

COLORADO STATE BOARD OF EDUCATION

2008 Administrative Procedures for Exclusive Chartering Authority

Preamble: A resolution passed by the local board granting exclusive chartering authority to an individual charter school applicant or a charter school does not otherwise effect the local board's grant of exclusive chartering authority. The Charter School Institute and local board may have concurrent Exclusive Chartering Authority.

A. EXCLUSIVE CHARTERING AUTHORITY ADMINISTRATIVE PROCEDURES

A local board of education (local board) may seek to retain or recover 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 or recover 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 local board 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 local board 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 local board 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. The local board shall provide notice to each charter school on or before the date the local board submits a resolution to the State Board. See detailed filing instructions in paragraph 5 of this section.
3. A local board 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 chartering authority is to apply. The local board shall provide notice to each charter school on or before the date the local board submits a resolution to the State Board. Evidence of compliance with this notification requirement

shall be included with the resolution. Once granted, local board exclusive chartering 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 local board. For detailed filing instructions, see paragraph 5 of this section.

5. All filings shall be submitted electronically to the State Board email box: state.board.efilings@cde.state.co.us. Electronic files shall be less than 20 MB and provided in PDF format or Microsoft Word. Three (3) hard copies shall be hand delivered or mailed via U.S. Mail contemporaneously with the electronic filing to: State Board of Education Office, 201 East Colfax Ave., Suite 506, Denver, CO 80203. A copy of all documents filed with the State Board shall be filed contemporaneously with all parties involved and proof of mailing shall be provided to the State Board. Facsimile transmissions of documents shall not be accepted.

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 local board, and shall be mailed to the local board at least thirty (30) days prior to the scheduled hearing. One copy of the Notice of Hearing shall be sent via U.S. mail to the superintendent of the local board 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 local board's authority via U.S. mail, electronic email, or facsimile pursuant to 24-6-402(7), C.R.S.

D. CONDUCT OF HEARING BY THE STATE BOARD REGARDING EXCLUSIVE CHARTERING AUTHORITY

1. Local board(s) with a pupil count of less than three thousand (3,000) students requesting exclusive authority shall be placed on the State Board agenda for consideration pursuant to 22-30.5-504(5)(b)(I), C.R.S.
2. Local board(s) 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 local boards 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 local board. Representatives from the local board and any individual or entity wishing to present testimony must sign up to speak at the beginning of the hearing. Input from charter schools or other individuals or entities 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 individual or entities at the time it renders its decision.

E. STANDARD OF REVIEW

1. Prior to or on or after April 17, 2008, the date HB08-1159 was enacted, any local board requesting exclusive chartering authority under 22-30.5-504(5)(a), C.R.S. must demonstrate it has been in full compliance with 22-30.5-101 *et. seq.*, C.R.S.-and must show a recent pattern of providing fair and equitable treatment to its charter school(s) which includes, at a minimum, the four (4) mandatory and at least two (2) of the six (6) discretionary qualifying criteria under 22-30.5-504(5)(a) C.R.S.
2. Any local board requesting exclusive chartering authority under 22-30.5-504(5)(I) C.R.S.must demonstrate a current total pupil enrollment of less than three thousand pupils.
3. Note: The previous provision concerning free or reduced cost lunch was removed in HB08-1159.
4. Any local board requesting exclusive chartering authority under 22-30.5-504(6) C.R.S. must demonstrate that: 1) the local board has no discernable history of considering charter school applications or authorizing charter schools; 2) the local board is in compliance with the provisions of 22-30.5-504(a)(I)(C) and (D) C.R.S.; and 3) the local board must present to the State Board a plan to implement a combination of the authorizing practices described in 22-30.5-504(5)(a) C.R.S..
5. Any local board requesting exclusive chartering authority under 22-30.5-504(9) C.R.S. must demonstrate that the total number of students enrolled in charter schools authorized by the local board, or the maximum number of students allowed to be enrolled pursuant to charter school contracts entered into by the local board, whichever is greater, divided by the district pupil enrollment, as defined by section 22-54-103, C.R.S., for that budget year, reflected as a percentage, exceeds by more than three percentage points the percentage of students enrolled in charter schools statewide.
6. Any local board that is denied exclusive chartering authority may request exclusive chartering authority after it has resolved the reason(s) for denial by filing a request in compliance with the provision of Part B. 1 of these procedures by March 1st of the fiscal year for which exclusive chartering authority is to apply. The local board must demonstrate that it meets the qualifying criteria of 22-30.5-101 *et seq.*, C.R.S.

F. GRANT OF EXCLUSIVE CHARTERING AUTHORITY

1. Each local board that has been granted exclusive chartering authority, prior to or on or after April 17, 2008, the date HB08-1159 was enacted, shall retain exclusive chartering authority until the local board relinquishes the exclusive authority or the State Board revokes the exclusive authority pursuant to the provisions of 22-30.5-504(7.5), C.R.S.

except that any local board(s) that qualified under any of the following criteria must reapply one time in order to reestablish exclusive chartering authority:

a) local boards that previously qualified for exclusive chartering authority with a total student enrollment of less than 3,000 but currently exceed the total 3,000 student count (under 22-30.5-504(5)(b)(I) C.R.S.), or

b) local boards that previously qualified for exclusive chartering authority under the free and reduced lunch provision set forth in 22-30.5-504(5)(b)(II), C.R.S.), or

c) local boards that previously qualified under the provision by certifying that the total number of students enrolled in charter schools authorized by the local board as defined in 22-54-103, C.R.S., exceeds by more than three percentage points the percentage of students enrolled in charter schools statewide but no longer exceeds this percentage mandated by 22-30.5-504(9), C.R.S.

G. CHALLENGE TO A GRANT OF EXCLUSIVE CHARTERING AUTHORITY

1. Any party may challenge a grant of exclusive chartering authority made by the State Board to a local board pursuant to 22-30.5-504(4)(b), 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.
2. The Notice of Challenge shall identify all parties involved in the proceeding, including the party or parties bringing the challenge and the local board.
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, must also file supporting documentation relevant to the Notice of Challenge which the challenging party wishes the State Board to consider. This information shall be provided to the State Board Office pursuant to section B.5. above. *See* 22-30.5-504(4)(b) C.R.S.
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 and supporting documentation for the challenge, and any other written documentation provided to the State Board and to the local board.
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 shall not accept facsimile transmissions of the Notice of Challenge or accompanying documentation.
6. The State Board shall 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 Charter Schools Act, 22-30.5-101 *et seq.* C.R.S.

H. LOCAL BOARD'S RESPONSE AND APPEARANCE

1. Within twenty (20) days after the local board's receipt of the Notice of Challenge and written description, the local board may appear at a public hearing and may respond to the Challenge and shall permit the challenger the opportunity at the public hearing to rebut any arguments made by the local board. If the local board intends to respond to the challenge, it shall submit a copy of its response in writing, with supporting documentation, to the challenging party or parties and to the state board at least fifteen (15) days prior to the public hearing.
2. The local board's Response to the Notice of Challenge shall not exceed ten (10) pages. The local board 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 local board wishes the State Board to consider.
3. At the time of filing the local board's Response to the Notice of Challenge, the local board 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. Proof of mailing to the challenging party shall be provided to the State Board.

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. In announcing its determination, the State Board shall provide to the local board a written explanation of the basis for its decision to deny the request for exclusive chartering authority. *See* 22-30.5-504(4)(a) and (b).
2. At the meeting, the local board and the challenging party may have an opportunity to address the State Board. The burden of proof shall be on the party or parties 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.

J. GROUNDS FOR REVOCATION

1. A charter school, a charter school applicant, or any organization that represents charter schools may request revocation of a local board's exclusive chartering authority granted by the State Board by filing with the State Board a Notice of Request for Revocation. A charter school may request revocation of the exclusive chartering authority only of its chartering local

board. A charter applicant may request revocation of the exclusive chartering authority only of a local board to which it may apply for a charter.

2. The Notice of Request for Revocation shall identify all parties involved in the proceeding, including the party or parties requesting revocation and the local board subject to the Request for Revocation.

3. The Notice of Request for Revocation shall be accompanied by a specific written description, not to exceed ten (10) pages, of the basis for the Request for Revocation. The party requesting revocation, at the time of filing the Notice of Revocation with the State Board, must also file supporting documentation which the party requesting revocation wishes the State Board to consider. This information shall be presented to the State Board to consider, and shall be provided to the State Board Office pursuant to Section B.5 above.

4. At the time of filing the Notice of Revocation, the party requesting revocation shall also provide to the local board one copy of the Notice of Revocation, the written description of the basis and supporting documentation for the challenge, including any other written documentation supporting the challenge provided to the State Board. Proof of mailing to the local board shall be provided to the State Board.

5. A charter school, a charter school applicant, or an organization that represents charter schools may request revocation of a local board's exclusive chartering authority only on the grounds that the local board, since the date that the local board received exclusive authority, has demonstrated a pattern of failing to comply with one or more of the provisions of "The Charter Schools Act," 22-30.5-101 *et seq.* C.R.S.

a. A local board's refusal of a charter is not in and of itself sufficient grounds to request revocation.

b. An action by a local board that a charter school or charter school applicant may appeal to the State Board pursuant to 22-30.5-108 C.R.S. is not in and of itself sufficient grounds to request revocation unless the action would otherwise constitute grounds for denial or denial or revocation of exclusive chartering authority.

6. Within ten (10) business days of receipt of the Notice of Revocation, the State Board shall notify the affected parties to indicate whether the Request for Revocation shall be accepted or rejected. The Request for Revocation shall be accepted if it meets the legal standards set forth in the Charter Schools Act.

7. The local board's response and appearance for the revocation hearing shall be governed by Section H above. The State Board's determination shall be governed by Section I.

Adopted: April 14, 2005
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