

Comparison of Waiver Laws

	Innovation Schools Act	Charter Schools Act	C.R.S. 22-2-117
State Board Approval of Waivers	<ul style="list-style-type: none"> ○ Within 60 days after receiving an innovation plan, the State Board “shall designate the local school board’s school district as a district of innovation if the state Board concludes that the submitted plan: (I) Is likely to enhance educational opportunity, standards, and quality within the innovation schools or innovation school zones; and (II) Is fiscally feasible.” <i>(C.R.S. 22-32.5-107(3)(a))</i> 	<ul style="list-style-type: none"> ○ Within 45 days after a request for non-automatic waivers is received by the State Board, the State Board shall either grant or deny the request. If the State Board denies the request, it shall notify the chartering local board of education and the charter school in writing that the request is denied and specify the reasons for denial. <i>(C.R.S. 22-30.5-105(3))</i> ○ “The State Board shall grant waivers of state statutory requirements or rules promulgated by the State Board to charter schools when in the judgment of the State Board it deems waivers necessary.” <i>(1 CCR 301-35, rule 3.02(b))</i> 	<ul style="list-style-type: none"> ○ The State Board will rule on a waiver request by a school district within 120 days of receipt of a complete request for waiver. <i>(1 CCR 301-35, rule 2.05)</i> ○ “The State Board shall grant the waiver if it determines that it 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.” <i>(C.R.S. 22-2-117(1)(a))</i>
Ability to Single Out Waivers	<ul style="list-style-type: none"> ○ The State Board must designate a school district as a district of innovation by approving an innovation <u>plan</u> (in its entirety, including all waivers). If the State Board does not designate a school district as a district of innovation, it must provide to the local school board a written explanation of the basis for its decision. <i>(C.R.S. 22-32.5-107(3))</i> 	<ul style="list-style-type: none"> ○ When multiple waivers are requested by a school, the State Board may deny a waiver of specific statute(s) and approve the remaining waivers. If the state board denies a request for a waiver, the State Board must notify the chartering local board of education and the charter school in writing that the request is denied and specify the reasons for denial. <i>(C.R.S. 22-30.5-105(3))</i> 	<ul style="list-style-type: none"> ○ The State Board may deny a waiver of specific statute(s) and approve others. The State Board is not required by statute or rule to issue a written explanation of reasons for denying district waivers. <i>(C.R.S. 22-2-117(1)(a))</i>

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Local Oversight	<ul style="list-style-type: none"> ○ The local school board must review the performance of its innovation school every 3 years to determine whether the school is making adequate progress towards performance results identified in its innovation plan. If a local board “finds that the academic performance of students enrolled in the innovation school is not improving at a sufficient rate, the local school board may revoke the school’s innovation status.” (C.R.S. 22-32.5-110(2)(b)) 	<ul style="list-style-type: none"> ○ When a local school board approves a new charter application, the charter is authorized for at least 4 years. (C.R.S. 22-30.5-110(1)(a)) ○ The authorizer must annually review the charter school’s performance, including the school’s progress in meeting the objectives identified in the school’s unified improvement plan. A charter may be revoked or not renewed by the chartering local board if it determines that the school failed to meet or make adequate progress toward achievement of terms identified in the charter contract. (C.R.S. 22-30.5-110) 	<ul style="list-style-type: none"> ○ There is no statutory requirement for local school board to review the impact of waivers.
Term of Waivers	<ul style="list-style-type: none"> ○ Waivers from state law will continue to apply to the innovation school as long as the school maintains its innovation status. (C.R.S. 22-32.5-108(5)(b)) 	<ul style="list-style-type: none"> ○ Waivers from state law are granted through the term of the charter contract. (C.R.S. 22-30.5-104(6)(d)) ○ Waivers are subject to review periodically, at least every 5 years. A waiver may be revoked if the State Board deems the waiver no longer necessary. (C.R.S. 22-30.5-104(6)(d); 1 CCR 301-35, rule 3.03(b)) 	<ul style="list-style-type: none"> ○ Waivers from state law will continue to apply until either: (1) the local school board passes a resolution to revoke the waiver; or (2) the State Board “receives evidence that constitutes good and just cause for revocation of the waiver, as determined by the State Board. (C.R.S. 22-2-117(3)(a))

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Replacement Plans	<ul style="list-style-type: none"> ○ An applicant must “specify the manner in which the innovation school or the schools within the innovation zone shall comply with the intent of the waived statutes or rules and shall be accountable to the state for such compliance.” <i>(C.R.S. 22-32.5-108(4))</i> 	<ul style="list-style-type: none"> ○ “For each requested waiver of a statute or state rule that is not an automatic waiver, the charter school application must state the rationale for the requested waiver and the manner in which the proposed charter school plans to meet the intent of the waived statute, rule, or policy.” <i>(C.R.S. 22-30.5-106(1)(o))</i> 	<ul style="list-style-type: none"> ○ An applicant must “specify in [its] application the manner in which it shall comply with the intent of the waived rules or statutes and shall be accountable to the state board for such compliance.” <i>(C.R.S. 22-2-117(1)(a))</i>
Amendments to Waivers	<ul style="list-style-type: none"> ○ If the local school board for a district of innovation revises an innovation plan, the local board may request, and the state board shall grant, additional waivers or changes to existing waivers as necessary to accommodate the revisions to the innovation plan. In requesting a new waiver or a change to an existing waiver, the local school board shall demonstrate the consent of a majority of the teachers and a majority of the administrators employed at and a majority of the school advisory committee for each public school that is affected by the new or changed waivers. <i>(C.R.S. 22-32.5-108(5)(a))</i> 	<ul style="list-style-type: none"> ○ A material revision of the terms of a charter contract may be made only with the approval of the chartering local board of education and the governing body of the charter school. <i>(C.R.S. 22-30.5-105(4))</i> ○ If the local board of education and governing body of the charter school approve a material change to the replacement plan for an existing waiver or add a new waiver to the charter contract, the school must submit the waiver amendment(s) to the State Board in the same manner as an initial request for a waiver. 	<ul style="list-style-type: none"> ○ If the local school board seeks to materially change the replacement plan for an existing waiver, the local school board must submit the waiver amendment to the State Board in the same manner as an initial request for a waiver.

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Automatic Waivers	<ul style="list-style-type: none"> o No automatic waivers 	<ul style="list-style-type: none"> o Through rulemaking, the State Board approves a list of automatic waivers. Statute prohibits the State Board from automatically waiving certain statutes. <i>(C.R.S. 22-30.5-104(6)(b))</i> o Currently, the State Board has approved the following automatic waivers: <ul style="list-style-type: none"> • 22-1-112, calendar holidays; • 22-32-109(1)(f), staff selection and pay; • 22-32-109(1)(t), educational program and selection of textbooks; • 22-32-110 (1)(h), employee termination; • 22-32-110(1)(i), staff reimbursements; • 22-32-110(1)(j), insurance; • 22-32-110(1)(k), in-service training; • 22-32-110(1)(ee), teachers’ aides and other non-certificated personnel; • 22-32-126, employment of principals; • 22-33-104(4), attendance policies; • 22-63-301, teacher dismissal, grounds; • 22-63-302, teacher dismissal, procedure; • 22-63-401, salary schedule; • 22-63-402, teacher licensure; and • 22-63-403, payment of teacher salaries. <i>(1 CCR 301-35, rule 3.01)</i> o A charter school contract must list the automatic waivers the school is invoking, but need not include a rationale and replacement plan for those automatic waivers. <i>(C.R.S. 22-30.5-105(3))</i> 	<ul style="list-style-type: none"> o No automatic waivers

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<p>Prohibited Waivers</p>	<ul style="list-style-type: none"> ○ Public School Finance Act ○ Exceptional Children’s Education Act ○ Data for school performance reports ○ Fingerprinting and criminal history record checks ○ Children’s Internet Protection Act ○ Requirement to post online the list of waivers that have been obtained ○ Non-education statutes (statutes outside of title 22) ○ Federal statutes <i>(C.R.S. 22-32.5-108(1))</i> 	<ul style="list-style-type: none"> ○ Public School Finance Act ○ State assessments ○ School Accountability Committees ○ Data for school performance reports ○ Children’s Internet Protection Act ○ Requirement to post online the list of waivers that have been obtained <i>(C.R.S. 22-30.5-104(6)(a) and (c))</i> <p>Charter schools also may not waive non-education statutes (statutes outside of title 22) or federal statutes.</p>	<ul style="list-style-type: none"> ○ Public School Finance Act ○ Exceptional Children’s Education Act ○ State assessments ○ Education Accountability Act ○ Data for school performance reports ○ Fingerprinting and criminal history record checks ○ Children’s Internet Protection Act ○ Board president and vice-president duties (including with respect to written contracts) ○ Local school board duty to adopt a tobacco policy ○ Provisions concerning operating educational program outside territorial limits of school district ○ Local school board duties with respect to conduct and discipline codes ○ School use of on-site peace officers as school resource officers ○ Local school board duties to adopt written attendance policy ○ Requirement to post online the list of waivers that have been obtained ○ Non-education statutes (statutes outside of title 22) ○ Federal statutes <i>(C.R.S. 22-2-117(1)(b) and (1.5))</i>
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