



Issues with Charter School Law (1993 -2021)

We have lost much of the intent of the bill that created Colorado's charter school program. Over the years, important language from the 1993 statute has been deleted, amended, or remains unclear. HB21-1295 restores some of the original intent.

Original language that has been removed:

- Demonstration of the need for a charter school in the district.
- The requirement that establishing the proposed charter school be economically sound for both the charter school and the school district.
- A special emphasis on at-risk pupils who are academically low achievers.
- The use of diverse approaches to learning and innovative teaching methods that would be shared with traditional public schools.
- The ability for local school boards to limit the number of charters in their district.
- Clarity in the law as to how the approval of a charter by a local school board could be appealed by those objecting to the decision.

Original language that has been amended:

- The original language stated that 80% of PPR was sufficient funding for a charter school. It is now required to be 100%, minus specific administrative costs.

Original language that remains in statute but is unclear:

- That decisions to approve or deny a charter application be based on the best interest of the pupils, school district, or community.
 - There is no definition of "best interest of the pupils, school district, or community," yet the law states that the State Board of Education shall remand a charter denial appeal back for reconsideration by the local board if it finds that a local board's decision was contrary to the best interests of the pupils, school district, or community.
 - What are the criteria for determining what "best interest" means?
 - Which pupils? The ones who will be enrolled in the new charter, or those who will be left behind in their traditional schools with less funding? A local board's decision to deny a charter application may be contrary to the best interest of pupils who plan to attend the new charter yet totally in the best interest of the remaining pupils in traditional district schools as well as the school district and community.
 - This "best interest" standard is impossible to accomplish for all three entities simultaneously; for example, the best interest of the school district might conflict with that of the community.

[The text in **RED** is language that was in the original charter school bill (SB93-183) but has since been deleted.]

22-30.5-106 – Charter application - content

(1) **(d)** – A statement of the need for a charter school in a school district or in a geographic area within a school district.

(g) Evidence that the plan for the proposed charter school is economically sound for both the charter and the school district, 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 and administrative operations of the charter school, including services provided by the school district and a plan for the displacement of pupils, teachers, and other employees who will not attend or be employed in the charter, 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.

(i) An explanation of the relationship that will exist between the proposed charter school and its employees including evidence that the terms and conditions of employment have been addressed in the proposed charter school's employment policies or a plan for the timely development of employment policies.

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

(4) *[Note: This pertains to when a local board's decision to grant a charter is appealed by someone challenging the board's decision to create the charter school.]*

The state board shall review the local board decision to grant a charter to determine whether such decision was arbitrary and capricious or whether the establishment or operation of the proposed charter school would (A) violate any federal or state laws concerning civil rights, (B) violate any court order, (C) threaten the health and safety of pupils in the school district, (D) violate the provisions prescribing the permissible number of charter schools, or (E) be inconsistent with the equitable distribution of charter schools among school districts.

(II) – if such a determination is made, the state board shall remand such decisions to the local board with instructions to deny the charter application. The decision of the state board shall be final and not subject to appeal.

22-30.5-109. Charter schools - reporting - publicizing - limits on enrollment - moratorium prohibited *[Note the changed intent from original bill in this section.]*

22-30.5-109 - Charter schools – restrictions – establishment -number

(1) A local board of education may reasonably limit the number of charter schools in the school district.

(2) (a) No more than fifty charters shall be granted prior to July 1, 1997, and at least thirteen of said fifty charters shall be reserved for charter school applications which are designed to increase the educational opportunities of at-risk pupils

(b) Local boards of education which grant charter school applications shall report such action to the state board and shall specify whether or not such school is designed to increase the educational opportunities of at-risk pupils. The state board shall promptly notify the board of education of each school district when the limits specified in this section have been reached.

22-30.5-110 – Charter schools – term - renewal – grounds for non-renewal or revocation
(4) In addition, a charter may not be renewed upon a determination by the local board of education that it is not in the interest of the pupils residing within the school district to continue the operation of the charter school.

New language added to charter law:

22-30.5-109:

(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.

22-30.5-112 – Charter Schools – Financing

[Note: There are multiple pages of new language defining funding issues for charter schools in this section, none of which were addressed in 93-183 except for the following...]

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. *[This was later amended to state:]* ...in budget year 2000-01 and budget years thereafter, each charter school shall receive one hundred percent of the district per pupil revenues for each pupil enrolled in the charter school.