

Part I: Charter School Act

22-30.5-101. Short title.

This part 1 shall be known and may be cited as the "Charter Schools Act".

Source: L. 93: Entire article added, p. 1051, § 1, effective June 3. **L. 96:** Entire section amended, p. 667, § 3, effective May 2.

ANNOTATION

Charter Schools Act does not violate the equal protection clause of the United States Constitution. Because the act is facially neutral and does not implicate a fundamental right, the act must be reviewed under a rational relationship test. Colorado has a legitimate governmental interest in encouraging innovation in education and the act is rationally related to such an interest. *Villanueva v. Carere*, 873 F. Supp. 434 (D. Colo. 1994), *aff'd*, 85 F.3d 481 (10th Cir. 1996).

Charter schools established pursuant to this act are public entities and, thus, absent a Governmental Immunity Act immunity exception, entitled to immunity from liability in claims that lie in tort or could lie in tort. *King v. U.S.*, 53 F. Supp.2d 1056 (D. Colo. 1999).

22-30.5-102. Legislative declaration.

(1) The general assembly hereby finds and declares that:

(a) It is the obligation of all Coloradans to provide all children with schools that reflect high expectations and create conditions in all schools where these expectations can be met;

(b) Education reform is in the best interests of the state in order to strengthen the performance of elementary and secondary public school pupils, that the best education decisions are made by those who know the students best and who are responsible for implementing the decisions, and, therefore, that educators and parents have a right and a responsibility to participate in the education institutions which serve them;

(c) Different pupils learn differently and public school programs should be designed to fit the needs of individual pupils and that there are educators, citizens, and parents in Colorado who are willing and able to offer innovative programs, educational techniques, and environments but who lack a channel through which they can direct their innovative efforts.

(2) The general assembly further finds and declares that this part 1 is enacted for the following purposes:

(a) To improve pupil learning by creating schools with high, rigorous standards for pupil performance;

(b) To increase learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils who are identified as academically low-achieving;

(c) To encourage diverse approaches to learning and education and the use of different, innovative, research-based, or proven teaching methods;

(d) To promote the development of longitudinal analysis of student progress, in addition to participation in the Colorado student assessment program, to measure pupil learning and achievement;

(e) To create new employment options and professional opportunities for teachers and principals, including the opportunity to be responsible for the achievement results of students at the school site;

(f) To provide parents and pupils with expanded choices in the types of education opportunities that are available within the public school system;

(g) To encourage parental and community involvement with public schools;

(g.5) To address the formation of research-based charter schools that use programs that are proven to be effective;

(h) To hold charter schools accountable for performance through the "Education Accountability Act of 2009", including but not limited to meeting state, school district, and school targets for the measures used to determine the levels of attainment of the performance indicators;

(i) To provide an avenue for citizens to participate in the educational process and environment;

(j) To provide citizens with multiple avenues by which they can obtain authorization for a charter school.

(3) In authorizing charter schools, it is the intent of the general assembly to create a legitimate avenue for parents, teachers, and community members to implement new and innovative methods of educating children that are proven to be effective and to take responsible risks and create new and innovative, research-based ways of educating all children within the public education system. The general assembly seeks to create an atmosphere in Colorado's public education system where research and development in developing different learning opportunities is actively pursued. As such, the provisions of this part 1 should be interpreted liberally to support the findings and goals of this section and to advance a renewed commitment by the state of Colorado to the mission, goals, and diversity of public education.

Source: L. 93: Entire article added, p. 1051, § 1, effective June 3. L. 94: (2)(g.5) added, p. 1378, § 1, effective May 25. L. 96: IP(2) and (3) amended, p. 668, § 4, effective May 2; (2)(c) amended, p. 752, § 1, effective May 22. L. 2004: (2)(c), (2)(d), (2)(e), (2)(g.5), (2)(h), and (3) amended and (2)(i) and (2)(j) added, p. 1569, § 1, effective June 3. L. 2009: (2)(h) amended, (SB 09-163), ch. 293, p. 1534, § 25, effective May 21.

Cross references: For the "Education Accountability Act of 2009", see article 11 of this title.

ANNOTATION

Attendance at a charter school is not a constitutional right. At most, it is a statutory right, and the government has no constitutional obligation to fund a mere statutory right. *Dolores Huerta Prep. High v. Colo. State Bd. of Educ.*, 215 P.3d 1229 (Colo. App. 2009).

Trial court did not err in dismissing a third-party claim to enforce the contract brought on behalf of the charter school because the intended beneficiaries of the charter school are the school children and a charter school cannot be a party and a third-party beneficiary at the same time. *Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12*, 994 P.2d 442 (Colo. App. 1999), *aff'd in part and rev'd in part on other grounds*, 32 P.3d 456 (Colo. 2001).

Applied in *Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12*, 994 P.2d 442 (Colo. App. 1999), *aff'd in part and rev'd in part on other grounds*, 32 P.3d 456 (Colo. 2001).

22-30.5-103. Definitions.

As used in this part 1, unless the context otherwise requires:

(1) "At-risk pupil" means a pupil who, because of physical, emotional, socioeconomic, or cultural factors, is less likely to succeed in a conventional educational environment.

(2) "Charter school" means a public school that enters into a charter contract pursuant to the provisions of this part 1.

(3) "Department" means the department of education created pursuant to section 24-1-115, C.R.S.

(3.5) "Education management provider" means a nonprofit, not-for-profit, or for-profit entity that contracts with a charter school to provide , manage, or oversee all or substantially all of the educational services provided by the charter school. Education management provider does not include a charter school collaborative established pursuant to part 6 of article 30.5 of this title.

(4) "Local board of education" means the school district board of education.

(5) "Moratorium" means a school district's official policy of refusing to authorize charter schools and an ongoing pattern or practice of refusing to accept or review charter school applications.

(6) "On-line pupil" means:

(6) (a) For the 2007-08 budget year, a child who receives educational services predominantly through an on-line program created pursuant to article 30.7 of this title.

(b) For the 2008-09 budget year, and for each budget year thereafter, a child who receives educational services predominantly through a multi-district program, as defined in section 22-30.7-102 (6), created pursuant to article 30.7 of this title.

(6.5) "Private school" means a primary or secondary educational institution for students in kindergarten through twelfth grade or any portion thereof that may or may not have attained nonprofit status, that does not receive state funding through the "Public School Finance Act of 1994", article 54 of this title, and that is supported in whole or in part by tuition payments or private donations.

(6.6) "Pupil enrollment count day" has the same meaning as set forth in section 22-54-103 (10.5).

(6.7) "School food authority" means:

(a) A school district or the state charter school institute; or

(a.3) A charter school collaborative formed pursuant to section 22-30.5-603;

(a.5) A board of cooperative services created pursuant to article 5 of this title that elects to operate as a school food authority pursuant to section 22-5-120; or

(b) A district charter school or an institute charter school that:

(I) The commissioner or his or her designee provisionally authorizes as a school food authority pursuant to section 22-32-120 (6); or

(II) The department of education authorizes as a school food authority pursuant to section 22-32-120 (5).

(7) "State board" means the state board of education.

Source: L. 93: Entire article added, p. 1052, § 1, effective June 3. L. 96: IP(1) amended, p. 668, § 5, effective May 2. L. 2002: (1)(b.5) added, p. 1749, § 21, effective June 7. L. 2004: Entire section amended, p. 1570, § 2, effective June 3. L. 2006: (6.5) added, p. 669, § 9, effective April 28. L. 2007: (6) amended, p. 1085, § 6, effective July 1. L. 2009: (6.7) added, (SB 09-230), ch. 227, p. 1033, § 2, effective May 4. L. 2010: (6.7)(a) amended and (6.7)(a.5) added, (HB 10-13335), ch. 326, p.1512, 3, effective August 11; (6.7)(b)(I) amended, (HB 10-1422), ch. 419, p. 2076, 40, effective August 11. L. 2011: (6.7)(a.3) added, (HB 11-1277), ch. 306, p. 1504, 31, effective August 10. L. 2012: (6.6) added, (HB 12-1090), ch.44, p.150, 6, effective March 22; (3.5) added, (SB 12-

061), ch. 109, p. 375, 2, effective April 13; (3.5) and (6) amended, (HB 12-1240), ch. 258, pp.1333, 1316, § 53, 25, effective June 4; (3.5) added, (SB 12-067), ch. 131, p. 450, 1, effective August 8.

22-30.5-104. Charter school - requirements - authority.

(1) A charter school shall be a public, nonsectarian, nonreligious, non-home-based school which operates within a public school district.

(2) (a) A charter school applicant cannot apply to, or enter into a charter contract with, a school district unless a majority of the charter school's pupils, other than on-line pupils, will reside in the chartering school district or in school districts contiguous thereto.

(b) A charter school shall be a public school of the school district that approves its charter application and enters into a charter contract with the charter school. In accordance with the requirement of section 15 of article IX of the state constitution, the charter school shall be subject to accreditation by the school district's local board of education pursuant to the school district's policy for accrediting the public schools of the school district adopted pursuant to section 22-11-307 and section 22-32-109 (1) (mm). The charter school shall also be subject to annual review by the department pursuant to section 22-11-210.

(3) A charter school shall be subject to all federal and state laws and constitutional provisions prohibiting discrimination on the basis of disability, race, creed, color, sex, sexual orientation, national origin, religion, ancestry, or need for special education services. A charter school shall be subject to any court-ordered desegregation plan in effect for the chartering school district. Enrollment in a charter school must be open to any child who resides within the school district; except that no charter school shall be required to make alterations in the structure of the facility used by the charter school or to make alterations to the arrangement or function of rooms within the facility, except as may be required by state or federal law. Enrollment decisions shall be made in a nondiscriminatory manner specified by the charter school applicant in the charter school application.

(4) A charter school shall be administered and governed by a governing body in a manner agreed to by the charter school applicant and the chartering local board of education. A charter school may organize as a nonprofit corporation pursuant to the "Colorado Nonprofit Corporation Act", articles 121 to 137 of title 7, C.R.S., which shall not affect its status as a public school for any purposes under Colorado law. Notwithstanding organization as a nonprofit corporation, a charter school shall annually complete a governmental audit that complies with the requirements of the department of education.

(4.5) (a) In order to clarify the status of charter schools for purposes of tax-exempt financing, a charter school, as a public school, is a governmental entity. Direct leases and financial obligations of a charter school shall not constitute debt or financial obligations of the school district unless the school district specifically assumes such obligations.

(b) (Deleted by amendment, L. 2004, p. 1571, § 3, effective June 3, 2004.)

(5) Except as otherwise provided in sections 22-20-109, 22-32-115, and 22-54-109, a charter school shall not charge tuition.

(6) (a) Pursuant to contract, a charter school may operate free from specified school district policies and free from state rules, as provided in paragraph (b) of this subsection (6). Pursuant to contract, a local board of education may waive locally imposed school district requirements, without seeking approval of the state board; except that a charter school shall not, by contract or otherwise, operate free of the requirements contained in the "Public School Finance Act of 1994", article 54 of this title, the requirements specified in part 4 of article 11 of this title concerning school accountability committees, or the requirements contained in the "Children's Internet Protection Act", article 87 of this title.

(b) The state board shall promulgate rules identifying state statutes and state rules that are automatically waived for all charter schools. A school district, on behalf of a charter school, may apply to the state board for a waiver of a state statute or state rule that is not automatically waived for charter schools by rule. Notwithstanding any provision of this subsection (6) to the contrary, the state board may not waive any statute or rule relating to school accountability committees as described in section 22-11-401, any statute or rule relating to the assessments required to be administered pursuant to section 22-7-409, any statute or rule necessary to prepare the school performance reports pursuant to part 5 of article 11 of this title, any statute or rule necessary to implement the provisions of the "Public School Finance Act of 1994", article 54 of this title, or any statute or rule relating to the "Children's Internet Protection Act", article 87 of this title.

(c) Upon request of a charter applicant, the state board and the local board of education of the school district to which the charter applicant applies shall provide summaries of the state and district rules and policies to use in preparing a charter school application. The department shall prepare the summary of state rules within existing appropriations. Any waiver of state rules or local school district regulations made pursuant to this subsection (6) shall be for the term of the charter for which the waiver is made; except that a waiver of state statutes or state board rules by the state board shall be subject to periodic review as provided by state board rule and may be revoked if the waiver is deemed no longer necessary by the state board.

(7) (a) A charter school shall be responsible for its own operation including, but not limited to, preparation of a budget, contracting for services, facilities, and personnel matters.

(b) A charter school may negotiate and contract with a school district, the governing body of a state college or university, the state of Colorado, a school food authority, or any third party for the use of a school building and grounds, the operation and maintenance thereof, and the provision of any service, activity, or undertaking that the charter school is required or chooses to perform in order to carry out the educational program described in its charter contract. Any services for which a charter school contracts with a school district shall be provided by the district at cost. The charter school shall have standing to sue and be sued in its own name for the enforcement of any contract created pursuant to this paragraph (b).

(c) In no event shall a charter school be required to pay rent for space which is deemed available, as negotiated by contract, in school district facilities. All other costs for the operation and maintenance of the facilities used by the charter school shall be subject to negotiation between the charter school and the school district.

(d) A charter school or an institute charter school authorized pursuant to part 5 of this article that is operating in a school district building may purchase the building and the grounds upon which the building is located from the school district, at the school district's discretion, according to terms established by mutual agreement of the parties. If a charter school that has purchased a school building and grounds pursuant to this paragraph (d) vacates the school building and grounds or elects to sell the school building and grounds, the school district that sold the school building and grounds to the charter school pursuant to this paragraph (d) shall have first right of refusal to reacquire and purchase the property at fair market value or in accordance with other terms of repurchase established by mutual agreement of the parties.

(e) Notwithstanding the provisions of paragraphs (b) and (c) of this subsection (7), any school district that has space in district facilities that is unoccupied shall be allowed to sell the facilities or use the facilities for a different purpose and shall not be required to maintain ownership of the facilities for potential use by a charter school.

(8) A charter school shall be authorized to offer any educational program, including but not limited to an on-line program pursuant to article 30.7 of this title, that may be offered by a school district and that is research-based and has been proven to be effective, unless expressly prohibited by state law.

(9) All decisions regarding the planning, siting, and inspection of charter school facilities shall be made in accordance with section 22-32-124 and as specified by contract with the charter school's chartering school district.

(10) A charter school may apply for authorization as a school food authority pursuant to section 22-32-120.

Source: **L. 93:** Source: **L. 93:** Entire article added, p. 1053, § 1, effective June 3. **L. 94:** (5) amended, p. 812, § 24, effective April 27; (3), (5), and (6) amended, p. 1378, § 2, effective May 25. **L. 96:** (6) amended, p. 752, § 2, effective May 22. **L. 97:** (2) amended, p. 585, § 14, effective April 30; (4) amended, p. 400, § 1, effective August 6. **L. 99:** (7)(b) amended, p. 1256, § 5, effective June 2; (4.5) and (8) added, p. 1209, § 1, effective August 4. **L. 2000:** (6) amended, p. 349, § 4, effective April 10; (4) amended, p. 1855, § 55, effective August 2; (9) added, p. 519, § 1, effective August 2. **L. 2001:** (6) amended, p.1498, § 22, effective June 8. **L. 2002:** (2) and (8) amended, p. 1749, § 22, effective June 7. **L. 2003:** (6) amended, p. 2477, § 33, effective August 15. **L. 2004:** Entire section amended, p. 1571, § 3, effective June 3. **L. 2007:** (7)(e) added, p. 740, § 15, effective May 9; (7)(d) added, p. 1592, § 1, effective May 31; (8) amended, p. 1088, § 12, effective July 1. **L. 2008:** (3) amended, p. 1600, § 21, effective May 29. **L. 2009:** (7)(b) amended and (10) added, (SB 09-230), ch. 227, p. 1033, § 3, effective May 4; (2)(b) and (6)(b) amended, (SB 09-163), ch. 293, p. 1534, § 26, effective May 21; (6)(a) and (6)(b) amended, (SB 09-090), ch. 291, p. 1445, § 22, effective August 5. **L. 2010:** (7)(b) amended and (11) added, (SB 10-161), ch. 250, pp.1115, 1117, §§ 1, 6, effective August 11. **L. 2011:** (aa) amended, (HB 11-1089), ch. 55, p. 147, § 2, effective March 25; (7)(b) amended, (HB 11-1277), ch. 306, p. 1504, § 32, effective August 10. **L. 2012:** (11)(a) amended, (SB 12-067), ch. 131, p. 450, § 2, effective August 8. **L. 2013:** (11)(a) amended, (HB 13-1219), ch. 104, p. 362, § 8, effective August 7.

Editor's note: (1) Amendments to subsection (5) by House Bill 94-1001 and Senate Bill 94-215 were harmonized.

(2) Amendments to subsection (6)(b) by Senate Bill 09-090 and Senate Bill 09-163 were harmonized.

Cross references: For the legislative declaration contained in the 1999 act amending subsection (7)(b), see section 1 of chapter 302, Session Laws of Colorado 1999. For the legislative declaration contained in the 2008 act amending subsection (3), see section 1 of chapter 341, Session Laws of Colorado 2008.

ANNOTATION

The express grant of standing to charter schools to sue for enforcement of service contracts clarifies the power originally granted to charter schools in the Charter Schools Act. Because the charter contract between the parties encompasses contractual provisions related to the types of service contracts considered in this section, plaintiff had standing to bring those claims against the school district in the judicial system. *Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12*, 32 P.3d 456 (Colo. 2001).

Facilities operation and maintenance provisions entered into pursuant to subsection (7)(b) are judicially enforceable, unlike the governing policy provisions in a charter contract entered into according to §§ 22-30.5-105 and 22-30.5-106. *Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12*, 32 P.3d 456 (Colo. 2001).

The power to enter into contracts assumes the ability to enforce those contracts. In order to enforce a contract, one party must have some means of ensuring that the other party will obey its contractual duties. A legislative authorization to enter into contracts could be read as implying a complementary authorization to enforce those contracts. *Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12*, 32 P.3d 456 (Colo. 2001).

The general assembly intended that charter schools have always had standing to sue their school districts for the types of contractual provisions described in this section. The general assembly, when amending the act, meant for the amendment to serve merely as a clarification, not as a substantive change of the law. Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12, 32 P.3d 456 (Colo. 2001).

The waiver of a transfer policy or funding a transferred student's education in another school in the district are not permitted or contemplated services within the meaning of subsection (7)(b) of this section or § 22-30.5-112 (2)(b). Ridgeview Classical Sch. v. Poudre Sch. Dist. R-1, ___ P.3d ___ (Colo. App. 2008).

Applied in Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12, 994 P.2d 442 (Colo. App. 1999), aff'd in part and rev'd in part on other grounds, 32 P.3d 456 (Colo. 2001).

22-30.5-104.5. Charter school and charter authorizer standards review committee - creation - duties - repeal. (Repealed)

Source: L. 2010: Entire section added, (HB 10-1412), ch.248, p.1106, 1, effective May 21.

Editor's note: Subsection (4) provided for the repeal of this section, effective August 30, 2011. (See L. 2010, p. 1106.)

22-30.5-105. Charter schools - contract contents - regulations.

(1) (a) An approved charter application shall serve as the basis for a contract between a charter school and the chartering local board of education.

(b) A local board of education may approve a charter school application submitted by a nonprofit entity and enter into a charter contract directly with the nonprofit entity to operate a charter school. A local board of education shall not approve a charter school application that is submitted by a for-profit entity or that identifies a for-profit entity as one of the charter applicants, and the local board of education shall not enter into a charter contract directly with a for-profit entity to operate a charter school.

(2) (a) The contract between a charter school and the chartering local board of education shall reflect all agreements regarding the release of the charter school from school district policies. Each charter school's contract shall include a statement specifying the manner in which the charter school shall comply with the intent of the state statutes, state board rules, and district rules that are waived for the charter school either automatically or by application.

(b) Repealed.

(c) A contract between a charter school and the chartering local board of education approved on or after July 1, 2002, shall specify:

(I) If the contract is not a renewal of an expiring contract, the manner in which the school district governed by the local board of education will support any start-up facility needs of the charter school;

(II) The manner in which the school district governed by the local board of education will support any long-term facility needs of the charter school;

(III) The actions that the charter school must take in order to:

(A) Have its capital construction needs included as part of the next ballot question for approval of bonded indebtedness to be submitted by the local board of education of its chartering school district

to the voters of the district; or

(B) Have the local board of education submit a ballot question for approval of a special mill levy to finance the capital construction needs of the charter school to the voters of the district pursuant to section 22-30.5-405;

(IV) The financial information, including but not limited to an annual governmental audit, the charter school must report to the chartering school district, the deadline for reporting such information to the chartering school district in order to enable the chartering school district to comply with the requirements specified in this title and in rules promulgated by the state board pertaining to reporting financial information to the department of education, and the circumstances under which the chartering school district may withhold a portion of the charter school's monthly payment as provided in section 22-30.5-112 (8) for failure to comply with financial reporting requirements specified in the contract; and

(V) Whether, and the circumstances under which, the local board of education delegates to the charter school the authority to impose a transportation fee on students who are enrolled in the charter school and, if so, the procedures for imposition of the fee.

(3) A contract between a charter school and the chartering local board of education shall reflect all requests for release of the charter school from state statutes and state board rules. Within ten days after the contract is approved by the chartering local board of education, any request for release from state statutes and state board rules shall be delivered by the chartering local board of education to the state board. The chartering local board of education shall request the release on a form provided by the department. Within forty-five days after a request for release is received by the state board, the state board shall either grant or deny the request. If the state board grants the request, it may orally notify the chartering local board of education and the charter school of its decision. 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. If the chartering local board of education and the charter school do not receive notice of the state board's decision within forty-five days after submittal of the request for release, the request shall be deemed granted. If the state board denies a request for release that includes multiple state statutes or state board rules, the denial shall specify the state statutes and state board rules for which the release is denied, and the denial shall apply only to those state statutes and state board rules so specified.

(4) 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.

(5) Any term included in a charter contract that would require a charter school to waive or otherwise forgo receipt of any amount of operational or capital construction funds provided to the charter school pursuant to the provisions of this article or pursuant to any other provision of law is hereby declared null and void as against public policy and is unenforceable. In no event shall this subsection (5) be construed to prohibit any charter school from contracting with its chartering local board of education for the purchase of services, including but not limited to the purchase of educational services.

Source: L. 93: Entire article added, p. 1054, § 1, effective June 3. L. 97: (1) amended, p. 400, § 2, effective August 6. L. 98: (3) amended, p. 1209, § 1, effective August 5. L. 2001: (2) amended, p. 337, § 3, effective April 16. L. 2002: (2)(c) and (5) added, pp. 1766, 1753, § § 33, 30, effective June 7. L. 2004: Entire section amended, p. 1573, § 4, effective June 3. L. 2005: (2)(c)(III)(B) and (2)(c)(IV) amended and (2)(c)(V) added, p. 1507, § 2, effective June 9. L. 2007: (2)(b) repealed, p. 745, § 28, effective May 9. L. 2009: (5) amended, (SB 09-256), ch. 294, p. 1555, § 12, effective May 21. L. 2012: (1) amended, (SB 12-067), ch. 131, p. 451, § 3, effective August 8.

ANNOTATION

The general assembly did not intend approval of a charter application to establish a final contract between the local board and the charter school proponents, but rather intended the approval to be an interim step toward creation of that contract. A local board can comply with a state board order to approve a charter application and still expect resolution of its initial grounds for denial in a satisfactory final agreement. *Bd. of Educ., Dist. No. 1 v. Booth*, 984 P.2d 639 (Colo. 1999).

No requirement to provide any particular level or type of long-term facility support to a charter school at the expense of local control. Section requires only that the charter school contracts address the manner of support while retaining the ability of the district to negotiate what that support will be. *Dolores Huerta Prep. High v. Colo. State Bd. of Educ.*, 215 P.3d 1229 (Colo. App. 2009).

The governing policy provisions of a charter contract are made up of the charter school application and all agreements and requests releasing the charter school from school district policies. *Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12*, 32 P.3d 456 (Colo. 2001).

The state board of education has complete statutory authority to settle any disputes arising from implementation of the governing policy provisions of the charter contract, and the governing policy provisions are not subject to judicial review. *Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12*, 32 P.3d 456 (Colo. 2001).

Contract requiring a pro-rata reduction of the district per pupil revenues funding to a school for a student transferring out may violate subsection (5) because it would include a reduction of capital construction funds and other funds covering direct and indirect costs incurred in the operation of the charter school and the education of its students, which are not enrollment sensitive. *Ridgeview Classical Sch. v. Poudre Sch. Dist. R-1*, 214 P.3d 476 (Colo. App. 2008).

In order for a contract for purchase of services from the school district to be valid, it must be at the discretion of the school, must be provided by the district at cost, and must be for a direct budgeted service of the school district, or a service, activity, or undertaking that the charter school is required or chooses to perform in order to carry out the educational program described in the charter contract. *Ridgeview Classical Sch. v. Poudre Sch. Dist. R-1*, 214 P.3d 476 (Colo. App. 2008).

Applied in *Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12*, 994 P.2d 442 (Colo. App. 1999), *aff'd* in part and *rev'd* in part on other grounds, 32 P.3d 456 (Colo. 2001).

22-30.5-106. Charter application - contents.

(1) The charter school application is a proposed agreement upon which the charter applicant and the chartering local board of education negotiate a charter contract. At a minimum, each charter school application includes:

(a) An executive summary that outlines the elements of the application and provides an overview of the proposed charter school;

(b) The vision and mission statements of the proposed charter school;

(c) The goals, objectives, and student performance standards the proposed charter school expects to achieve, including but not limited to the performance indicators specified in section 22-11-204 and

applicable standards and goals specified in federal law;

(d) Evidence that an adequate number of parents and pupils support the formation of a charter school;

(e) Descriptions of the proposed charter school's educational program, student performance standards, and curriculum;

(f) A plan for evaluating student performance across the curriculum, which plan aligns with the proposed charter school's mission and educational objectives and provides a description of the proposed charter school's measurable annual targets for the measures used to determine the levels of attainment of the performance indicators specified in section 22-11-204, and procedures for taking corrective action if student performance at the school falls below the described targets;

(g) Evidence that the plan for the proposed charter school is economically sound, including a proposed budget for a term of at least five years. The charter application shall also describe the method for obtaining an independent annual audit of the proposed charter school's financial statements consistent with generally accepted auditing standards and circular A-133 of the United States office of management and budget, as originally published in the federal register of June 30, 1997, and as subsequently amended.

(h) A description of the governance and operation of the proposed charter school, including the nature and extent of parental, professional educator, and community involvement in the governance and operation of the proposed charter school, that is consistent with the standards adopted by rule of the state board pursuant to section 22-2-106 (1) (h);

(i) An explanation of the relationship that will exist between the proposed charter school and its employees and the proposed charter school's employment policies or a plan for the timely development of employment policies;

(j) A proposal regarding the parties' respective legal liabilities and applicable insurance coverage, which insurance coverage shall include, at a minimum, workers' compensation, liability insurance, and insurance for the proposed charter school's facility and its contents;

(k) The proposed charter school's expectations and plans for ongoing parent and community involvement;

(l) A description of the proposed charter school's enrollment policy, consistent with the requirements of section 22-30.5-104 (3) and rules adopted by the state board pursuant to section 22-2-106 (1) (h), and the criteria for enrollment decisions;

(m) A statement of whether the proposed charter school plans to address the transportation or food service needs of its students while they are attending the school. The proposed charter school may choose not to provide transportation or food services, may choose to develop or form a charter school collaborative as described in section 22-30.5-603 to provide transportation or food services, or may choose to negotiate with a school district, board of cooperative services, or private provider to provide transportation or food services for its students. If the proposed charter school chooses to provide transportation or food services, the application shall include a plan for each provided service, which plan, at a minimum, shall specifically address serving the needs of low-income students, complying with insurance and liability issues, and complying with any applicable state or federal rules or regulations.

(n) A facilities plan that details viable facilities options that are consistent with section 22-32-124 and

the reasonable costs of the facility, which are reflected in the proposed budget;

(o) A list of the waivers of statute, state rule, and school district policies that the proposed charter school is requesting, which list explains the rationale for each requested waiver and the manner in which the proposed charter school plans to meet the intent of the waived statute, rule, or policy;

(p) Policies regarding student discipline, expulsion, and suspension that are consistent with the intent and purpose of section 22-33-106, provide adequately for the safety of students and staff, and provide a level of due process for students that, at a minimum, complies with the requirements of the federal "Individuals with Disabilities Education Act", 20 U.S.C. sec. 1400 et seq.;

(q) A plan for serving students with special needs, including budget and staff requirements, which plan shall include identifying and meeting the learning needs of at-risk students, students with disabilities, gifted and talented students, and English language learners;

(r) A dispute resolution process, as provided in section 22-30.5-107.5; and

(s) If the proposed charter school intends to contract with an education management provider:

(I) A summary of the performance data for all of the schools the education management provider is managing at the time of the application or has managed previously, including documentation of academic achievement and school management success;

(II) An explanation of and evidence demonstrating the education management provider's capacity for successful expansion while maintaining quality in the schools it is managing;

(III) An explanation of any existing or potential conflicts of interest between the governing board of the proposed charter school and the education management provider; and

(IV) A copy of the actual or proposed performance contract between the governing board for the proposed charter school and the education management provider that specifies, at a minimum, the following material terms:

(A) Performance evaluation measures;

(B) The methods of contract oversight and enforcement that the governing board will apply;

(C) The compensation structure and all fees that the proposed charter school will pay to the education management provider; and

(D) The conditions for contract renewal and termination.

(2) No person, group, or organization may submit an application to convert a private school or a nonpublic home-based educational program into a charter school or to create a charter school which is a nonpublic home-based educational program as defined in section 22-33-104.5.

(3) A charter applicant is not required to provide personal identifying information concerning any parent, teacher, or prospective pupil prior to the time that the charter contract is approved by both parties and either the charter school actually employs the teacher or the pupil actually enrolls in the charter school, whichever is applicable. A charter school applicant shall provide, upon request of the chartering school district, aggregate information concerning the grade levels and schools in which prospective pupils are enrolled.

Source: **L. 93:** Entire article added, p. 1054, § 1, effective June 3. **L. 94:** (1)(l) added, p. 1379, § 3, effective May 25. **L. 96:** (1)(d) repealed and (1)(i.5) added, p. 753, § § 3, 4, effective May 22. **L. 97:** (1)(e) amended, p. 586, § 15, effective April 30. **L. 99:** (1)(m) and (3) added, pp. 1255, 1256, § § 2, 4, effective June 2. **L. 2004:** Entire section amended, p. 1575, § 5, effective June 3. **L. 2005:** (1)(k) amended, p. 1508, § 3, effective June 9. **L. 2009:** (1)(b), (1)(e), and (1)(f) amended, (SB 09-163), ch. 293, p. 1535, § 27, effective May 21. **L. 2012:** (1) R&RE, (SB 12-061), ch. 109, p. 372, § 1, effective April 13.

Cross references: For the legislative declaration contained in the 1999 act enacting subsections (1)(m) and (3), see section 1 of chapter 302, Session Laws of Colorado 1999.

ANNOTATION

The governing policy provisions of a charter contract are made up of the charter school application and all agreements and requests releasing the charter school from school district policies. *Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12*, 32 P.3d 456 (Colo. 2001).

Applied in *Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12*, 994 P.2d 442 (Colo. App. 1999), *aff'd in part and rev'd in part on other grounds*, 32 P.3d 456 (Colo. 2001).

22-30.5-107. Charter application - process.

(1) (a) A charter applicant cannot apply to, or enter into a charter contract with, a school district unless a majority of the proposed charter school's pupils, other than on-line pupils, will reside in the chartering school district or in school districts contiguous thereto.

(b) The local board of education shall receive and review all applications for charter schools. If the local board of education does not review a charter application, it shall be deemed to have denied the charter application. A charter applicant must file its application with the local board of education by a date determined by the local board of education to be eligible for consideration for the following school year. An application is considered filed when the school district administration receives the charter application from the charter applicant either in hard copy or electronically. The date determined by the local board of education for filing of applications shall not be any earlier than August 1 or any later than October 1. Prior to any change in the application deadline, the local board of education shall notify the department and each charter school applicant in the district of the proposed change by certified letter. The local board of education shall not charge any application fees.

(c) Within fifteen days after receiving a charter school application, the school district shall determine whether the application contains the minimum components specified in section 22-30.5-106 (1) and is therefore complete. If the application is not complete, the school district shall notify the charter applicant within the fifteen-day period and provide a list of the information required to complete the charter application. The charter applicant has fifteen days after the date it receives the notice to provide the required information to the local board of education for review. The local board of education is not required to take action on the charter application if the charter applicant does not provide the required information within the fifteen-day period. The school district may request additional information during the review period and provide reasonable time for the charter applicant to respond. The school district may, but is not required to, accept any additional information the charter applicant provides that the school district does not request. The district accountability committee shall review the complete charter school application at least fifteen days, if possible, before the local board of education takes action on the application.

(1.5) For purposes of reviewing a charter school application, a district accountability committee shall include at least:

(a) One person with a demonstrated knowledge of charter schools, regardless of whether that person resides within the school district; and

(b) One parent or legal guardian of a child enrolled in a charter school in the school district; except that, if there are no charter schools in the school district, the local board of education shall appoint a parent or legal guardian of a child enrolled in the school district.

(2) After giving reasonable public notice, the local board of education shall hold community meetings in the affected areas or the entire school district to obtain information to assist the local board of education in its decision to approve a charter school application. The local board of education shall rule by resolution on the application for a charter school in a public hearing, upon reasonable public notice, within ninety days after receiving the application filed pursuant to subsection (1) of this section. All negotiations between the charter school and the local board of education on the contract shall be concluded by, and all terms of the contract agreed upon, no later than ninety days after the local board of education rules by resolution on the application for a charter school.

(2.5) The charter applicant and the local board of education may jointly waive the deadlines set forth in this section.

(3) If a local board of education denies a charter school application, does not review a charter school application, or unilaterally imposes conditions that are unacceptable to the charter applicant, the charter applicant may appeal the decision to the state board pursuant to section 22-30.5-108.

(3.5) Nothing in this part 1 shall prohibit a school district from adopting one or more policies that encourage charter applicants to address specified school district needs.

(4) If a local board of education denies or does not review a charter school application, it shall state its reasons for the denial or refusal to review. Within fifteen days after denying or refusing to review a charter school application, the local board of education shall notify the department of the denial or refusal and the reasons therefor. If a local board of education approves a charter application, it shall send a copy of the approved charter application to the department within fifteen days after approving the charter application.

(5) A school district may unilaterally impose conditions on a charter applicant or on a charter school only through adoption of a resolution of the local board of education of the school district. If a local board adopts a resolution unilaterally imposing conditions on a charter applicant or on a charter school, the resolution shall, at a minimum, state the school district's reasons for imposing the conditions unilaterally, despite the objections of the charter applicant or the charter school. The charter applicant or charter school may appeal the decision of the local board of education to unilaterally impose the conditions by filing the notice of appeal with the state board within thirty days after adoption of the resolution, as provided in section 22-30.5-108 (2) (a).

Source: L. 93: Entire article added, p. 1055, § 1, effective June 3. L. 96: Entire section amended, p. 753, § 5, effective May 22. L. 97: (1) amended, p. 586, § 16, effective April 30. L. 99: (1.5) added and (2) amended, p. 1209, § 2, effective August 4. L. 2002: (1) amended, p. 1749, § 23, effective June 7; entire section amended, p. 187, § 1, effective July 1, 2003. L. 2004: Entire section amended, p. 1576, § 6, effective June 3. L. 2012: (1) and (2) amended, (SB 12-061), ch. 109, p. 375, § 3, effective April 13.

Editor's note: Amendments to subsection (1) by Senate Bill 02-051 and House Bill 02-1349 were harmonized.

ANNOTATION

Applied in Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12, 32 P.3d 456 (Colo. 2001).

22-30.5-107.5. Dispute resolution - governing policy provisions - appeal.

(1) Except as otherwise provided in section 22-30.5-108, any disputes that may arise between a charter school and its chartering school district concerning governing policy provisions of the school's charter contract shall be resolved pursuant to this section.

(2) (a) A charter school or its chartering school district may initiate a resolution to any dispute concerning a governing policy provision of the school's charter contract by providing reasonable written notice to the other party of an intent to invoke this section. Such notice shall include, at a minimum, a brief description of the matter in dispute and the scope of the disagreement between the parties.

(b) Within thirty days after receipt of the written notice described in paragraph (a) of this subsection (2), the charter school and the school district shall agree to use any form of alternative dispute resolution to resolve the dispute, including but not limited to any of the forms described in the "Dispute Resolution Act", part 3 of article 22 of title 13, C.R.S.; except that any form chosen by the parties shall result in final written findings by a neutral third party within one hundred twenty days after receipt of such written notice.

(c) The neutral third party shall apportion all costs reasonably related to the mutually agreed upon dispute resolution process.

(3) (a) A charter school and its chartering school district may agree to be bound by the written findings of the neutral third party resulting from any alternative dispute resolution entered into pursuant to subsection (1) of this section. In such case, such findings shall be final and not subject to appeal.

(b) If the parties do not agree to be bound by such written findings of the neutral third party, the parties may appeal such findings to the state board. A party who wishes to appeal such findings shall provide the state board and the other party with a notice of appeal within thirty days after the release of such findings, and the notice of appeal shall contain a brief description of the grounds for appeal. The state board may consider said written findings or other relevant materials in reaching its decision and may, on its own motion, conduct, after sufficient notice, a de novo review of and hearing on the underlying matter.

(4) The state board shall:

(a) Issue its decision on the written findings of the neutral third party resulting from any alternative dispute resolution entered into pursuant to subsection (1) of this section within sixty days after receipt of the notice of appeal; or

(b) Make its own findings within sixty days after making its own motion for a de novo review and hearing described in paragraph (b) of subsection (3) of this section.

(5) If the state board, after motion by one of the parties and sufficient notice and hearing, finds that either of the parties to an alternative dispute resolution process held pursuant to this section has failed to participate in good faith in such process or has refused to comply with the decision reached after agreeing to be bound by the result of such process, the state board shall resolve the dispute in favor of the aggrieved party.

(6) Any decision by the state board pursuant to this section shall be final and not subject to appeal.

Source: L. 99: Entire section added, p. 1255, § 3, effective June 2.L. 2002: Entire section R&RE, p. 1001, § 1, effective June 1.

Cross references: For the legislative declaration contained in the 1999 act enacting this section, see section 1 of chapter 302, Session Laws of Colorado 1999.

ANNOTATION

Annotator's note. The following annotations include a case decided under this section as it existed prior to its 2002 repeal and reenactment.

By adding this section, the general assembly established the processes for settling governing policy contract disputes, as well as explicitly establishing the situations in which the state board of education had appellate review. *Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12*, 32 P.3d 456 (Colo. 2001).

The enactment of this section served as a retroactive change to the Charter Schools Act.

Because the section authorizes an aggrieved party to seek appellate review from the state board of education, and because the state board's decision is not subject to review, plaintiff lacked standing to pursue its governing policy claims. *Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12*, 32 P.3d 456 (Colo. 2001).

Because charter schools and school districts fall within the province of the political subdivision doctrine,

the plaintiff charter school, as the subordinate agency, did not have standing to sue the defendant school district, a superior agency. The dispute must be resolved instead within the executive branch. *Dolores Huerta Prep. High v. Colo. State Bd. of Educ.*, 215 P.3d 1229 (Colo. App. 2009).

Governing policy provisions of a charter school contract are not subject to judicial review.

Plaintiff was dissatisfied with the provision of its charter contract that addressed long-term facility support through various funding sources, and the court found this to fall under the category of a governing policy, thus not subject to judicial review. *Dolores Huerta Prep. High v. Colo. State Bd. of Educ.*, 215 P.3d 1229 (Colo. App. 2009).

22-30.5-108. Appeal - standard of review - procedures.

(1) Acting pursuant to its supervisory power as provided in section 1 of article IX of the state constitution, the state board, upon receipt of a notice of appeal or upon its own motion, may review decisions of any local board of education concerning the denial of a charter school application, the nonrenewal or revocation of a charter school's charter, or the unilateral imposition of conditions on a charter applicant or a charter school, in accordance with the provisions of this section. Any disputes arising with regard to governing policy provisions of a charter school's charter contract shall be resolved as provided in section 22-30.5-107.5. A local board of education's refusal to review a charter application constitutes a denial of the charter application and is appealable as a denial pursuant to the provisions of this section.

(2) A charter applicant or any other person who wishes to appeal a decision of a local board of education concerning the denial of a charter application or the nonrenewal or revocation of a charter or the unilateral imposition of conditions on a charter applicant or a charter school, shall provide the state board and the local board of education with a notice of appeal or of facilitation within thirty days after the local board's decision. The person bringing the appeal shall limit the grounds of the appeal to the grounds for the denial of a charter application or the nonrenewal or revocation of a charter, or the unilateral imposition of conditions on a charter applicant or charter school, whichever is being

appealed, specified by the local board of education. The notice shall include a brief statement of the reasons the appealing person contends the local board of education's denial of a charter application or nonrenewal or revocation of a charter, or imposition of conditions on a charter applicant or charter school was in error.

(2.5) If a district court dismisses a case for lack of jurisdiction and the case involves a charter application, or the nonrenewal or revocation of a charter, or the unilateral imposition of conditions on a charter applicant or charter school, the thirty-day period for filing a notice of appeal or of facilitation described in subsection (2) of this section shall be tolled until the date of dismissal by the court.

(3) If the notice of appeal, or the motion to review by the state board, relates to a local board's decision to deny a charter application or to refuse to renew or to revoke a charter or to a local board's unilateral imposition of conditions that are unacceptable to the charter applicant or the charter school, the appeal and review process shall be as follows:

(a) Within sixty days after receipt of the notice of appeal or the making of a motion to review by the state board and after reasonable public notice, the state board shall review the decision of the local board of education and make its findings. If the state board finds that the local board's decision was contrary to the best interests of the pupils, school district, or community, the state board shall remand such decision to the local board of education with written instructions for reconsideration thereof. Said instructions shall include specific recommendations concerning the matters requiring reconsideration.

(b) Within thirty days following the remand of a decision to the local board of education and after reasonable public notice, the local board of education, at a public hearing, shall reconsider its decision and make a final decision. If the local board of education decides to approve the charter application or decides not to unilaterally impose the condition, the local board of education and the charter applicant shall complete the charter contract within ninety days following the remand of the state board's decision to the local board of education.

(c) Following the remand, if the local board of education's final decision is still to deny a charter application or to unilaterally impose the condition on a charter applicant or if the local board of education's final decision is still to refuse to renew or to revoke a charter or to unilaterally impose conditions unacceptable to the charter school, a second notice of appeal may be filed with the state board within thirty days following such final decision.

(d) Within thirty days following receipt of the second notice of appeal or the making of a motion for a second review by the state board and after reasonable public notice, the state board, at a public hearing, shall determine whether the final decision of the local board of education was contrary to the best interests of the pupils, school district, or community. If such a finding is made, the state board shall remand such final decision to the local board with instructions to approve the charter application, or to renew or reinstate the charter or to approve or disapprove the conditions imposed on the charter applicant or the charter school. The decision of the state board shall be final and not subject to appeal.

(3.5) In lieu of a first appeal to the state board pursuant to paragraph (a) of subsection (3) of this section, the parties may agree to facilitation. Within thirty days after denial of a charter application or nonrenewal or revocation of a charter or unilateral imposition of conditions on a charter applicant or a charter school by the local board of education, the parties may file a notice of facilitation with the state board. The parties may continue in facilitation as long as both parties agree to its continued use. If one party subsequently rejects facilitation, and such rejection is not reconsidered within seven days, the local board of education shall reconsider its denial of a charter application or nonrenewal or revocation of a charter and make a final decision as provided in paragraph (b) of subsection (3) of

this section. The charter applicant may file a notice of appeal with the state board as provided in paragraph (c) of subsection (3) of this section within thirty days after a local board of education's final decision to deny a charter application, to refuse to renew or to revoke a charter, or to unilaterally impose conditions on a charter applicant or a charter school.

(4) (Deleted by amendment, L. 2004, p. 1578, § 7, effective June 3, 2004.)

(5) Nothing in this section shall be construed to alter the requirement that a charter school be a part of the school district that approves its charter application and charter contract and be accountable to the local board of education pursuant to section 22-30.5-104 (2).

Source: **L. 93:** Entire article added, p. 1056, § 1, effective June 3. **L. 94:** (3)(a) and IP(4)(a)(I) amended, p. 1341, § 1, effective May 25. **L. 96:** (2), IP(3), and (3)(c) amended and (3.5) added, p. 754, § 6, effective May 22. **L. 97:** (3)(a), IP(4)(a)(I), and (5) amended, p. 586, § 17, effective April 30. **L. 2002:** (1), (2), IP(3), (3)(c), and (3)(d) amended and (2.5) added, p. 1002, § 2, effective June 1. **L. 2004:** Entire section amended, p. 1578, § 7, effective June 3.

ANNOTATION

Where the state board of education concludes that a charter school's remedy lay in district court, such conclusion does not confer jurisdiction on the courts or extend standing to plaintiffs when none otherwise existed. *Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12*, 994 P.2d 442 (Colo. App. 1999), *aff'd in part and rev'd in part on other grounds*, 32 P.3d 456 (Colo. 2001).

The state board is authorized to substitute its judgment for that of a local board under the "best interests" language of subsection (3)(d). *Bd. of Educ., Dist. No. 1 v. Booth*, 984 P.2d 639 (Colo. 1999).

State board's authority is limited upon a second appeal. Where, on first appeal, the state board had approved a charter application in principle but directed the local board and the applicants to negotiate further on unresolved operational details, the state board had no authority to issue a similar, conditional approval on the second appeal pursuant to subsection (3)(d). *Booth v. Bd. of Educ.*, 950 P.2d 601 (Colo. App. 1997), *aff'd in part and rev'd in part on other grounds*, 984 P.2d 639 (Colo. 1999).

The plain language of this section authorizes the state board only to require approval of the charter application as submitted and not subsequent status reports. *Bd. of Educ., Dist. No. 1 v. Booth*, 984 P.2d 639 (Colo. 1999).

If disputes arise from the implementation of the governing policy provisions of the charter contract, such disputes may eventually be appealed to the state board of education pursuant to this section, and any decision rendered by the state board is final and not subject to appeal. *Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12*, 32 P.3d 456 (Colo. 2001).

Only issue on second appeal is whether the local board's denial of an application is contrary to the best interests of the pupils, school district, or community. The state board's purported issuance of a partial or conditional order to approve a pending application, which fell short of an unconditional finding on this issue, was held unenforceable and the case was remanded for further proceedings. *Booth v. Bd. of Educ.*, 950 P.2d 601 (Colo. App. 1997), *aff'd in part and rev'd in part on other grounds*, 984 P.2d 639 (Colo. 1999).

State board's final order on second appeal is not subject to judicial review under the State Administrative Procedure Act. *Booth v. Bd. of Educ.*, 950 P.2d 601 (Colo. App. 1997), *aff'd in part and rev'd in part on other grounds*, 984 P.2d 639 (Colo. 1999).

Applied in Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12, 994 P.2d 442 (Colo. App. 1999), aff'd in part and rev'd in part on other grounds, 32 P.3d 456 (Colo. 2001).

22-30.5-109. Charter schools - reporting - publicizing - limits on enrollment - moratorium prohibited.

(1) Each local board of education that approves a charter application and enters into a charter contract with a charter school shall annually report to the department information that the department requests to evaluate the effectiveness of charter schools. The local boards of education shall provide the information on forms provided by the department. The state board shall adopt rules establishing the time lines and procedures for reporting the information required in this subsection (1).

(2) (Deleted by amendment, L. 2004, p. 1580, § 8, effective June 3, 2004.)

(3) It is the intent of the general assembly that greater consideration be given to charter school applications designed to increase the educational opportunities of at-risk pupils, as defined in section 22-30.5-103.

(4) If otherwise qualified, nothing in this part 1 shall be construed to prohibit any institution certified on or before April 1, 1993, as an educational clinic pursuant to former article 27 of this title as it existed prior to August 7, 2006, from applying to become a charter school pursuant to this part 1.

(5) Nothing in this part 1 shall be construed to prevent a school in a school district which is comprised of only one school from applying to become a charter school pursuant to this part 1.

(6) A school district shall not discriminate against a charter school in publicizing the educational options available to students residing within the district through advertising, direct mail, availability of mailing lists, or other informational activities, provided that the charter school pays for its share of such publicity at cost.

(7) A chartering authority may not restrict the number of pupils a charter school may enroll; except that a charter school and its chartering authority may negotiate and agree to limitations on the number of students the charter school may enroll as necessary to:

(a) Facilitate the academic success of students enrolled in the charter school;

(b) Facilitate the charter school's ability to achieve the other objectives specified in the charter contract; or

(c) Ensure that the charter school's student enrollment does not exceed the capacity of the charter school facility or site.

(8) The local board of education of a school district shall not impose a moratorium on the approval of charter applications for charter schools within the school district.

Source: L. 93: Entire article added, p. 1057, § 1, effective June 3. L. 96: (4) and (5) amended, p. 668, § 6, effective May 2; (2)(a) amended, p. 754, § 7, effective May 22. L. 98: (1) amended, p. 823, § 31, effective August 5. L. 99: (6) added, p. 1256, § 6, effective June 2. L. 2002: (7) added, p. 1750, § 24, effective June 7. L. 2003: (6) amended, p. 2139, § 42, effective May 22. L. 2004: Entire section amended, p. 1580, § 8, effective June 3. L. 2006: (4) and (6) amended, p. 605, § 19, effective August 7.

Cross references: For the legislative declaration contained in the 1999 act enacting subsection (6), see section 1 of chapter 302, Session Laws of Colorado 1999.

22-30.5-110. Charter schools - term - renewal of charter - grounds for nonrenewal or revocation - repeal.

(1) (a) When a local board of education approves a new charter application, the charter is authorized for a period of at least four years. The local board of education and the charter school may renew the charter for successive periods as provided in this section.

(b) During the term of a charter, the school district shall annually review the charter school's performance. At a minimum, the review includes the charter school's progress in meeting the objectives identified in the plan the charter school is required to implement pursuant to section 22-11-210 and the results of the charter school's most recent annual financial audit. The school district shall provide to the charter school written feedback from the review and shall include the results of the charter school's annual review in the body of evidence that the local board of education takes into account in deciding whether to renew or revoke the charter and that supports the renegotiation of the charter contract.

(1.3) Each school district shall adopt and revise as necessary procedures and timelines for the charter-renewal process, which procedures and timelines are in conformance with the requirements of this part 1. Each school district shall ensure that each of the charter schools authorized by the district receives a copy of the district's charter renewal procedures and timelines and any revisions to the procedures and timelines.

(1.5) No later than December 1 of the year prior to the year in which the charter expires, the governing body of a charter school shall submit a renewal application to the chartering local board of education. The chartering local board of education shall rule by resolution on the renewal application no later than February 1 of the year in which the charter expires, or by a mutually agreed upon date.

(2) A charter school renewal application submitted to the chartering local board of education shall contain:

(a) A report on the progress of the charter school in achieving the goals, objectives, pupil performance standards, content standards, targets for the measures used to determine the levels of attainment of the performance indicators, and other terms of the charter contract and the results achieved by the charter school's students on the assessments administered through the Colorado student assessment program;

(b) A financial statement that discloses the costs of administration, instruction, and other spending categories for the charter school that is understandable to the general public and that will allow comparison of such costs to other schools or other comparable organizations, in a format required by the state board of education; and

(c) Repealed.

(d) Any information or material resulting from the charter school's annual reviews as described in subsection (1) of this section.

(3) A charter may be revoked or not renewed by the chartering local board of education if it determines that the charter school did any of the following:

(a) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter contract;

(b) Failed to meet or make adequate progress toward achievement of the goals, objectives, content standards, pupil performance standards, targets for the measures used to determine the levels of attainment of the performance indicators, applicable federal requirements, or other terms identified in the charter contract;

(c) Failed to meet generally accepted standards of fiscal management; or

(d) Violated any provision of law from which the charter school was not specifically exempted.

(3.5) If a charter school is required to implement a turnaround plan pursuant to section 22-11-210 (2) for a second consecutive school year, the charter school shall present to its authorizing local board of education, in addition to the turnaround plan, a summary of the changes made by the charter school to improve its performance, the progress made in implementing the changes, and evidence, as requested by the local board of education, that the charter school is making sufficient improvement to attain a higher accreditation category within two school years or sooner. If the local board of education finds that the charter school's evidence of improvement is not sufficient or if the charter school is required to implement a turnaround plan for a third consecutive school year, the local board of education may revoke the school's charter.

(4) (Deleted by amendment, L. 2004, p. 1582, 9, effective June 3, 2004.)

(4.5) (a) At least fifteen days prior to the date on which a local board of education will consider whether to revoke or renew a charter, the school district shall provide to the local board of education and the charter school a written recommendation, including the reasons supporting the recommendation, concerning whether to revoke or renew the charter.

(b) If a local board of education revokes or does not renew a charter, the board shall state its reasons for the revocation or nonrenewal.

(5) If a local board of education revokes or does not renew a charter, the charter school may appeal the decision pursuant to section 22-30.5-108.

(6) Each school district shall adopt procedures for closing a charter school following revocation or nonrenewal of the charter school's charter. At a minimum, the procedures shall ensure that:

(a) When practicable and in the best interest of the students of the charter school, the charter school continues to operate through the end of the school year. If the school district determines it is necessary to close the charter school prior to the end of the school year, the school district shall work with the charter school to determine an earlier closure date.

(b) The school district works with the parents of the students who are enrolled in the charter school when the charter is revoked or not renewed to ensure that the students are enrolled in schools that meet their educational needs; and

(c) The charter school meets its financial, legal, and reporting obligations during the period that the charter school is concluding operations.

(7) Notwithstanding any provision of this section to the contrary, on and after September 1, 2012, a local board of education shall not renew a charter that is held by a for-profit entity either solely or in cooperation with other entities.

Source: L. 93: Entire article added, p. 1058, § 1, effective June 3. **L. 96:** (4.5) added and (5)

amended, p. 755, § 8, effective May 22. **L. 97:** (1) amended and (1.5) added, p. 400, § 3, effective August 6. **L. 2001:** (2) amended, p. 338, § 4, effective April 16. **L. 2004:** Entire section amended, p. 1582, § 9, effective June 3. **L. 2007:** (2)(c) repealed, p. 745, § 28, effective May 9. **L. 2009:** (2)(a) and (3)(b) amended, (SB 09-163), ch. 293, p. 1535, § 28, effective May 21. **L. 2012:** Entire section amended, (SB 12-061), ch. 109, p. 376, § 4, effective April 13; (7) added, (SB 12-067), ch. 131, p. 451, § 4, effective August 8.

22-30.5-110.3 Nonrenewal or revocation - qualified charter school - exceptions

(1) Notwithstanding the provisions of sections 22-30.5-108 and 22-30.5-110, the provisions of this section shall apply if:

(a) A chartering local board of education determines that the charter of a qualified charter school, as defined in section 22-30.5-408 (1) (c), will be revoked or will not be renewed; and

(b) The qualified charter school has financed capital construction with revenues from bonds issued on behalf of the qualified charter school by the Colorado educational and cultural facilities authority created in section 23-15-104 (1) (a), C.R.S., pursuant to section 22-30.5-407.

(2) (a) If a chartering local board of education makes a determination to revoke or not renew the charter of a qualified charter school and subsection (1) of this section applies, the chartering local board of education shall notify the state treasurer and the commissioner of education immediately upon such determination. Upon receipt of such notice, the commissioner shall suspend the revocation or nonrenewal of the charter until such time as the state treasurer, the commissioner, and the Colorado educational and cultural facilities authority determine, with the chartering local board of education and the qualified charter school, whether an alternative exists to such revocation or nonrenewal of the charter.

(b) A chartering local board of education shall not be required to suspend a revocation or nonrenewal of a charter pursuant to paragraph (a) of this subsection (2) for more than one hundred twenty days after the date that the commissioner of education and the state treasurer received notice of the determination to revoke or not renew the charter pursuant to paragraph (a) of this subsection (2) or sixty days after the action of the state board pursuant to section 22-30.5-108 (3) (a), whichever is later.

(3) The state treasurer, commissioner of education, chartering local board of education, charter school, and Colorado educational and cultural facilities authority may pursue the following:

(a) The conversion of the qualified charter school from a school of the chartering district to an institute charter school;

(b) The reorganization of the qualified charter school and application to the initial chartering local board of education or the state charter school institute for approval as a charter school with the condition that the newly approved charter school will assume the bond obligations of the former qualified charter school pursuant to section 22-30.5-407; or

(c) Any other alternative deemed feasible by the state treasurer, the commissioner of education, the Colorado educational and cultural facilities authority, the chartering local board of education, and the qualified charter school.

(4) Nothing in this section shall be construed to prevent the chartering local board of education from revoking or not renewing the charter of a qualified charter school pursuant to section 22-30.5-110.

Source: **L. 2011:** Entire section added, (SB 11-188), ch. 186, p. 714, § 6, effective July 1.

22-30.5-110.5. Background investigation - charter school employees - information provided to department

(1) A charter school shall conduct a background investigation of an applicant to whom an offer of employment is extended to determine whether the applicant is suitable to work in an environment with children.

(2) The background investigation of an applicant, at a minimum, shall include:

(a) An inquiry by the charter school to the department to determine whether the applicant:

(I) Has had his or her educator license or certification denied, suspended, revoked, or annulled in this state or another state for any reason, including but not limited to a conviction, a plea of not guilty, a plea of nolo contendere, or a deferred sentence for a crime involving unlawful sexual behavior or unlawful behavior involving children;

(II) Has been dismissed by, or has resigned from, a school district as a result of any allegation, including but not limited to unlawful sexual behavior, that was supported by a preponderance of the evidence according to information provided to the department pursuant to section 22-32-109.7 (3) or subsection (7) of this section and confirmed by the department pursuant to section 22-2-119 (1) (b);

(b) (I) A fingerprint-based criminal history record check as described in section 22-30.5-110.7.

(II) The criminal history record check shall be designed to determine, at a minimum, whether the applicant has been convicted of, pled nolo contendere or guilty to, or received a deferred sentence or deferred prosecution for:

(A) A felony; or

(B) A misdemeanor crime involving unlawful sexual behavior or unlawful behavior involving children.

(c) Inquiries to the applicant's previous employers to obtain information or recommendations that may be relevant to the applicant's fitness for employment.

(3) Upon request, the department shall provide the charter school with any information the department may have concerning a person who applies for employment with a charter school or a charter school employee.

(4) The charter school shall pay to the department the background investigation fee established pursuant to section 22-2-119 (5) for each applicant who does not hold an educator license issued pursuant to article 60.5 of this title and for whom the charter school requests a background investigation. The charter school may assess the amount of the fee to the applicant.

(5) (a) An applicant's previous employer that provides information to a charter school or makes a recommendation concerning the applicant, whether at the request of the charter school or the applicant, shall be immune from civil liability unless:

(I) The information is false and the previous employer knows the information is false or acts with reckless disregard concerning the veracity of the information; and

(II) The charter school acts upon the information to the detriment of:

(A) The applicant because the charter school refuses to employ the applicant based, in whole or in part, on negative information concerning the applicant later determined to be false; or

(B) The charter school because the charter school employs the applicant based, in whole or in part, on positive information concerning the applicant later determined to be false.

(b) A charter school that relies on information provided by or a recommendation made by a previous employer in making an employment decision shall be immune from civil liability unless the information is false and the charter school knows the information is false or acts with reckless disregard concerning the veracity of the information.

(6) (a) Each charter school shall submit to the department the name, date of birth, and social security number of each person employed by the charter school. The department shall add the information submitted pursuant to this subsection (6) for charter school employees who do not hold an educator license to the database for nonlicensed school employees maintained by the department pursuant to section 22-32-109.8 (11). The department shall add the information submitted pursuant to this subsection (6) for licensed employees to the database maintained by the department for licensed educators.

(b) At the beginning of each semester, each charter school shall notify the department if a nonlicensed employee is no longer employed by the charter school. The department shall purge the employee's information from the database within twelve months after receiving the notice.

(7) (a) If an employee of a charter school is dismissed or resigns as a result of an allegation of unlawful behavior involving a child, including unlawful sexual behavior, that is supported by a preponderance of the evidence, the governing board of the charter school shall notify the department and provide any information requested by the department concerning the circumstances of the dismissal or resignation. The charter school shall also notify the employee that information concerning the employee's dismissal or resignation is being forwarded to the department unless the notice would conflict with the confidentiality requirements of the "Child Protection Act of 1987", part 3 of article 3 of title 19, C.R.S.

(b) If a charter school learns from a source other than the department that a current or past employee of the charter school has been convicted of, pled guilty to, pled nolo contendere to, or has received a deferred sentence or deferred prosecution for a felony or a misdemeanor crime involving unlawful sexual behavior or unlawful behavior involving children, the charter school shall notify the department.

(8) On or before August 30 each year, the department shall submit a list of all persons employed by each charter school in the state for the preceding school year to the Colorado bureau of investigation. The list shall include each employee's name and date of birth.

(9) Any information received by a charter school pursuant to this section or section 22-30.5-110.7 shall be confidential information and not subject to the provisions of part 2 of article 72 of title 24, C.R.S. A person who releases information obtained pursuant to the provisions of this section or section 22-30.5-110.7 or who makes an unauthorized request for information from the charter school shall be subject to the penalties set forth in section 24-72-206, C.R.S.; except that a person who releases information received from the charter school concerning information contained in the records and reports of child abuse or neglect maintained by the department of human services shall be deemed to have violated section 19-1-307 (4), C.R.S.

Source: L. 2008: Entire section added, p. 1660, § 3, effective May 29.

22-30.5-110.7. Fingerprint-based criminal history record checks - charter school employees - procedures - definitions

(1) A person applying for employment with a charter school to whom an offer of employment is extended shall submit to the charter school a complete set of his or her fingerprints taken by a qualified law enforcement agency or an authorized employee of the charter school and notarized.

(2) On a form provided by the charter school, an applicant to whom an offer of employment is extended shall certify, under penalty of perjury, either:

(a) That he or she has never been convicted of committing any felony or misdemeanor, but not including any misdemeanor traffic offense or traffic infraction; or

(b) That he or she has been convicted of committing a felony or misdemeanor, but not including any misdemeanor traffic offense or traffic infraction. The certification shall specify the felony or misdemeanor for which the applicant was convicted, the date of the conviction, and the court entering the judgment of conviction.

(3) In addition to any other requirements established by law, the submittal of fingerprints pursuant to subsection (1) of this section and of the form pursuant to subsection (2) of this section shall be a prerequisite to the employment of any person in a charter school. A charter school shall not employ a person who has not complied with the provisions of subsections (1) and (2) of this section.

(4) A charter school to which fingerprints are submitted pursuant to subsection (1) of this section shall forward the fingerprints to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing the records of the Colorado bureau of investigation and the federal bureau of investigation.

(5) (a) A charter school may employ a person in the charter school prior to receiving the results of the person's fingerprint-based criminal history record check; except that:

(I) The charter school may terminate the employment of the person if the results are inconsistent with the information provided by the person in the form submitted pursuant to subsection (2) of this section; and

(II) The charter school shall terminate the person's employment if the results disclose a conviction for an offense described in section 22-32-109.8 (6.5).

(b) The charter school shall notify the proper district attorney of inconsistent results as described in subparagraph (I) of paragraph (a) of this subsection (5) for purposes of action or possible prosecution.

(6) When a charter school finds good cause to believe that a person employed by the charter school has been convicted of a felony or misdemeanor, other than a misdemeanor traffic offense or traffic infraction, subsequent to such employment, the charter school shall require the person to submit to the charter school a complete set of his or her fingerprints taken by a qualified law enforcement agency or an authorized employee of the charter school. The employee shall submit his or her fingerprints within twenty days after receipt of written notification from the charter school. The charter school shall forward the employee's fingerprints to the Colorado bureau of investigation for the purpose of conducting a state and national fingerprint-based criminal history record check utilizing the records of the Colorado bureau of investigation and the federal bureau of investigation.

(6.5) An employee or an applicant for employment with a charter school is disqualified from employment if the results of a fingerprint-based criminal history record check completed on or after August 10, 2011, disclose a conviction for an offense described in section 22-32-109.8 (6.5). Nothing

in this section or in section 22-32-109.8 shall create for a person a property right in or entitlement to employment or continued employment with a charter school or impair a charter school's right to terminate employment for a nondiscriminatory reason.

(7) For purposes of this section, a person is deemed to have been convicted of committing a felony or misdemeanor if the person has been convicted under the laws of any other state, the United States, or any territory subject to the jurisdiction of the United States of an unlawful act that, if committed within this state, would be a felony or misdemeanor.

(8) For purposes of this section:

(a) "Convicted" means a conviction by a jury or by a court and shall also include the forfeiture of any bail, bond, or other security deposited to secure appearance by a person charged with a felony or misdemeanor, the payment of a fine, a plea of guilty, a plea of nolo contendere, and the imposition of a deferred or suspended sentence by the court.

(b) "Position of employment" means any job or position in which a person may be engaged in the service of a charter school for salary or hourly wages, whether full time or part time and whether temporary or permanent.

(9) The employing charter school shall be responsible for costs arising from a fingerprint-based criminal history record check performed by the Colorado bureau of investigation and the federal bureau of investigation pursuant to the provisions of this section. The charter school may collect the costs from the employee or the prospective employee.

Source: L. 2008: Entire section added, p. 1663, § 3, effective May 29. L. 2011: (5) amended and (6.5) added, (HB 11-1121), ch. 242, p. 1054, § 2, effective August 10.

Cross references: In 2011, subsection (5) was amended and subsection (6.5) was added by the "Safer Schools Act of 2011". For the short title, see section 1 of chapter 242, Session Laws of Colorado 2011.

22-30.5-111. Charter schools - employee options.

(1) During the first year that a teacher employed by a school district is employed by a charter school, such teacher shall be considered to be on a one-year leave of absence from the school district. Such leave of absence shall commence on the first day of services for the charter school. Upon the request of the teacher, the one-year leave of absence shall be renewed for up to two additional one-year periods upon the mutual agreement of the teacher and the school district. At the end of three years, the relationship between the teacher and the school district shall be determined by the school district and such district shall provide notice to the teacher of the relationship.

(2) The local board of education shall determine by policy or by negotiated agreement, if one exists, the employment status of school district employees employed by the charter school who seek to return to employment with public schools in the school district.

(3) Employees of a charter school shall be members of the public employees' retirement association or the Denver public schools retirement system, whichever is applicable. The charter school and the teacher shall contribute the appropriate respective amounts as required by the funds of such association or system.

Source: L. 93: Entire article added, p. 1059, § 1, effective June 3.

22-30.5-111.5. Charter schools - financing - definitions

(1) As used in this section, unless the context otherwise requires:

(a) "Additional local revenues" means the local property tax revenues that a district is authorized to collect by voter approval received on or after the effective date of this section and that are in addition to the district's total program mill levy; except that "additional local revenues" does not include amounts authorized pursuant to section 22-40-110 or article 42 or article 43 of this title for capital improvements in growth districts for the purpose of repaying bonded indebtedness or refunding bonds.

(b) "ASCENT program average daily membership" has the same meaning as provided in section 22-54.5-103 (4).

(c) "At-risk" has the same meaning as provided in section 22-54.5-103 (5).

(d) "At-risk pupil average daily membership" has the same meaning as provided in section 22-54.5-103 (6).

(e) "Average daily membership" has the same meaning as provided in section 22-54.5-103 (8).

(f) "Central administrative overhead costs" means indirect costs incurred in providing:

(I) Services listed under the heading of support services - general administration in the school district chart of accounts as specified by rule of the state board; and

(II) Salaries and benefits for administrative job classifications listed under the headings of support services - business and support services - central in the school district chart of accounts as specified by rule of the state board.

(g) "Direct costs" means the direct costs incurred by a school district solely for the purpose of reviewing charter applications, negotiating the charter contract, and providing direct oversight to charter schools. "Direct costs" does not include the school district's legal or other costs attributable to litigation or the resolution of a dispute with a charter school.

(h) "District's certified charter school average daily membership" has the same meaning as provided in section 22-54.5-309 (1) (c).

(i) "English language learner" has the same meaning as provided in section 22-54.5-103 (16).

(j) "English language learner average daily membership" has the same meaning as provided in section 22-54.5-103 (17).

(k) "Excess cost of providing federally required educational services" means the per pupil cost that a school district incurs in providing federally required educational services to students, minus the amount the school district receives in federal and state moneys to provide the services.

(l) "Funding averaging period" has the same meaning as provided in section 22-54.5-103 (20).

(m) "Investment moneys" has the same meaning as provided in section 22-54.5-103 (23).

(n) "Membership" has the same meaning as provided in section 22-54.5-103 (26).

(o) "Multi-district on-line school" has the same meaning as provided in section 22-30.7-102 (6).

(p) "On-line average daily membership" has the same meaning as provided in section 22-54.5-103 (28).

(q) "Per pupil funding" means the amount calculated for a district pursuant to section 22-54.5-201 (3).

(r) "Qualified charter school" has the same meaning as provided in section 22-54.5-309 (1) (e).

(2) (a) For purposes of the "Public School Finance Act", article 54.5 of this title, an authorizing school district shall include the pupils enrolled in a charter school in the school district's daily membership for purposes of calculating average daily membership, preschool program average daily membership, at-risk pupil average daily membership, and English language learner average daily membership, as applicable, for each budget year. The authorizing school district shall also include the pupils enrolled in the charter school in the district's daily multi-district on-line school and ASCENT program enrollment, as applicable, for purposes of calculating the district's on-line average daily membership and ASCENT program average daily membership for each budget year. In certifying membership and multi-district on-line school and ASCENT program enrollment to the department pursuant to section 22-54.5-405, the authorizing school district shall specify the number of pupils included in the school district's membership and multi-district on-line school and ASCENT program enrollment who are actually included in the membership and multi-district on-line school and ASCENT program enrollment of each charter school.

(b) The school district shall identify in a report to the department:

(I) Each charter school that is a qualified charter school;

(II) Each qualified charter school that will be operating in a school district facility and that does not have ongoing financial obligations incurred to repay the outstanding costs of new construction undertaken for the charter school's benefit; and

(III) An estimate of the number of pupils expected to be included in the average daily membership for each qualified charter school for the funding average period for the budget year following the budget year in which the district submits the report.

(3) (a) As part of the charter school contract, each charter school and the authorizing school district shall agree on funding and any services that the school district provides to the charter school. Except as otherwise provided in subsections (5) and (6) of this section, the charter school and the authorizing school district shall negotiate funding under the charter contract, starting with the amounts specified in subsection (4) of this section.

(b) Each authorizing school district shall pay to each charter school of the school district the amounts that are due to each charter school as provided in this section. The school district shall pay the amounts in twelve monthly installments as soon as practicable after the school district receives distributions of moneys from the department pursuant to section 22-30.5-408.

(c) Following certification pursuant to section 22-54.5-405 of membership and multi-district on-line school and ASCENT program enrollment for the first quarter of the school year, the district shall adjust the distribution of moneys to the charter schools of the district based on each charter school's average daily membership, at-risk average daily membership, English language learner average daily membership, on-line average daily membership, if applicable, and ASCENT program average daily membership, if applicable, for the funding averaging period for the then-current budget year.

(4) (a) Except as otherwise provided in subsections (5) and (6) of this section, negotiations between a charter school and the authorizing district begin with the charter school receiving an amount equal to:

(I) The authorizing district's per pupil funding for the applicable budget year multiplied by the charter school's average daily membership for the applicable funding averaging period; plus

(II) The ASCENT program funding amount for the applicable budget year specified in section 22-54.5-201 (7) multiplied by the charter school's ASCENT program average daily membership for the applicable funding averaging period; plus

(III) The at-risk funding and English language learner funding allocated to the charter school for the applicable budget year pursuant to section 22-54.5-410; plus

(IV) The investment moneys in the per pupil amount calculated pursuant to section 22-54.5-301 (3) multiplied by the charter school's average daily membership for the applicable funding averaging period.

(b) In negotiating the charter school's funding, the charter school and the authorizing school district may, by negotiation allow the school district to retain the actual amount of the charter school's per pupil share of the central administrative overhead costs for services actually provided to the charter school, up to five percent of the amount specified in subparagraph (I) of paragraph (a) of this subsection (4).

(5) (a) If a charter school is a multi-district on-line school, negotiations between the charter school and the authorizing district begin with the charter school receiving an amount equal to:

(I) The on-line funding amount for the applicable budget year specified in section 22-54.5-201 (6) multiplied by the charter school's on-line average daily membership for the applicable funding averaging period; plus

(II) The at-risk funding and English language learner funding allocated to the charter school for the applicable budget year pursuant to section 22-54.5-410.

(b) In negotiating the charter school's funding, the charter school and the authorizing school district may, by negotiation, allow the school district to retain the actual amount of the charter school's per pupil share of the central administrative overhead costs for services actually provided to the charter school, up to five percent of the amount specified in subparagraph (I) of paragraph (a) of this subsection (5).

(6) (a) If a school district that has an average daily membership of five hundred or fewer students for the most recent funding averaging period authorizes a charter school that is not a multi-district on-line school, the charter school receives funding in the amount of the greater of:

(I) The total of the amounts specified in paragraph (a) of subsection (4) of this section minus the actual amount of the charter school's per pupil share of the central administrative overhead costs incurred by the school district, based on audited figures; or

(II) Eighty-five percent of the amount specified in subparagraph (I) of paragraph (a) of subsection (4) of this section plus the total of the amounts specified in subparagraphs (II) to (IV) of paragraph (a) of subsection (4) of this section.

(b) If a school district that has an average daily membership of five hundred or fewer students for the most recent funding averaging period authorizes a charter school that is a multi-district on-line school, the charter school receives funding in the amount of the greater of:

(I) The total of the amounts specified in paragraph (a) of subsection (5) of this section minus the actual amount of the charter school's per pupil share of the central administrative overhead costs incurred by the school district, based on audited figures; or

(II) Eighty-five percent of the amount specified in subparagraph (I) of paragraph (a) of subsection (5) of this section plus the amount specified in subparagraph (II) of paragraph (a) of subsection (5) of this section.

(7) In addition to the moneys a charter school receives pursuant to subsection (4), (5), or (6) of this section:

(a) (I) A school district shall distribute to each qualified charter school of the school district an amount equal to the percentage of the district's certified charter school average daily membership that is attributable to pupils expected to be enrolled in the qualified charter school multiplied by the total amount of state education fund moneys distributed to the district for the same budget year pursuant to section 22-54.5-309. The school district must provide the funding to each qualified charter school by making a monthly payment to the qualified charter school as soon as possible after the district receives a monthly payment of moneys pursuant to section 22-54.5-309. The qualified charter school shall use the moneys received pursuant to this paragraph (a) solely for capital construction as defined in section 22-54.5-309 (1) (a).

(II) For purposes of this paragraph (a), "pupils" does not include pupils who are enrolled in an on-line program, as defined in section 22-30.7-102 (9), or in an on-line school, as defined in section 22-30.7-102 (9.5).

(b) A school district shall distribute to a charter school of the school district any small attendance center aid that the school district receives pursuant to section 22-54.5-306 on behalf of the charter school.

(c) (I) A school district shall distribute to the charter schools of the school district each charter school's proportionate share of moneys received pursuant to federal or state categorical aid programs, other than federally required educational services, based on the pupils enrolled in each charter school; except that, if a school district receives small attendance center aid pursuant to section 22-54.5-306 for a small attendance center that is a charter school of the school district, the school district shall forward the entire amount of the aid to the charter school.

(II) Each charter school that serves students who may be eligible to receive services provided through federal aid programs must comply with all federal reporting requirements to receive the distribution of federal aid from the school district.

(d) A school district shall distribute to the charter schools of the school district a percentage of additional local revenues as negotiated pursuant to subsection (13) of this section.

(e) Each charter school retains the fees collected from students enrolled at the charter school.

(8) Before the beginning of each budget year, the charter school and the authorizing school district shall negotiate for payment to the school district of any direct costs incurred by the school district on behalf of the charter school. If the charter school and the school district do not reach agreement regarding the payment of direct costs, the school district is barred from withholding from the charter

school any moneys as reimbursement for direct costs. The school district shall provide an itemized accounting to each charter school for the direct costs incurred by the school district with the itemized accounting provided pursuant to section 22-30.5-111.7.

(9) A charter school, at its discretion, may contract with the authorizing school district for the direct purchase of district services in addition to those included in central administrative overhead costs, including but not limited to food services, custodial services, maintenance, curriculum, media services, and libraries. The amount that a charter school pays in purchasing a district service pursuant to this subsection (9) is equal to the cost of providing the service for the entire school district, as specified in the school district's budget for the applicable budget year, divided by the school district's average daily membership plus the school district's on-line average daily membership for the applicable funding averaging period, multiplied by the charter school's average daily membership or on-line average daily membership, whichever is applicable, for the applicable funding averaging period.

(10) In accordance with section 22-30.5-406, an authorizing school district shall reduce the funding provided to a charter school pursuant to subsection (4), (5), or (6) of this section, whichever is applicable, by the amount of any direct payments made by the state treasurer or the authorizing school district, on the charter school's behalf, of principal and interest due on bonds that were issued on the charter school's behalf by a governmental entity other than a school district to finance charter school capital construction.

(11) (a) An authorizing school district shall provide federally required educational services to students enrolled in the charter schools of the school district on the same basis that the school district provides services to students enrolled in the other public schools of the school district. Each charter school shall pay an amount equal to the excess cost of providing federally required educational services, multiplied by the charter school's average daily membership for the applicable funding averaging period. At the request of either the charter school or the school district, however, the charter school and the school district may negotiate and include in the charter contract alternate arrangements for providing and paying for federally required educational services.

(b) If a charter school and the authorizing school district negotiate to allow the charter school to provide federally required educational services pursuant to paragraph (a) of this subsection (11), the school district or administrative unit shall distribute to the charter school the proportionate share of state and federal resources generated by students enrolled in the charter school who receive the federally required educational services or by the staff who serve the students.

(12) If a student with a disability attends a charter school, the school district of residence is responsible for paying any tuition charge for the excess costs incurred in educating the student in accordance with the provisions of section 22-20-109 (5).

(13) (a) If an authorizing school district seeks voter approval to collect additional local revenues on or after the effective date of this section, the authorizing school district must invite the charter schools of the school district to participate in the discussions regarding submission of the ballot question at the earliest possible time but no later than June 1 of the applicable election year.

(b) An authorizing school district and a charter school shall negotiate the percentage that the charter school receives of the additional local revenues that the authorizing school district collects. If the authorizing school district and the charter school cannot reach agreement on the percentage of additional local revenues that the charter school receives, the charter school may apply to the state charter school institute to convert to an institute charter school as provided in section 22-30.5-510, regardless of whether the authorizing school district has exclusive jurisdiction to authorize charter schools within its geographic boundaries.

(c) Except as specifically provided in paragraph (b) of this subsection (13), the provisions of this subsection (13) do not affect a school district's exclusive jurisdiction to authorize charter schools within its geographic boundaries.

(14) Each charter school that receives at-risk funding shall use the at-risk funding to provide programs, activities, and personnel that primarily serve at-risk pupils. Each charter school that receives English language learner funding shall use the English language learner funding to provide programs, activities, and personnel that primarily serve English language learners.

(15) The governing body of a charter school may accept gifts, donations, or grants of any kind made to the charter school and expend or use the gifts, donations, or grants in accordance with the conditions prescribed by the donor; however, the governing body shall not accept a gift, donation, or grant if it is subject to any condition contrary to law or contrary to the terms of the charter school's charter contract.

(16) Moneys that a charter school receives from any source that remain in the charter school's accounts at the end of a budget year must remain in the charter school's accounts for use by the charter school during subsequent budget years and do not revert to the school district or to the state.

(17) (a) This section takes effect upon the proclamation by the governor of the vote cast in a statewide election held no later than November 2017 at which a majority of those voting approve a citizen-initiated increase in state tax revenues for the purpose of funding preschool through twelfth grade public education, so long as the amount of the approved revenue increase is equal to or greater than the total estimated state fiscal impact associated with the payment of the state share of total program pursuant to section 22-54.5-203, investment moneys pursuant to section 22-54.5-301, hold-harmless moneys pursuant to section 22-54.5-302, and per pupil supplemental payments pursuant to section 22-54.5-303, in the second budget year commencing after the increase is approved, as stated in the final fiscal note prepared for Senate Bill 13-213, enacted in 2013.

(b) The provisions of this section apply in the second budget year commencing after the statewide election at which the voters approve the increase in state tax revenues for the purpose of funding public education and in budget years thereafter.

Editor's note: This section is effective upon proclamation by the governor. (See the editor's note following this section.)

Source: L. 2013: Entire section added, (SB 13-213), ch. 248, p. 1272, § 2, effective (see editor's note).

Editor's note: Section 15 of chapter 248, Session Laws of Colorado 2013, provides that the act adding this section takes effect upon the proclamation by the governor of the vote cast in a statewide election held no later than November 2017 at which a citizen-initiated increase in state tax revenues for the purpose of funding preschool through twelfth grade public education is approved. For more information, see page 1297 of Session Laws of Colorado 2013.

22-30.5-111.7. Financial reporting - request for accounting

(1) (a) A charter school shall comply with all of the state financial and budget rules, regulations, and financial reporting requirements with which the authorizing school district is required to comply, including but not limited to annual completion of an independent governmental audit that complies with the requirements of the department.

(b) A school district, under the circumstances specified in the contract between the school district

and the charter school pursuant to section 22-30.5-105 (2) (c) (IV), may withhold a portion of a charter school's monthly payment due pursuant to section 22-30.5-111.5 until the charter school complies with the financial reporting requirements.

(2) (a) Within ninety days after the end of each budget year, each school district shall provide to each charter school of the school district an itemized accounting of all of the charter school's central administrative overhead costs for the applicable budget year. The actual central administrative overhead costs must be the amount charged to the charter school. The school district and the charter school shall reconcile any difference, within the limitations specified in section 22-30.5-111.5 (4) (b), (5) (b), or (6), between the amount the school district initially charged to the charter school and the actual cost, and the owed party shall receive appropriate reimbursement.

(b) Within ninety days after the end of each budget year, each school district shall provide to each charter school of the school district an itemized accounting of all the actual costs of district services the charter school chose to purchase from the school district for the applicable budget year, calculated in accordance with section 22-30.5-111.5 (9). The school district and the charter school shall reconcile any difference between the amount initially charged to the charter school and the actual cost of the services, and the owed party shall receive appropriate reimbursement.

(c) Within ninety days after the end of each budget year, each school district shall provide to each charter school of the school district an itemized accounting of all the actual special education costs that the school district incurred for the applicable budget year and the basis of any per-pupil charges for special education that the school district imposed against the charter school for the applicable budget year.

(d) If either party disputes the itemized accounting provided pursuant to paragraph (a), (b), or (c) of this subsection (2), or the charges included in an accounting or the charges to either party, the disputing party may request a third-party review at the disputing party's expense. The department shall conduct the review, and the department's determination is final.

(3) (a) If a charter school determines that the authorizing school district has not forwarded to the charter school the amount due to the charter school in accordance with the terms of the charter contract and the provisions of section 22-30.5-111.5, the charter school may request a determination from the state board regarding whether the authorizing school district improperly withheld any portion of the amount due to the charter school. A charter school that requests a determination pursuant to this subsection (3) must submit the request within the next budget year following the budget year in which the authorizing school district may have improperly withheld funding; except that, if the charter contract requires the charter school to complete any requirements before seeking a determination from the department pursuant to this subsection (3), the charter school must submit the request no later than the end of the next budget year following the budget year in which the charter school completes the requirements.

(b) If the state board receives a request for a determination of whether the authorizing school district has improperly withheld any portion of the amount due to a charter school, the state board must direct the department to review the terms of the charter contract and the financial information of the charter school, and the authorizing school district and report to the state board its findings regarding whether the authorizing school district improperly withheld any portion of the amount due to the charter school. The department shall request from the authorizing school district and the charter school all information necessary to make the findings, including but not limited to audited financial data. The authorizing school district and the charter school must provide the requested information as soon as possible following the request, but in no event later than thirty days after the annual financial audit is completed. The department must forward its report to the state board within sixty days after receiving all of the requested information from the authorizing school district and the

charter school.

(c) At the next state board meeting after receiving the department's report pursuant to paragraph (b) of this subsection (3), the state board shall issue its decision regarding whether the authorizing school district improperly withheld any portion of the amount due to the charter school. If the state board finds that the authorizing school district improperly withheld any portion of the amount due to the charter school, the authorizing school district shall pay to the charter school, within thirty days after the state board issues the decision, the amount improperly withheld. In addition, the authorizing school district shall pay the department's costs incurred in reviewing the necessary information to make its report. If the state board finds that the authorizing school district did not improperly withhold any portion of the amount due to the charter school, the charter school shall pay the department's costs incurred in reviewing the necessary information to make its report.

(d) If the authorizing school district fails within the thirty-day period to pay the full amount that was improperly withheld, the charter school may notify the department, and the department shall withhold from the authorizing school district's state share of total program the unpaid portion of the amount improperly withheld by the authorizing school district from the charter school and pay the withheld amount directly to the charter school.

(4) (a) If a charter school determines that a school district has not paid the tuition charge for the excess costs incurred in educating a child with a disability as required in section 22-20-109 (5), the charter school may seek a determination from the state board in accordance with the provisions of subsection (3) of this section.

(b) If the state board finds that the school district has improperly withheld moneys due to the charter school, the school district, within thirty days after the state board issues the decision, shall pay to the charter school the amount improperly withheld. In addition, the school district shall pay the department's costs incurred in reviewing the necessary information to make its report. If the school district fails, within the thirty-day period, to pay the full amount that was improperly withheld, the charter school may notify the department, and the department shall withhold from the school district's state share of total program the unpaid portion of the amount improperly withheld by the district and pay the amount withheld directly to the charter school.

(c) If the state board finds that the school district did not improperly withhold any portion of the amount due to the charter school, the charter school shall pay the department's costs incurred in reviewing the necessary information to make its report.

(5) (a) This section takes effect upon the proclamation by the governor of the vote cast in a statewide election held no later than November 2017 at which a majority of those voting approve a citizen-initiated increase in state tax revenues for the purpose of funding preschool through twelfth grade public education, so long as the amount of the approved revenue increase is equal to or greater than the total estimated state fiscal impact associated with the payment of the state share of total program pursuant to section 22-54.5-203, investment moneys pursuant to section 22-54.5-301, hold-harmless moneys pursuant to section 22-54.5-302, and per pupil supplemental payments pursuant to section 22-54.5-303, in the second budget year commencing after the increase is approved, as stated in the final fiscal note prepared for Senate Bill 13-213, enacted in 2013.

(b) The provisions of this section apply in the second budget year commencing after the statewide election at which the voters approve the increase in state tax revenues for the purpose of funding public education and in budget years thereafter.

Editor's note: This section is effective upon proclamation by the governor. (See the editor's note following this section.)

Source: L. 2013: Entire section added, (SB 13-213), ch. 248, p. 1272, § 2, effective (see editor's note).

Editor's note: Section 15 of chapter 248, Session Laws of Colorado 2013, provides that the act adding this section takes effect upon the proclamation by the governor of the vote cast in a statewide election held no later than November 2017 at which a citizen-initiated increase in state tax revenues for the purpose of funding preschool through twelfth grade public education is approved. For more information, see page 1297 of Session Laws of Colorado 2013.

22-30.5-112. Charter schools - financing - definitions - guidelines.

(1) (a) For purposes of the "Public School Finance Act of 1994", article 54 of this title, pupils enrolled in a charter school shall be included in the pupil enrollment, the on-line pupil enrollment, or the preschool program enrollment, whichever is applicable, of the school district that granted its charter. The school district that granted its charter shall report to the department the number of pupils included in the school district's pupil enrollment, the school district's on-line pupil enrollment, and the school district's preschool program enrollment that are actually enrolled in each charter school.

(b) The school district shall also identify each charter school that is a qualified charter school as defined in section 22-54-124 (1) (f.6), identify each qualified charter school that will be operating in a school district facility and that does not have ongoing financial obligations incurred to repay the outstanding costs of new construction undertaken for the charter school's benefit, and provide an estimate of the number of pupils expected to be enrolled in each qualified charter school during the budget year following the budget year in which the district makes a report.

(2) (a) (I) As part of the charter school contract, the charter school and the school district shall agree on funding and any services to be provided by the school district to the charter school.

(II) For the 1999-2000 budget year, the charter school and the school district shall begin discussions on the contract using eighty percent of the district per pupil revenues.

(III) (A) For budget year 2000-01 and budget years thereafter, except as otherwise provided in paragraph (a.3) of this subsection (2), each charter school and the chartering school district shall negotiate funding under the contract. The charter school shall receive one hundred percent of the district per pupil revenues for each pupil enrolled in the charter school who is not an on-line pupil and one hundred percent of the district per pupil on-line funding for each on-line pupil enrolled in the charter school; except that the chartering school district may choose to retain the actual amount of the charter school's per pupil share of the central administrative overhead costs for services actually provided to the charter school, up to five percent of the district per pupil revenues for each pupil who is not an on-line pupil enrolled in the charter school and up to five percent of the district per pupil on-line funding for each on-line pupil enrolled in the charter school.

(B) For budget years 2001-02 through 2010-11, the minimum amount of funding specified in subparagraph (A) of this subparagraph (III) shall reflect the one-percent increase in the statewide base per pupil funding for state fiscal years 2001-02 through 2010-11 received by the school district as required by section 17 of article IX of the state constitution.

(a.3) If the authorizing school district enrolls five hundred or fewer students, the charter school shall receive funding in the amount of the greater of one hundred percent of the district per pupil on-line funding for each on-line pupil enrolled in the charter school plus one hundred percent of the district per pupil revenues for each pupil who is not an on-line pupil enrolled in the charter school, minus the actual amount of the charter school's per pupil share of the central administrative overhead costs incurred by the school district, based on audited figures, or eighty-five percent of the district per pupil

revenues for each pupil enrolled in the charter school who is not an on-line pupil plus eighty-five percent of the district per pupil on-line funding for each on-line pupil enrolled in the charter school.

(a.4) (I) Within ninety days after the end of each fiscal year, each school district shall provide to each charter school within its district an itemized accounting of all its central administrative overhead costs. The actual central administrative overhead costs shall be the amount charged to the charter school. Any difference, within the limitations of subparagraph (III) of paragraph (a) of this subsection (2) and paragraph (a.3) of this subsection (2), between the amount initially charged to the charter school and the actual cost shall be reconciled and paid to the owed party.

(II) Within ninety days after the end of each fiscal year, each school district shall provide to each charter school within its district an itemized accounting of all the actual costs of district services the charter school chose at its discretion to purchase from the district calculated in accordance with paragraph (b) of this subsection (2). Any difference between the amount initially charged to the charter school and the actual cost shall be reconciled and paid to the owed party.

(III) If either party disputes an itemized accounting provided pursuant to subparagraphs (I) and (II) of this paragraph (a.4), any charges included in an accounting, or charges to either party, that party is entitled to request a third-party review at the requesting party's expense. The review shall be conducted by the department, and the department's determination shall be final.

(a.5) As used in this subsection (2):

(I) "Central administrative overhead costs" means indirect costs incurred in providing:

(A) Services listed under the heading of support services - general administration in the school district chart of accounts as specified by rule of the state board; and

(B) Salaries and benefits for administrative job classifications listed under the headings of support services - business and support services - central in the school district chart of accounts as specified by rule of the state board.

(II) "District per pupil revenues" means the district's total program as defined in section 22-54-103 (6) for any budget year divided by the district's funded pupil count as defined in section 22-54-103 (7) for said budget year.

(II.5) "District per pupil on-line funding" means a school district's on-line funding, as specified in section 22-54-104 (4.5), divided by the district's on-line pupil enrollment for any budget year.

(III) (Deleted by amendment, L. 2010, (HB 10-1013), ch. 399, p. 1913, § 38, effective June 10, 2010.)

(a.7) For the 2000-01 budget year through the 2008-09 budget year, each charter school shall annually allocate the minimum per pupil dollar amount specified in section 22-54-105 (2) (b), multiplied by the number of students enrolled in the charter school who are not students enrolled in an on-line program or an on-line school, as defined in sections 22-30.7-102 (9) and 22-30.7-102 (9.5), to a fund created by the charter school for capital reserve purposes, as set forth in section 22-45-103 (1) (c) and (1) (e), or solely for the management of risk-related activities, as identified in section 24-10-115, C.R.S., and article 13 of title 29, C.R.S., or among such allowable funds. Said moneys shall be used for the purposes set forth in section 22-45-103 (1) (c) and (1) (e) and may not be expended by the charter school for any other purpose. Any moneys remaining in the fund that have not been expended prior to the 2009-10 budget year shall be budgeted for the purposes set forth in section 22-45-103 (1) (c) and (1) (e) in the 2009-10 budget year or any budget year

thereafter.

(a.8) (I) For the 2000-01 budget year and budget years thereafter, the school district shall provide federally required educational services to students enrolled in charter schools on the same basis as such services are provided to students enrolled in other public schools of the school district. Each charter school shall pay an amount equal to the per pupil cost incurred by the school district in providing federally required educational services, multiplied by the number of students enrolled in the charter school. At either party's request, however, the charter school and the school district may negotiate and include in the charter contract alternate arrangements for the provision of and payment for federally required educational services.

(II) Notwithstanding any provision of subparagraph (I) of this paragraph (a.8) to the contrary, the school district shall calculate the per pupil cost of providing federally required educational services after subtracting the amount received in federal and state moneys for providing said services.

(a.9) For budget year 2002-03 and budget years thereafter, and in accordance with section 22-30.5-406, the funding provided by a chartering school district to a charter school pursuant to this subsection (2) shall be reduced by the amount of any direct payments of principal and interest due on bonds issued on behalf of a charter school by a governmental entity other than a school district for the purpose of financing charter school capital construction that were made by the state treasurer or the chartering school district on behalf of the charter school.

(b) The charter school, at its discretion, may contract with the school district for the direct purchase of district services in addition to those included in central administrative overhead costs, including but not limited to food services, custodial services, maintenance, curriculum, media services, and libraries. The amount to be paid by a charter school in purchasing any district service pursuant to this paragraph (b) shall be determined by dividing the cost of providing the service for the entire school district, as specified in the school district's budget, by the number of students enrolled in the school district and multiplying said amount by the number of students enrolled in the charter school.

(b.5) (I) The charter school and the school district shall negotiate prior to the beginning of each fiscal year for the payment to the school district of any direct costs incurred by the school district. If the charter school and the school district do not reach agreement regarding the payment of direct costs, the school district shall be barred from withholding from the charter school any moneys as reimbursement for direct costs. The school district shall provide an itemized accounting to each charter school for the direct costs incurred by the school district with the itemized accounting provided pursuant to paragraph (a.4) of this subsection (2).

(II) For purposes of this paragraph (b.5), "direct costs" means the direct costs incurred by a school district solely for the purpose of reviewing charter applications, negotiating the charter contract, and providing direct oversight to charter schools. "Direct costs" shall not include the school district's legal or other costs attributable to litigation or the resolution of a dispute with a charter school.

(c) (I) (Deleted by amendment, L. 2010, (HB 10-1013), ch. 399, p. 1913, § 38, effective June 10, 2010.)

(II) For budget year 2000-01 and budget years thereafter, the amount of funding received by a charter school pursuant to this subsection (2) shall not be less than one hundred percent of the chartering school district's district per pupil revenues, minus up to five percent as provided in subparagraph (III) of paragraph (a) of this subsection (2), multiplied by the number of pupils enrolled in the charter school or as otherwise provided in paragraph (a.3) of this subsection (2) for any charter school chartered by a school district that enrolls five hundred or fewer students.

(III) If a charter school operates a full-day kindergarten program, for purposes of calculating the charter school's funding pursuant to this subsection (2), the number of pupils enrolled in the charter school shall include the supplemental kindergarten enrollment as defined in section 22-54-103 (15).

(d) (Deleted by amendment, L. 2004, p. 1583, § 10, effective June 3, 2004.)

(e) Fees collected from students enrolled at a charter school shall be retained by such charter school.

(3) (a) (I) For the 1999-2000 budget year, notwithstanding subsection (2) of this section, the proportionate share of state and federal resources generated by students with disabilities or staff serving them shall be directed to charter schools enrolling such students by their school districts or administrative units. The proportionate share of moneys generated under other federal or state categorical aid programs shall be directed to charter schools serving students eligible for such aid.

(II) For budget year 2000-01 and budget years thereafter, if the charter school and the school district have negotiated to allow the charter school to provide federally required educational services pursuant to paragraph (a.8) of subsection (2) of this section, the proportionate share of state and federal resources generated by students receiving such federally required educational services or staff serving them shall be directed by the school district or administrative unit to the charter school enrolling such students.

(III) For budget year 2000-01 and budget years thereafter, the proportionate share of moneys generated under federal or state categorical aid programs, other than federally required educational services, shall be directed to charter schools serving students eligible for such aid; except that a school district that receives small attendance center aid pursuant to section 22-54-122 for a small attendance center that is a charter school shall forward the entire amount of such aid to the charter school for which it was received.

(a.5) Each charter school that serves students who may be eligible to receive services provided through federal aid programs shall comply with all federal reporting requirements to receive the federal aid.

(b) If a student with a disability attends a charter school, the school district of residence shall be responsible for paying any tuition charge for the excess costs incurred in educating the child in accordance with the provisions of section 22-20-109 (5).

(4) The governing body of a charter school is authorized to accept gifts, donations, or grants of any kind made to the charter school and to expend or use said gifts, donations, or grants in accordance with the conditions prescribed by the donor; however, no gift, donation, or grant shall be accepted by the governing body if subject to any condition contrary to law or contrary to the terms of the contract between the charter school and the local board of education.

(4.5) Except as provided in section 22-30.5-112.3 (2) (b), any moneys received by a charter school from any source and remaining in the charter school's accounts at the end of any budget year shall remain in the charter school's accounts for use by the charter school during subsequent budget years and shall not revert to the school district or to the state.

(5) Repealed. / (Deleted by amendment, L. 2004, p. 1583, § 10, effective June 3, 2004.)

(6) (Deleted by amendment, L. 2004, p. 1583, § 10, effective June 3, 2004.)

(7) A charter school shall comply with all of the state financial and budget rules, regulations, and

financial reporting requirements with which the chartering school district is required to comply, including but not limited to annual completion of a governmental audit that complies with the requirements of the department.

(8) (a) Notwithstanding any provision of this section to the contrary, a chartering school district, under the circumstances specified in the contract between the school district and the charter school pursuant to section 22-30.5-105 (2) (c) (IV), may withhold a portion of a charter school's monthly payment due pursuant to this section.

(b) The chartering school district may withhold a portion of the payment due to the charter school only until such time as the charter school complies with the financial reporting requirements.

(9) (a) If a charter school determines that its chartering school district has not forwarded to the charter school the amount due to the charter school in accordance with the terms of the charter contract and the provisions of this section, the charter school may seek a determination from the state board regarding whether the chartering school district improperly withheld any portion of the amount due to the charter school. A charter school that chooses to request a determination pursuant to this subsection (9) of issues arising on or after July 1, 2004, shall submit the request within the next fiscal year following the fiscal year in which the chartering school district may have improperly withheld funding; except that, if the charter contract requires the charter school to complete any requirements prior to seeking a determination from the department pursuant to this subsection (9), the charter school shall submit the request no later than the end of the next fiscal year following the fiscal year in which the charter school completes said requirements.

(b) Upon receipt from a charter school of a request for a determination of whether the chartering school district has improperly withheld any portion of the amount due to the charter school, the state board shall direct the department to review the terms of the charter contract and the financial information of the charter school and the chartering school district and make a recommendation to the state board regarding whether the chartering school district improperly withheld any portion of the amount due to the charter school. The department shall request from the chartering school district and the charter school all information necessary to make the recommendation, including but not limited to audited financial data. The chartering school district and the charter school shall provide the requested information as soon as possible following the request, but in no event later than thirty days after completion of the annual financial audit. The department shall forward its recommendation to the state board within sixty days after receiving all of the requested information from the chartering school district and the charter school.

(c) At the next state board meeting following receipt of the recommendation of the department pursuant to paragraph (b) of this subsection (9), the state board shall issue its decision regarding whether the chartering school district improperly withheld any portion of the amount due to the charter school. If the state board finds that the chartering school district improperly withheld any portion of the amount due to the charter school, the chartering school district shall pay to the charter school, within thirty days after issuance of the decision, the amount improperly withheld. In addition, the chartering school district shall pay the costs incurred by the department in reviewing the necessary information to make its recommendation. If the state board finds that the chartering school district did not improperly withhold any portion of the amount due to the charter school, the charter school shall pay the costs incurred by the department in reviewing the necessary information to make its recommendation.

(d) If the chartering school district fails within the thirty-day period to pay the full amount that was improperly withheld, the charter school may notify the department, and the department shall withhold from the chartering school district's state equalization payment the unpaid portion of the amount improperly withheld by the chartering school district from the charter school and pay the unpaid

portion directly to the charter school.

(10) (a) If a charter school determines that a school district has not paid the tuition charge for the excess costs incurred in educating a child with a disability as required in section 22-20-109 (5), the charter school may seek a determination from the state board in accordance with the provisions of subsection (9) of this section.

(b) If the state board determines that the school district has improperly withheld moneys due to the charter school, the school district, within thirty days after the state board's determination, shall pay to the charter school the amount improperly withheld. In addition, the school district shall pay the costs incurred by the department in reviewing the necessary information to make its recommendation. If the school district fails, within the thirty-day period, to pay the full amount that was improperly withheld, the charter school shall notify the department, and the department shall withhold from the school district's state equalization payment the unpaid portion of the amount improperly withheld by the district and pay the unpaid portion directly to the charter school.

(c) If the state board finds that the school district did not improperly withhold any portion of the amount due to the charter school, the charter school shall pay the costs incurred by the department in reviewing the necessary information to make its recommendation.

Source: **L. 93:** Entire article added, p. 1059, § 1, effective June 3. **L. 94:** (2)(a) amended, p. 812, § 25, effective April 27; (1) and (3) amended, p. 1379, § 4, effective May 25. **L. 96:** (5) amended, p. 1240, § 97, effective August 7. **L. 97:** (1) amended, p. 587, § 18, effective April 30. **L. 99:** (2)(a), (2)(b), (2)(c), and (3)(a) amended and (2)(a.3), (2)(a.5), (2)(a.7), (2)(a.8), and (2)(b.5) added, p. 172, § 1, effective March 30; (3)(a) R&RE and (4.5) added, p. 1257, § § 8, 7, effective June 2. **L. 2001:** (1) and (2)(a)(III) amended and (2)(a.4) added, pp. 349, 339, 358, § § 11, 2, 25, effective April 16; (2)(a)(III) amended, p. 337, § 2, effective April 16. **L. 2002:** (1), (2)(a)(III)(A), (2)(a.3), (2)(a.7), and (3)(a)(III) amended and (2)(a.5)(II.5), (2)(a.9), and (3)(a.5) added, pp. 1750, 1751, 1766, § § 25, 26, 34, effective June 7. **L. 2003:** (4.5) amended, p. 517, § 7, effective March 5; (1), (2)(a)(III)(A), (2)(a.3), (2)(a.5)(I), and (2)(a.5)(II.5) amended, p. 2127, § 19, effective May 22. **L. 2004:** (2)(a)(III)(A), (2)(a.4)(III), (2)(c)(II), (2)(d), (5), and (6) amended, (5) repealed, and (7), (8), (9), and (10) added, pp. 1583, 1591, § § 10, 25, effective June 3; (2)(a)(III)(A), (2)(b.5), and (5) amended, p.1632, § 34, effective July 1. **L. 2006:** (2)(a.8) amended, p. 577, § 6, effective April 24; (1)(a) amended, p. 696, § 39, effective April 28; (1)(b) amended, p. 606, § 20, effective August 7. **L. 2007:** (2)(a.5)(II.5) and (2)(a.7) amended, p. 1090, § § 17, 19, effective July 1. **L. 2008:** (2)(a)(III)(A) amended, p. 1899, § 74, effective August 5. **L. 2009:** (2)(a.7) amended, (SB 09-256), ch. 294, p. 1554, § 11, effective May 21; (1)(a) amended, (SB 09-292), ch. 369, p. 1962, § 57, effective August 5. **L. 2010:** (2)(a)(II), (2)(a.5)(III), and (2)(c)(I) amended, (HB 10-1013), ch. 399, p. 1913, § 38, effective June 10. **L. 2012:** (2)(a.7) amended and (2)(c)(III) added, (HB 12-1240), ch. 258, pp. 1316, 1311, § § 27, 10, effective June 4.

Editor's note: (1) Amendments to subsection (2)(a)(III) by Senate Bill 01-129 and House Bill 01-1232 were harmonized. Amendments to subsection (2)(a)(III)(A) by House Bill 04-1141 and House Bill 04-1362 were harmonized.

(2) Subsection (5) was amended in House Bill 04-1362, effective July 1, 2004. However, those amendments will not take effect due to the repeal of subsection (5) by House Bill 04-1141, effective June 3, 2004.

Cross references: For the legislative declaration contained in the 1996 act amending subsection (5), see section 1 of chapter 237, Session Laws of Colorado 1996. For the legislative declaration contained in the 1999 act amending subsection (3)(a) and enacting subsection (4.5), see section 1 of chapter 302, Session Laws of Colorado 1999.

ANNOTATION

The waiver of a transfer policy or funding a transferred student's education in another school in the district are not permitted or contemplated services within the meaning of subsection (2)(b) of this section or § 22-30.5-104 (7)(b). *Ridgeview Classical Sch. v. Poudre Sch. Dist. R-1*, 214 P.3d 476 (Colo. App. 2008).

Applied in *Acad. of Charter Schs. v. Adams Cty. Sch. Dist. No. 12*, 994 P.2d 442 (Colo. App. 1999), *aff'd in part and rev'd in part on other grounds*, 32 P.3d 456 (Colo. 2001).

22-30.5-112.1. Charter schools - definitions - exclusive jurisdiction districts - authorized on or after July 1, 2004 - financing.

(1) As used in this section, unless the context otherwise requires:

(a) "Adjusted district per pupil revenues" means the qualifying school district's per pupil funding plus the qualifying school district's at-risk per pupil funding.

(b) "At-risk funding" means the amount of funding determined in accordance with the formulas described in section 22-54-104 (4).

(c) "At-risk per pupil funding" means the amount of funding determined in accordance with the following formula:

(The qualifying school district's at-risk funding divided by the qualifying school district's funded pupil count) x (the district charter school's percentage of at-risk pupils divided by the qualifying school district's percentage of at-risk pupils)

(d) "At-risk pupils" shall have the same meaning as provided in section 22-54-103 (1.5).

(e) "Central administrative overhead costs" shall have the same meaning as provided in section 22-30.5-112 (2) (a.5) (I).

(f) "District charter school" means a charter school for which the charter application is approved on or after July 1, 2004, by a qualifying school district.

(g) "District funded pupil count" shall have the same meaning as provided in section 22-54-103 (7).

(h) "District per pupil funding" means a qualifying school district's per pupil funding as determined in accordance with the formula described in section 22-54-104 (3).

(i) "District per pupil on-line funding" means a school district's on-line funding, as specified in section 22-54-104 (4.5), divided by the district's on-line pupil enrollment for any budget year.

(j) "District per pupil revenues" means the qualifying school district's total program, as defined in section 22-54-103 (6), for any budget year divided by the qualifying school district's funded pupil count for said budget year.

(k) "On-line pupil enrollment" means:

(I) Repealed.

(II) For the 2008-09 budget year, and for budget years thereafter, the number of pupils, on the pupil

enrollment count day within the applicable budget year, enrolled in, attending, and actively participating in a multi-district on-line school, as defined in section 22-30.7-102 (6), created pursuant to article 30.7 of this title, by the district charter school.

(l) "Pupil enrollment" shall have the same meaning as provided in section 22-54-103 (10).

(m) "Qualifying school district" means a school district:

(I) That has retained exclusive authority to authorize charter schools pursuant to the provisions of section 22-30.5-504; and

(II) In which more than forty percent of the pupil enrollment consists of at-risk pupils.

(2) Notwithstanding the provisions of section 22-30.5-112 (2) (a) to (2) (a.5), (2) (b), (2) (b.5), and (2) (c), the amount of funding to be received by a district charter school, the accounting of central administrative overhead costs between a district charter school and a qualifying school district, and the direct purchase of district services by a district charter school from a qualifying school district shall be determined pursuant to the provisions of this section.

(3) (a) For budget year 2004-05 and budget years thereafter, each district charter school and the qualifying school district that approved the charter shall negotiate funding under the charter contract. The district charter school shall receive one hundred percent of the adjusted district per pupil revenues for each pupil enrolled in the district charter school who is not an on-line pupil and one hundred percent of the district per pupil on-line funding for each on-line pupil enrolled in the district charter school; except that the qualifying school district may choose to retain the sum of the actual amount of the district charter school's per pupil share of the central administrative overhead costs for services actually provided to the district charter school, up to five percent of the adjusted district per pupil revenues for each pupil who is not an on-line pupil enrolled in the district charter school and up to five percent of the district per pupil on-line funding for each on-line pupil enrolled in the district charter school.

(b) Notwithstanding any provision of this subsection (3) to the contrary, if a qualifying school district enrolls five hundred or fewer students, the district charter school shall receive funding in the amount of the greater of one hundred percent of the district per pupil on-line funding for each on-line pupil enrolled in the district charter school plus one hundred percent of the district per pupil revenues for each pupil who is not an on-line pupil enrolled in the district charter school, minus the actual amount of the district charter school's per pupil share of the central administrative overhead costs incurred by the qualifying school district, based on audited figures, or eighty-five percent of the district per pupil revenues for each pupil enrolled in the district charter school who is not an on-line pupil plus eighty-five percent of the district per pupil on-line funding for each on-line pupil enrolled in the district charter school.

(c) If a charter school operates a full-day kindergarten program, for purposes of calculating the charter school's funding pursuant to this subsection (3), the number of pupils enrolled in the charter school shall include the supplemental kindergarten enrollment as defined in section 22-54-103 (15).

(4) Within ninety days after the end of each fiscal year, each qualifying school district shall provide to each district charter school authorized by the qualifying school district an itemized accounting of all its central administrative overhead costs. The actual central administrative overhead costs shall be the amount charged to the district charter school. Any difference, within the limitations specified in subsection (3) of this section, between the amount initially charged to the district charter school and the actual cost shall be reconciled and paid to the owed party.

(5) The district charter school, at its discretion, may contract with the qualifying school district for the direct purchase of district services in addition to those included in central administrative overhead costs, including but not limited to food services, custodial services, maintenance, curriculum, media services, and libraries. The amount to be paid by a district charter school in purchasing any district service pursuant to this subsection (5) shall be determined through an agreement between the district charter school and the qualifying school district using one of the following methods:

(a) By dividing the cost of providing the service for the entire qualifying school district, as specified in the qualifying school district's budget, by the number of students enrolled in the qualifying school district and multiplying said amount by the number of students enrolled in the district charter school;

(b) By determining the actual costs incurred by the qualifying school district in providing support services; or

(c) By negotiating a services agreement between the district charter school and the qualifying school district pursuant to which multiple services are provided for a fixed cost.

(6) Notwithstanding any other provision of this section to the contrary and for the purposes of this section only, a school district in which more than forty percent of the pupil enrollment consists of at-risk pupils at the time a charter school's application is first approved shall be deemed to have the same percentage of at-risk pupil enrollment for the term of the charter contract. For purposes of renewal of the charter contract, the percentage of at-risk pupils in the school district at the time the renewal application is submitted shall be the percentage used for purposes of determining whether the school district is a qualifying school district and subject to the provisions of this section.

Source: L. 2006: Entire section added, p. 574, § 5, effective April 24. L. 2007: (1)(i) and (1)(k) amended, pp. 1090, 1086, § § 18, 8, effective July 1. L. 2009: (1)(k)(I) repealed, (SB 09-292), ch. 369, p. 1962, § 58, effective August 5. L. 2012: (1)(k)(II) amended, (HB 12-1090), ch. 44, p. 150, § 7, effective March 22; (1)(k)(II) amended and (3)(c) added, (HB 12-1240), ch. 258, pp. 1317, 1311, § § 28, 11, effective June 4.

Editor's note: Amendments to subsection (1)(k)(II) by House Bill 12-1090 and House Bill 12-1240 were harmonized.

22-30.5-112.2. Charter schools - at-risk supplemental aid - definitions - legislative declaration

(1) As used in this section, unless the context otherwise requires:

(a) "Adjusted district per pupil revenues" has the same meaning as defined in section 22-30.5-112.1 (1) (a).

(b) "ASCENT program" means the accelerating students through concurrent enrollment program created in section 22-35-108.

(c) "At-risk pupils" has the same meaning as defined in section 22-54-103 (1.5).

(d) "District per pupil revenues" has the same meaning as defined in section 22-30.5-112 (2) (a.5) (II).

(e) "Qualifying school district" has the same meaning as defined in section 22-30.5-112.1.

(2) (a) For the 2012-13 budget year and each budget year thereafter, the general assembly shall appropriate to the department of education for allocation to school districts the amount calculated for at-risk supplemental aid for those school districts and district charter schools described in paragraph

(b) of this subsection (2). The at-risk supplemental aid is additional funding and does not supplant any other funding provided pursuant to this article.

(b) (I) Each qualifying school district shall receive at-risk supplemental aid if the percentage of at-risk pupils in a district charter school authorized by the qualifying school district prior to July 1, 2004, is less than the percentage of at-risk pupils in the qualifying school district. The amount of the school district's at-risk supplemental aid is equal to the difference between one hundred percent of district per pupil revenues and one hundred percent of adjusted district per pupil revenues for each pupil enrolled in the district charter school, not including on-line pupils or pupils enrolled in the ASCENT program.

(II) Each district charter school in a qualifying school district that was initially authorized prior to July 1, 2004, shall receive at-risk supplemental aid if the percentage of at-risk students in the district charter school exceeds the percentage of at-risk pupils in the qualifying school district. The amount of the district charter school's at-risk supplemental aid is equal to the difference between one hundred percent of adjusted district per pupil revenues and one hundred percent of district per pupil revenues for each pupil enrolled in the district charter school, not including on-line pupils or pupils enrolled in the ASCENT program. A school district shall pass through one hundred percent of a district charter school's at-risk supplemental aid to the district charter school.

(III) Each district charter school in a school district that is not a qualifying district and whose percentage of at-risk pupils exceeds the percentage of at-risk pupils in the chartering school district shall receive at-risk supplemental aid. The amount of the district charter school's at-risk supplemental aid is equal to the difference between one hundred percent of adjusted district per pupil revenues and one hundred percent of district per pupil revenues for each pupil enrolled in the district charter school, not including on-line pupils or pupils enrolled in the ASCENT program. A school district shall pass through one hundred percent of a district charter school's at-risk supplemental aid to the district charter school.

(3) If the appropriation to the department of education is insufficient to fund one hundred percent of the at-risk supplemental aid calculated pursuant to paragraph (b) of subsection (2) of this section, the department of education shall reduce each school district's and each district charter school's at-risk supplemental aid proportionately.

Source: L. 2012: Entire section added, (HB 12-1345), ch. 188, p. 721, § 8, effective May 19.

22-30.5-112.3. Charter schools - additional aid from district

(1) (a) and (a.5) Repealed.

(a.7) (I) For the 2003-04 budget year and each budget year thereafter, a qualified charter school, as defined in section 22-54-124 (1) (f.6), shall receive state education fund moneys from the school district that granted its charter in an amount equal to the percentage of the district's certified charter school pupil enrollment that is attributable to pupils expected to be enrolled in the qualified charter school multiplied by the total amount of state education fund moneys distributed to the district for the same budget year pursuant to section 22-54-124 (3).

(II) As used in this paragraph (a.7), "pupils" means pupils, other than pupils enrolled in an on-line program or on-line school, as defined in sections 22-30.7-102 (9) and 22-30.7-102 (9.5), who are enrolled in a charter school.

(b) Funding received pursuant to paragraph (a), (a.5), or (a.7) of this subsection (1) shall be in addition to any funding provided pursuant to section 22-30.5-112.

(c) A district shall provide funding to each qualified charter school, as defined in section 22-54-124 (1) (f.6), by making a monthly payment to the qualified charter school as soon as possible after the district receives a monthly payment of state education fund moneys pursuant to section 22-54-124 (4).

(2) (a) A charter school shall use moneys it receives pursuant to subsection (1) of this section solely for capital construction, as defined in section 22-54-124 (1) (a).

(b) Notwithstanding the provisions of section 22-30.5-112 (4.5), any moneys received by a charter school pursuant to subsection (1) of this section for the 2001-02 budget year that are not expended by January 31, 2003, shall be transferred back to the state education fund created in section 17 (4) of article IX of the state constitution.

Source: L. 2001: Entire section added, p. 348, § 10, effective April 16. **L. 2002:** (1)(a) and (1)(c) amended, p. 1751, § 27, effective June 7. **L. 2003:** (1)(a)(I), (1)(c), and (2) amended and (1)(a.5) added, p. 517, § 8, effective March 5; (1)(a)(I), (1)(b), and (1)(c) amended and (1)(a.7) added, pp. 2133, 2134, § § 29, 30, effective May 22. **L. 2006:** (1)(a) and (1)(a.5) repealed and (1)(c) amended, p. 606, § § 21, 22, effective August 7. **L. 2007:** (1)(a.7)(II) amended, p. 1090, § 20, effective July 1. **L. 2010:** (1)(c) amended, (HB 10-1013), ch. 399, p. 1896, § 1, effective June 10. **L. 2012:** (1)(a.7)(II) amended, (HB 12-1240), ch. 258, p. 1317, § 29, effective June 4.

22-30.5-112.5. Charter schools - transportation plans.

If a charter school's charter or contract includes provision of transportation services by the school district, the charter school and the school district shall collaborate in developing a transportation plan to use school district equipment to transport students enrolled in the charter school to and from the charter school and their homes and to and from the charter school and any extracurricular activities. The transportation plan may include, but need not be limited to, development of bus routes and plans for sharing the use of school district equipment for the benefit of students enrolled in charter schools of the school district and students enrolled in other schools of the school district.

Source: L. 2001: Entire section added, p. 368, § 37, effective April 16.

22-30.5-113. State board - department of education - duties - charter schools - evaluation - report.

(1) Beginning in the 2004-05 budget year, and at least every three years thereafter, the department shall prepare a report and evaluation for the governor and the house and senate committees on education on the success or failure of charter schools and of institute charter schools authorized pursuant to part 5 of this article, their relationship to other school reform efforts, and suggested changes in state law necessary to strengthen or change the charter school program described in this article.

(2) The state board shall compile evaluations of charter schools received from local boards of education and evaluations of institute charter schools prepared by the state charter school institute created in section 22-30.5-503. The state board shall review information regarding the statutes, regulations, and policies from which charter schools were released pursuant to section 22-30.5-105 and from which institute charter schools were released pursuant to section 22-30.5-508 to determine if the releases assisted or impeded the charter schools or the institute charter schools in meeting their stated goals and objectives.

(3) In preparing the report required by this section, the state board shall compare the performance of charter school pupils and institute charter school pupils with the performance of ethnically and economically comparable groups of pupils in other public schools who are enrolled in academically comparable courses.

Source: L. 93: Entire article added, p. 1061, § 1, effective June 3. L. 98: (2) repealed, p. 1076, § 6, effective June 1. L. 2004: Entire section R&RE, p. 1591, § 26, effective June 3; (1) and (3) amended, p. 1633, § 35, effective July 1.

22-30.5-114. Repeal of part. (Repealed)

Source: L. 93: Entire article added, p. 1061, § 1, effective June 3. L. 96: Entire section amended, p. 668, § 7, effective May 2. L. 98: Entire section repealed, p. 164, § 1, effective April 6.

22-30.5-115. Construction of article - severability.

If any provision of this article or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this article that can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

Source: L. 96: Entire section added, p. 755, § 9, effective May 22.

22-30.5-116. Charter schools - school bullying policies required

(1) On or before October 1, 2011, each charter school shall adopt and implement a policy concerning bullying prevention and education. Each charter school's policy, at a minimum, shall set forth appropriate disciplinary consequences for students who bully other students and for any person who takes any retaliatory action against a student who reports in good faith an incident of bullying, which consequences shall comply with all applicable state and federal laws.

(2) For the purposes of this section, "bullying" shall have the same meaning as set forth in section 22-32-109.1 (1) (b).

(3) Each charter school is encouraged to ensure that its policy, at a minimum, incorporates the biennial administration of surveys of students' impressions of the severity of bullying in their schools, as described in section 22-93-104 (1) (c); includes character building; and includes the designation of a team of persons at each school of the school district who advise the school administration concerning the severity and frequency of bullying incidents that occur in the school, which team may include, but need not be limited to, law enforcement officials, social workers, prosecutors, health professionals, mental health professionals, counselors, teachers, administrators, parents, and students.

Source: L. 2011: Entire section added, (HB 11-1254), ch. 173, p. 653, § 3, effective May 13. L. 2012: (2) amended, (HB 12-1345), ch. 188, p. 747, § 35, effective May 19.

Cross references: (1) For the legislative declaration in the 2012 act amending subsection (2), see section 21 of chapter 188, Session Laws of Colorado 2012.

(2) For the legislative declaration stating the purpose of and the provision directing legislative staff agencies to conduct a post-enactment review pursuant to § 2-2-1201 scheduled in 2016, see sections 21 and 46 of chapter 188, (HB 12-1345), Session Laws of Colorado 2012. To obtain a copy of the review, once completed, view Colorado Legislative Council's web site.

22-30.5-117. Basic skills placement or assessment tests - intervention plans

(1) Each charter school that includes any of grades nine through twelve may administer to students enrolled in those grades the basic skills placement or assessment tests that are administered to matriculated first-time freshman students pursuant to section 23-1-113, C.R.S. The charter school

may administer the tests to a student at any time and as often as it deems necessary while the student is enrolled in any of grades nine through twelve, but the department of education shall allocate moneys to each charter school to offset the costs incurred in administering each of the test units only once per student while he or she is enrolled in those grades.

(2) If a charter school chooses to administer the basic skills placement or assessment tests, each student's individual career and academic plan shall include the scores achieved by the student on the basic skills placement or assessment tests and, based on an analysis of the scores, the student's level of postsecondary and workforce readiness at the time he or she takes the tests. If a student's scores indicate that he or she is at risk of being unable to demonstrate postsecondary and workforce readiness prior to or upon graduating from high school, school personnel shall work with the student and the student's parent or legal guardian to create an intervention plan that identifies the necessary courses and education support services the student requires to be able to achieve postsecondary and workforce readiness prior to or upon graduating from high school and to be prepared to continue into the postsecondary education option, if any, selected by the student in his or her individual career and academic plan without need for remedial educational services. If appropriate, the charter school, the student, and the student's parent or legal guardian may choose to enroll the student in one or more basic skills courses at an institution of higher education through the "Concurrent Enrollment Programs Act", article 35 of this title, if the student is enrolled in twelfth grade.

Source: L. 2012: Entire section added, (HB 12-1345), ch. 188, p. 726, § 14, effective May 19.

Cross references: For the legislative declaration in the 2012 act adding this section, see section 11 of chapter 188, Session Laws of Colorado 2012.