



STATUTORY WAIVERS AND POSTING REQUIREMENTS

WAIVERS GENERALLY

A school district may seek waivers from state statutes and/or state regulations by submitting a request to the Colorado State Board of Education. C.R.S. 22-2-117. Waivers may apply to the entire district or to individual schools. The State Board “shall” grant the waiver if it determines the waiver “would enhance educational opportunity and quality” and that the costs of the school district 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).

State law prohibits the State Board from granting waivers of certain state laws, including state assessments, student data reporting requirements, the Public School Finance Act, the Exceptional Children’s Educational Act, student conduct and discipline code requirements, provisions related to fingerprinting and background checks of district personnel, and the statutory waiver posting requirements discussed in this memo. This memo provides an overview of the statutory waiver posting requirements.

POSTING REQUIREMENTS

As amended by HB 17-1375, state law now requires school districts to post a list of its statutory waivers received by the State Board. C.R.S. 22-44-305(1). Here are the specific posting requirements:

- The posting must be in an easily accessible and downloadable location and format on the district’s website, with free public access.
- The posting must be maintained pursuant to the “Public School Financial Transparency Act,” which requires the district to post information under the “Financial Transparency” template developed pursuant to state law. The Colorado Department of Education (CDE) has taken the position that all information pertaining to mill levy override sharing with district charter schools and/or innovation schools which the law requires school districts to post must be posted under the standard “Financial Transparency” icon on each school district’s website, as required by C.R.S. 22-44-304(4).
- For each waiver posted, the district must provide a copy of the plan that explains the manner in which the district will meet the intent of the waived statute.
- In its waiver list, the district must include waivers granted to the district as a whole as well as waivers granted to one or more schools in the district (other than charter schools).
- The district must separately list each waiver granted to an innovation school or an innovation school zone.
- The district must update its waiver list “within thirty days” after a waiver is revoked or a new waiver is granted. C.R.S. 22-44-305(3).



PRACTICAL GUIDANCE

As outlined above, state law is specific about how the district must post its statutory waivers in terms of content, format and online access. Aside from these statutory requirements, school districts have discretion in crafting and displaying their waiver lists. Consider the following guidelines for implementing these posting requirements:

- Conspicuously identify the waiver list on the district’s “Financial Transparency” webpage accessible from the “Financial Transparency” link on the district’s homepage.
- Use a table or chart format for the waiver list.
- Include the date each waiver was approved by the State Board.

ARE CHARTER SCHOOLS REQUIRED TO POST WAIVER LISTS?

Yes, state law requires charter schools to post a list of the statutes for which the charter school has received a waiver. However, the law distinguishes charter schools from school districts in certain regards because charter schools receive some “automatic” waivers.

Like school districts, charter schools must post the “non-automatic” statutory waivers for which it received approval from the State Board, including a copy of the plan explaining how the charter school will meet the intent of the waived statute. C.R.S. 22-44-305(1)(a).

As amended by HB 17-1375, state law now requires CDE and the Colorado Charter School Institute (Institute) to develop a standardized description for each statute that the State Board includes in its list of automatic waivers for charter schools and the rationale for including the statute on the automatic waiver list. Beginning July 1, 2018, each charter school must post on its website the standardized description and rationale created by CDE and the Institute for each of the automatic waivers invoked by the school. Each charter school must also post the name and contact information of a charter school employee who can provide additional information about the school’s automatic waivers. C.R.S. 22-44-305(1)(b).

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