

WAIVER REQUESTS PURSUANT TO C.R.S. 22-2-117



Overview

Colorado law, in section 22-2-117(1)(a), C.R.S., allows a district to request that the Colorado State Board of Education (State Board) waive certain provisions of state statute and rule. Such waiver requests may be submitted on behalf of a full district or individual schools within a district. The information below provides a summary of the application requirements and process for requesting such a waiver.

Contents of a waiver request

For a district to be considered for a waiver, the following information must be submitted to the Office of State Board Relations at state.board@cde.state.co.us:

- A description of and rationale for each waiver being requested. Per statute, the state board shall grant the waiver if it determines that the waiver “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”;
- A description of the manner in which the school or district will comply with the intent of the waived statutes or rules and will be accountable to the state for such compliance (i.e., a “replacement plan”);
- *For a district that has a funded pupil count of 3,000 or more*, evidence that the waiver request was consented to by a majority of each of these 3 groups: (1) the District Accountability Committee (or School Accountability Committee, if the waiver applies only to a single school); (2) the affected licensed administrators; and (3) the affected teachers. This requirement to show majority consent from each of the designated groups does not apply to a district that has been granted exclusive charter authority pursuant to section 22-30.5-504, C.R.S., so long as the request is not for a waiver of any of the provisions of article 9 or articles 60.5 through 64 of title 22;
- Evidence that the local school board held a hearing to consider the waiver request and that public notice of the hearing was posted in 3 locations within the district for at least 30 calendar days prior to the 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, the application must include evidence that the hearing was also noticed in the newspaper once each week for at least 4 weeks prior to the hearing. Evidence may consist of a copy of the public notices posted or a statement describing the information included in the notices;
- Evidence that the local board met with the District Accountability Committee to consult with the committee about the waiver at least 60 days prior to the local board hearing; and
- A signed resolution from the local board demonstrating approval to apply for the waiver and specifying the statutes and rules for which the local board is requesting waivers.

Per statute, the State Board may not waive any of these laws:

- Public School Finance Act;
- Exceptional Children’s Education Act;
- State assessments;
- Education Accountability Act;
- Data for school performance reports (e.g., CMAS, SAT and READ Act assessment results);
- Fingerprinting and criminal history record checks;

- Children's Internet Protection Act;
- Local board president and vice- president duties;
- Local board duty to adopt a tobacco policy;
- Provisions concerning operating educational program outside territorial limits of school district;
- Local board duties concerning conduct and discipline codes;
- Use of on-site peace officers as school resource officers;
- Local board duty to adopt written attendance policy;
- Requirement to post list of approved district/school waivers;
- Parent notification of alleged criminal conduct by district employees;
- Requirements for suspension and expulsion of P-2 students;
- Comprehensive human sexuality education content requirements;
- Provisions concerning discrimination based on hair texture/type/length or protective hairstyle associated with race;
- Provisions relating to use of a student's chosen name in school;
- Provisions relating to wearing of cultural or religious objects at school graduation ceremonies;
- Policies required by Title 24, Article 74.1, concerning the collection and sharing of information related to citizenship and immigration status;
- Non-education statutes (statutes outside of title 22); or
- Federal statutes, including ESSA and IDEA

Waiver request process

Applicants are encouraged to allow two to three months for the waiver request process, providing adequate time for CDE staff to review the waiver request and for the applicant to revise the request, if necessary, before submitting it to the State Board.

After a waiver request is submitted, CDE staff review the application for completeness to ensure all the information required by statute has been included. Once the application is deemed complete, additional CDE staff members are engaged based on content area expertise to evaluate the rationale for the requested waiver(s) and the replacement plan(s). CDE staff will consider several factors when reviewing the replacement plan(s) and submitting information to the State Board. Considerations include, but are not limited to, the clarity of the replacement plan, the context of the school or district, including size, geography, number of staff and students, student performance, and stakeholder engagement in the plan.

The State Board must take action on a waiver request within 120 days of receiving a complete waiver request. The board will determine whether it wishes for applicants to present the waiver request in person at a State Board meeting or to include the waiver request on a consent agenda. Typically, the State Board has asked for presentations of all waiver requests submitted pursuant to section 22-2-117, C.R.S.

WHERE CAN I LEARN MORE?

For questions, contact the Office of State Board Relations at state.board@cde.state.co.us or 303-866-6817.

To view all CDE fact sheets, visit: www.cde.state.co.us/Communications/factsheetsandfaqs.