The basis for these amendments, adopted by the State Board of Education on (November 10, 1994) is found in sections 22-30.5-104(6) and 22-2-117, C.R.S. which were amended by the General Assembly in 1994. The purpose of these amendments is to specify the process by which waivers may be granted to charter schools pursuant to the aforementioned statutes and to clarify the standards that the State Board will use in determining which waiver requests meet the statutory requirements.

4.02 The basis for these amendments, adopted by the State Board of Education on (08-13-98) is found in sections 22-30.5-105(3), C.R.S., which was amended by the general assembly in 1998. The purpose of these amendments is to specify the process by which waivers may be granted to charter schools pursuant to the aforementioned statute.

4.03 The basis for these amendments, adopted by the State Board of Education on August 9, 2001 is found in 22-2-117, et seq., 22-7-601 et seq., and 22-30.5-104(6) and 105(3), C.R.S. the purpose of these amendments is to conform the State Board's rules to statute, including major amendments to 22-2-117 and the addition of 22-7-601 from the 2000 legislative session.

4.04 The basis for these amendments, adopted by the State Board of Education on January 13, 2005, is found in 22-30.5-104 (6), C.R.S., which was amended by the General Assembly in 2004 by House Bill 04-1141. The purpose of these amendments is to identify the state statutes that the State Board has determined will be automatic waivers for charter schools.

4.05 The basis for these amendments, adopted by the State Board of Education in November 2012, is found in section 22-30.5-104 (6), C.R.S., which authorizes the board to promulgate rules identifying state statutes and state rules that are automatically waived for all charter schools.

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- 4.06 The basis for amendments to section 3.0 of these rules, adopted by the State Board of Education in November 2014 is found in sections 22-30.5-104-106, 22-30.5-507 and 22-30.5-507, C.R.S., which were amended by the General Assembly in 2014 by House Bill 14-1292. The purpose of these amendments is to repeal the obsolete provisions concerning the process for Charter Schools to request automatic waivers of statute and rule and to revise the list of automatic waivers.

Editor's Notes

History

Sections 2.04(a), 3.06(b)-(w), 4.05 eff. 01/14/2013.

Sections 2217-R-1.00, 2217-R-3.00, 4.06 eff. 01/15/2015.

Entire rule eff. 01/30/2016.