



# **COLORADO DEPARTMENT OF EDUCATION**

## **Certification of Charter School Eligibility for Capital Construction Funding, Projection of Pupils in Eligible Charter Schools, and Report of Charter School Capital Construction Expenditures**

### **Section I - Statutory References**

**22-54-124 C.R.S., State aid for charter schools - use of state education fund moneys.**

(1) As used in this section:

(a) "Capital construction" means construction, demolition, remodeling, maintaining, financing, purchasing, or leasing of land, buildings, or facilities used to educate pupils enrolled in or to be enrolled in a charter school.

(b) "Charter school" means a district charter school as described in section 22-30.5-104 C.R.S. or an institute charter school as defined in section 22-30.5-502 C.R.S.

(c) "District's certified charter school pupil enrollment" means the total number of pupils who are not on-line pupils, as defined in section 22-30.5-103 (1) (b.5) C.R.S., expected to be enrolled in all qualified charter schools that will receive funding from the district pursuant to section 22-30.5-112 C.R.S. for the budget year for which state education fund moneys are to be appropriated and distributed pursuant to subsection (4) of this section, as certified by the department of education pursuant to paragraph (b) of subsection (3) of this section during the budget year that immediately precedes said budget year.

(c.5) "Institute charter school's certified pupil enrollment" means the total number of pupils who are not on-line pupils, as defined in section 22-30.5-502 (7) C.R.S., expected to be enrolled in a qualified institute charter school that will receive funding pursuant to section 22-30.5-513 C.R.S. for the budget year for which state education fund moneys are to be appropriated and distributed pursuant to subsection (4) of this section, as certified by the department of education pursuant to paragraph (b) of subsection (3) of this section during the budget year that immediately precedes said budget year.

(d) "Minimum capital reserve amount per pupil" means the minimum amount per pupil required to be budgeted by each district to the capital reserve fund created by section 22-45-103 (1) (c), a risk management fund or account, or both, pursuant to section 22-54-105 (2) (a) and (2) (b), without regard to any exception to said minimum budgeting requirement permitted pursuant to section 22-54-105 (2) (c).

(e) "Operating revenues" means the total amount of funding that a district charter school receives from a district for a budget year pursuant to section 22-30.5-112 minus the amounts required by section 22-30.5-112 (2) (a.7) to be allocated for capital reserve purposes or the management of risk-related activities. For purposes of an institute charter school, "operating revenues" means the total amount of funding that the institute charter school receives from the state charter school institute for a budget year pursuant to section 22-30.5-513, minus the amounts required by section 22-30.5-514 (1), to be allocated for capital reserve purposes or the management of risk-related activities.

**22-54-124(1)(f.6) C.R.S.**

(l) For the budget years commencing on or after July 1, 2003, "qualified charter school" means:

CDE, PSFU

(A) A charter school that is not operating in a school district facility and that has capital construction costs; or

(B) A charter school that is operating in a school district facility and that has capital construction costs.  
(CDE NOTE: THESE PUPILS WILL BE COUNTED AS 0.5 FTE pursuant to C.R.S 22-54-124(3)(b))

(II) For budget years commencing on or after July 1, 2003, "qualified charter school" does not include:

(A) A charter school that is operating in a school district facility and that does not have capital construction costs;

(B) A charter school that does not have capital construction costs; or

(C) A charter school that is operating or will operate in the next budget year in a facility that is listed on the state inventory of real property and improvements and other capital assets maintained by the department of personnel pursuant to section [24-30-1303.5](#), C.R.S., and that is obligated to make lease payments for use of the facility.

*CDE NOTE: THIS MEANS THAT IF YOU ARE OR ARE NOT IN A DISTRICT FACILITY AND YOU HAVE CAPITAL CONSTRUCTION COSTS, YOU WILL RECEIVE FUNDING. IF YOU DO NOT HAVE CAPITAL CONSTRUCTION COSTS YOU WILL NOT RECEIVE FUNDING. IF YOU ARE IN A FACILITY LISTED ON THE STATE INVENTORY OF REAL PROPERTY AND IMPROVEMENTS AND OTHER CAPITAL ASSETS YOU WILL NOT RECEIVE FUNDING UNLESS YOU ARE OBLIGATED TO MAKE LEASE PAYMENTS FOR THE USE OF THE FACILITY.*

(2) (a) For the 2001-02 budget year and budget years thereafter, a district shall be eligible to receive state education fund moneys for district charter school capital construction pursuant to this section if at least one qualified district charter school will be receiving funding from the district pursuant to section 22-30.5-112 C.R.S., during the budget year for which state education fund moneys are to be distributed.

(b) For the 2004-05 budget year and budget years thereafter, an institute charter school shall be eligible to receive state education fund moneys for institute charter school capital construction if the institute charter school will be receiving funding from the state charter school institute pursuant to section 22-30.5-513 C.R.S., during the budget year for which state education fund moneys are to be distributed.

#### **22-54-124(3)(a) C.R.S.**

(III) (A) The total amount of state education fund moneys to be appropriated for all eligible districts and for all eligible institute charter schools for the 2003-04 through 2011-12 budget years shall be an amount equal to five million dollars; except that, for the 2006-07 budget year, an additional two million eight hundred thousand dollars shall be appropriated from the state education fund and shall be used for the purposes of this section, and for the 2008-09 budget year, an additional one hundred thirty-five thousand dollars shall be appropriated from the state education fund and shall be distributed pursuant to section 22-54-133, as said section existed prior to its repeal in 2010. The total amount of state education fund moneys to be appropriated for all eligible districts and for all eligible institute charter schools for the 2012-13 budget year is six million dollars. The total amount of state education fund moneys to be appropriated for all eligible districts and for all eligible institute charter schools for the 2013-14 budget year and each budget year thereafter is seven million dollars.

#### **22-54-124(3)(a) C.R.S.**

(III) (C) For the 2004-05 budget year, and each budget year thereafter, the amount of state education fund moneys to be distributed to any eligible district and any eligible institute charter school shall be an

amount equal to the percentage of the sum of the district's certified charter school pupil enrollment and the institute charter school's certified pupil enrollment for all eligible districts and eligible institute charter schools in the state that is attributable to the eligible district or eligible institute charter school multiplied by the total amount of state education fund moneys distributed to all eligible districts and eligible institute charter schools for the same budget year pursuant to sub-subparagraph (A) of this subparagraph (III).

(SEE NOTE ON PAGE 1)

#### **22-54-124(3)(b) C.R.S.**

(b) No later than February 1 of each budget year, the department of education shall certify to the education committees of the senate and the house of representatives and the joint budget committee of the general assembly the total number of pupils expected to be enrolled in all qualified charter schools in the state during the next budget year, as derived from reports provided to the department by districts pursuant to section 22-30.5-112 (1) C.R.S., and by institute charter schools pursuant to section 22-30.5-513 (3) (a) C.R.S. For the purposes of any certification made during the 2003-04 budget year and budget years thereafter, a pupil expected to be enrolled in a qualified charter school as defined in sub-subparagraph (B) of subparagraph (I) of paragraph (f.6) of subsection (1) of this section shall be counted as one-half of one pupil.

#### **22-54-124(4) C.R.S.**

(a) For the 2001-02 budget year, the 2003-04 budget year, and each budget year thereafter, the general assembly shall annually appropriate from the state education fund created in section 17 (4) of article IX of the state constitution, to the department of education for distribution to eligible school districts and eligible institute charter schools in accordance with the formula set forth in paragraph (a) of subsection (3) of this section, an amount equal to the total amount of moneys to be distributed to all districts and institute charter schools as determined pursuant to said formula.

(b) Prior to the 2009-10 budget year, from the moneys appropriated for a given budget year pursuant to this section, the department of education shall make lump sum payments of all moneys to be distributed to each eligible school district and eligible institute charter school during the budget year as soon as possible.

(c) For the 2009-10 budget year and each budget year thereafter, the department of education shall distribute the total amount to be distributed pursuant to this section to each eligible school district and eligible institute charter school in twelve approximately equal monthly payments during the applicable budget year in conjunction with the distribution of the state's share of district total program pursuant to section 22-54-115 C.R.S.

#### **22-54-124 C.R.S.**

(5) A district that receives state education fund moneys pursuant to this section shall distribute all moneys received to qualified charter schools as required by section 22-30.5-112.3 and may not retain any of such moneys to defray administrative expenses or for any other purpose.

(6) Pursuant to section 17 (3) of article IX of the state constitution, any moneys appropriated by the general assembly out of the state education fund, received by any eligible district or eligible institute charter school pursuant to this section, and distributed to a qualified charter school by any district pursuant to this section and section 22-30.5-112.3 shall be exempt from:

(6) (a) The limitation on state fiscal year spending set forth in section 20 (7) (a) of article X of the state constitution and section 24-77-103, C.R.S.; and

(6) (b) The limitation on local government fiscal year spending set forth in section 20 (7) (b) of article X of the state constitution.

(7) The general assembly hereby finds and declares that, for purposes of section 17 of article IX of the state constitution, providing funding for charter school capital construction from moneys in the state education fund created in section 17 (4) of article IX of the state constitution is a permissible use of the moneys in the state education fund since the moneys are being used for public school building capital construction as authorized by section 17 (4) (b) of article IX of the state constitution.

(8) The general assembly hereby finds that with the adoption of the new definition of "qualified charter" school, enacted in House Bill 02-1349 during the second regular session of the sixty-third general assembly, the program created in this section is a new program as of June 7, 2002, and that the general assembly enacted such new program in order to meet the eligibility requirements of the incentive grant program included in the federal "No Child Left Behind Act of 2001", Pub.L. 107-110.

(9) The general assembly recognizes charter schools' continuing need for assistance in meeting capital construction costs. The general assembly therefore strongly encourages the governor to allocate a portion of the moneys received by the state through the federal "American Recovery and Reinvestment Act of 2009", Pub.L. 111-5, to charter schools in the state to assist them in meeting their capital construction and facility costs.

CDE NOTE: CHARTER SCHOOLS SHALL BE REQUIRED TO REPORT TO CDE HOW THE CAPITAL CONSTRUCTION MONEY WAS SPENT FOR THE FISCAL YEAR. THE REPORT (CSCC-01) WILL BE DUE NO LATER THAN SEPTEMBER 30, EACH YEAR. THE FORM CAN BE FOUND ON THE CDE WEBSITE AT THE FOLLOWING LINK.  
<http://www.cde.state.co.us/cdefinance/CapConstCharterScls.htm>