

# **COLORADO STATE BOARD OF EDUCATION**

## **2005 Administrative Procedures for Review of a State Board Grant of Exclusive Chartering Authority**

### **A. EXCLUSIVE CHARTERING AUTHORITY ADMINISTRATIVE PROCEDURES**

A local board of education (local board) may seek to retain exclusive chartering authority to authorize charter schools within the geographic boundaries of the school district by presenting to the State Board of Education (“State Board”) a written resolution adopted by the local board indicating the intent to retain exclusive authority to authorize charter schools pursuant to 22-30.5-504, C.R.S.

### **B. FILING OF THE REQUEST FOR EXCLUSIVE CHARTERING AUTHORITY**

1. A complete application for the request of exclusive chartering authority shall contain the written resolution adopted by the local board that identifies the criteria for which the school district intends to demonstrate compliance or qualification, a copy of the notification to request exclusive chartering authority that was provided to any charter schools authorized by the local board pursuant to 22-30.5-504 (4)(a), C.R.S., and any supporting evidence that demonstrates compliance with the criteria the school district believes it meets. Supplemental materials may include, but are not limited to, financial statements, charter school contracts, funded pupil count statements, board of education minutes or resolutions, annual reconciliation statements for central administrative costs, or annual reconciliation statements for services purchased by charter schools. Resolutions or supplemental materials shall be filed pursuant to paragraph 5 of this section.
2. A school district requesting exclusive chartering authority with a pupil count (as defined by 22-54-103(10), C.R.S.) of three thousand (3,000) students or more shall file the complete application with the State Board of Education Office pursuant to paragraph 5 of this section by March 1 of the fiscal year prior to that for which the exclusive authority is to apply. Such a school district with charter schools authorized by the local board shall provide notice to each charter school on or before the date the district submits a resolution to the State Board. See detailed filing instructions in paragraph 5 of this section.
3. A school district requesting exclusive chartering authority and serving less than three thousand (3,000) students (as defined by 22-54-103(10), C.R.S.) shall file one (1) copy of the written resolution adopted by the local board by March 1 of the fiscal year prior to that for which the exclusive authority is to apply. Such a school district with charter schools authorized by the local board shall provide notice to each charter school on or before the date the district submits a resolution to the State Board. Evidence of compliance with this notification requirement shall be included with the resolution. Once

granted, district exclusive authority shall continue in effect so long as the school district continues to have a pupil count of less than three thousand (3,000) students.

4. Any charter school may provide input to the State Board by filing written documentation at least ten (10) days prior to the public hearing. The charter school shall serve one copy contemporaneously upon the school district. For detailed filing instructions, see paragraph 5 of this section.
5. All filing can be submitted either electronically or in hard copy. If submitted electronically, one hard copy should accompany all electronic files, mailed by the U.S. Mail to the address below. Electronic files shall be less than 20 MB in PDF format (preferred) or Microsoft Word. Such documents shall be emailed to: state.board.efilings@cde.state.co.us If submitted in hard copy only, twelve (12) copies must be sent to the State Board of Education Office at 201 E Colfax Ave., Suite 506, Denver, CO 80203. For motions of extension of time or supplemental records, an electronic filing alone will suffice. In all cases, a hard copy shall be filed contemporaneously with all parties involved, including the school district and all charter schools in the district. The State Board will not accept facsimile transmissions of motions or accompanying documentation. The parties may waive timelines upon mutual agreement of both parties and with Commissioner approval.

**C. NOTICE OF HEARING BY THE STATE BOARD**

1. A Notice of Hearing shall identify the time, place and nature of the public hearing by the State Board for the request of exclusive chartering authority by a school district, and shall be mailed to the school district at least thirty (30) days prior to the scheduled hearing. One copy of the Notice of Hearing shall be sent via first class mail to the superintendent of the school district requesting exclusive chartering authority. A copy of the Notice of Hearing shall be sent to any parties that have written to the State Board regarding the school district's authority via first class mail, electronic email, or facsimile.

**D. CONDUCT OF HEARING BY THE STATE BOARD REGARDING A REQUEST FOR EXCLUSIVE CHARTERING AUTHORITY**

1. School districts with a pupil count of less than three thousand (3,000) students requesting exclusive authority will be placed on the State Board agenda for consideration.
2. School districts with a pupil count of three thousand (3,000) or more students requesting exclusive authority will receive a Notice of Hearing at least thirty (30) days prior to the scheduled hearing date. A sequential listing of school districts scheduled for hearing will be included in the Notice of Hearing.

Each exclusive chartering authority hearing will not exceed thirty (30) minutes of presentation. The chair of the meeting, in his/her discretion, may extend the hearing. The burden of proof shall be on the school district. Representatives from the school district and any party or entity wishing to present must sign up to speak at the beginning

of the hearing. Input from charter schools or other parties may be given to the State Board in written and/or oral form. Written input should be submitted to the State Board no later than ten (10) days prior to the hearing pursuant to Section B.4. and 5. above. After oral presentations, the State Board will deliberate and render a decision. The State Board shall consider all information submitted by the school district and other parties at the time it renders its decision.

**E. STANDARD OF REVIEW**

1. Any district requesting exclusive chartering authority under 22-30.5-504(5)(a), C.R.S. must demonstrate they have been in full compliance with 22-30.5-101 et. seq., C.R.S., for the four years prior to the submission of the request for exclusive chartering authority including, at a minimum, those statutory factors listed in 22-30.5-504(5)(a) (I) & (II), C.R.S.
2. Any district requesting exclusive chartering authority under 22-30.5-504(5)(I) must demonstrate a current total pupil enrollment of less than three thousand pupils.
3. Any district requesting exclusive chartering authority under 22-30.5-504(5)(II) must demonstrate that the percentage of pupils who are eligible for free or reduced-cost lunch pursuant to the provisions of the federal “National School Lunch Act” and who enrolled in charter schools authorized by the district is greater than the percentage that is one percentage point below the overall percentage of pupils eligible for free or reduced-cost lunch who are enrolled in the district.
4. Any district requesting exclusive chartering authority under 22-30.5-504(6) must demonstrate that: 1) the district has no discernable history of authorizing charter schools; 2)the district is in compliance with the provisions of sub-subparagraphs (C) and (D) of subparagraph (I) of paragraph (a) of subsection (5) of 22-30.5-504; and 3) the district presents to the State Board a plan to implement a combination of the authorizing practices described in Paragraph (a) of subsection (5) of 22-30.5-504.
5. Any district requesting exclusive chartering authority under 22-30.5-504(9) must demonstrate annually that the total number of students enrolled in charter schools authorized by the school district, or the maximum number of students allowed to be enrolled pursuant to charter school contracts entered into by the school district, whichever is greater, divided by the district pupil enrollment, as defined by section 22-54-103, for that budget year, reflected as a percentage, exceeds by more than three percentage points the percentage of students enrolled in charter schools statewide. Any district requesting exclusive chartering authority under 22-30.5-504(9) must also demonstrate that it satisfies the requirements of 22-30.5-504(5)(a).

**F. TERM OF GRANT OF EXCLUSIVE AUTHORITY**

1. Pursuant to section B. of this policy, any school district may file a written resolution adopted by the local board to rescind its resolution requesting exclusive chartering authority.
2. School districts with a pupil count of less than three thousand (3,000) students and granted exclusive authority pursuant to 22-30.5-504(5)(b)(i), C.R.S. shall retain such authority so long as the school district continues to have a pupil count of less than 3,000 students.
3. School districts of three thousand (3,000) or more students and granted exclusive authority pursuant to 22-30.5-504(5)(a), C.R.S., having demonstrated fair and equitable treatment by full compliance with the provisions of the Charter Schools Act, which includes, at a minimum, the four (4) mandatory and at least two (2) of the six (6) discretionary criteria, shall retain such authority so long as the school districts continue to meet the qualifying criteria.
4. School districts of three thousand (3,000) or more students and granted exclusive authority pursuant to 22-30.5-504(5)(b), C.R.S., the percentage of free/reduced lunch criteria, shall retain such authority so long as the school district continues to meet the qualifying criteria and submits documentation to the state board office by March 1<sup>st</sup> of each year pursuant to B.5. above demonstrating that they are still in compliance with the percentage of free/reduced lunch criteria.
5. School districts of three thousand (3,000) or more students and granted exclusive authority pursuant to 22-30.5-504(6), C.R.S., the no discernible history criteria, shall have exclusive authority for a one-year period and may request exclusive chartering authority annually pursuant to section B above.
6. School districts of three thousand (3,000) or more students and granted exclusive authority pursuant to 22-30.5-504(9)(a), C.R.S., the percentage of charter school students criteria, shall retain such authority so long as the school district continues to meet the qualifying criteria and submits documentation by march 1<sup>st</sup> of each year pursuant to B.5. above demonstrating that they are still in compliance with the percentage of charter school students criteria.
7. Any party may file a Notice of Change of Status, pursuant to the filing procedures in B.5. above, with the State Board of Education office. The notice shall be filed with and identify all parties involved in the proceedings, including the party/ies bringing the Notice of Change of Status and the school district. The burden of proof shall be on the party filing the notice of change of status and such notice should contain the specific criteria the party believes has changed and the factual basis for the assertion. The notice may include supporting documentation. The state board shall have thirty (30) days to decide whether the Notice of Change of Status warrants a formal review of the exclusive authority status of the school district. If the state board finds that review is warranted, the State Board will act on a Notice of Change of Status, in a public hearing, within seventy-

five (75) days of receipt. Except for the burden of proof, the hearing proceedings will adhere to the guidelines in Section D.2. above.

**G. CHALLENGE TO A GRANT OF EXCLUSIVE AUTHORITY**

1. Any party may challenge a grant of exclusive chartering authority made by the State Board to a school district pursuant to 22-30.5-504(5), C.R.S., by filing with the State Board a Notice of Challenge within thirty (30) days after the grant of exclusive authority by the State Board. “Party” includes existing or former charter schools, charter school applicants or potential applicants, affected residents of the district, or parent of a student in a charter school of the district, or their designees or representatives.
2. The Notice of Challenge shall identify all parties involved in the proceeding, including the party or parties bringing the challenge and the school district.
3. The Notice of Challenge shall be accompanied by a specific written description, not to exceed ten (10) pages, of the basis for the challenge. The challenging party, at the time of filing the Notice of Challenge with the State Board, may also file any other written documentation relevant to the Notice of Challenge which the challenging party wishes the State Board to consider. This information may be presented to the State Board Office pursuant to section B.5. above.
4. At the time of filing the Notice of Challenge, the challenging party shall also provide one copy of the Notice of Challenge, the written description of the basis for the challenge, and any other written documentation provided to the State Board to the school district.
5. The basis of the challenge and the written documentation shall be provided to the State Board, no later than thirty (30) days after the grant of exclusive authority. The State Board will not accept facsimile transmissions of the Notice of Challenge or accompanying documentation.
6. The State Board will refuse to consider any Notice of Challenge that is filed out of time, or which is not accompanied by a specific written description of the basis for the challenge. Within ten (10) business days of receipt of the Notice of Challenge, the affected parties shall be notified if the challenge is accepted or rejected by the State Board. The challenge will be accepted if it meets the legal standards set forth in the Act.

**H. SCHOOL DISTRICT RESPONSE AND APPEARANCE**

1. Within twenty (20) days after the school district’s receipt of the Notice of Challenge and written description, the school district may appear and respond in writing to the Notice of Challenge.
2. The school district’s Response to the Notice of Challenge shall not exceed ten (10) pages. The school district may, at the time of filing the Response to the Notice of Challenge with the State Board, also file any other written documentation, pursuant to B.5. above,

relevant to the Notice of Challenge that the school district wishes the State Board to consider.

3. At the time of filing the school district's Response to the Notice of Challenge, the school district shall also provide one copy of the Response to the Notice of Challenge, and any other written documentation provided to the State Board to the challenging party or parties.

#### **I. STATE BOARD DETERMINATION**

1. The State Board shall, in a meeting open to the public, make a determination upon the challenge within sixty (60) days after its receipt of the Notice of Challenge.
2. At the meeting, the school district and the challenging party may have an opportunity to address the State Board. The burden of proof shall be on the person or persons bringing the challenge. Unless otherwise determined by the State Board, no hearing shall exceed thirty (30) minutes of presentation. The chair of the meeting may, in his/her discretion, extend the hearing.

Adopted: April 14, 2005  
Amended: October 6, 2005