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"Automatic Waivers" Under State Law

Automatic State Statute Waivers	
C.R.S. Citation	**Description**
§ 22-1-112	School Year – National Holidays
§ 22-32-109(1)(f)	Local Board Duties Concerning Selection of Staff and Pay
§ 22-32-109(1)(t)	Determine Educational Program and Prescribe Textbooks
§ 22-32-110(1)(h)	Local Board Powers – Terminate Employment of Personnel
§ 22-32-110(1)(i)	Local Board Duties – Reimburse Employees for Expenses
§ 22-32-110(1)(j)	Local Board Powers – Procure Life, Health, or Accident Insurance
§ 22-32-110(1)(k)(l)	Local Board Powers – Policies Relating to In-Service Training and Official Conduct
§ 22-32-110(1)(ee)	Local Board Powers – Employ Teachers' Aides and Other Non-Certificated Personnel
§ 22-32-126	Employment and Authority of Principals
§ 22-33-104(4)	Compulsory School Attendance – Attendance Policies and Excused Absences
§ 22-63-301	Teacher Employment, Compensation, and Dismissal Act – Grounds for Dismissal
§ 22-63-302	Teacher Employment, Compensation, and Dismissal Act – Procedures for Dismissal of Teachers
§ 22-63-401	Teacher Employment, Compensation, and Dismissal Act – Teachers Subject to Adopted Salary Schedule
§ 22-63-402	Teacher Employment, Compensation, and Dismissal Act – Certificate Required to Pay Teachers
§ 22-63-403	Teacher Employment, Compensation, and Dismissal Act – Payment of Salaries upon Termination

Automatic Waivers for Charter Schools

The General Assembly enacted the Colorado Charter Schools Act of 1993 (Act), C.R.S. 22-30.5-101 et seq., to encourage new and innovative methods of educating students by allowing for public charter schools which would have greater control over decisions related to educational programming in exchange for increased accountability for performance. C.R.S. 22-30.5-102. Consistent with this legislative intent, the Act allows charter schools to request waivers from certain state statutes and rules. There are two types of waivers: automatic and non-automatic waivers. Automatic waivers are automatically granted to charter schools upon the establishment and renewal of a charter contract, whereas non-automatic waivers require rationale and replacement plans.

Pursuant to C.R.S. 22-30.5-104(6)(b), the State Board of Education has promulgated rules that list the automatic waivers for all charter schools. 1 CCR 301-35, 2217-R-3.01. In promulgating the list of automatic waivers, the State Board of Education considers the overall impact and complexity of the requirements specified in the statute and the potential effects that waiving the statute may have on the practices of a charter school.

Pursuant to C.R.S. 22-44-305(2), the Colorado Department of Education (CDE) and the Colorado Charter School Institute (CSI), working with the Colorado League of Charter Schools (CLCS), developed the following standardized description and rationale for each of the statutes included on the list of automatic waivers.

C.R.S. 22-1-112 School Year – National Holidays. This statute sets a state school year and national holiday schedule. A waiver of this statute authorizes a charter school to develop its own school calendar that fits its unique needs.

C.R.S. 22-32-109(1)(f) Local Board Duties Concerning Selection of Staff and Pay. This statute authorizes each school district to employ and compensate all personnel required to maintain the operations and carry out the educational program of the district. A waiver of this statute allows a charter school to hire its own staff and set compensation structures independent from the district.

C.R.S. 22-32-109(1)(t) Determine Educational Program and Prescribe Textbooks. This statute authorizes each school district to determine its educational programs and prescribe textbooks for such programs. A waiver of this statute enables a charter school to choose its own educational program and textbooks in accordance with its charter application as approved by its authorizer.

C.R.S. 22-32-110(1)(h) Local Board Powers – Terminate Employment of Personnel. This statute authorizes each school district to terminate the employment of personnel. A waiver of this statute permits a charter school to terminate its own personnel.

C.R.S. 22-32-110(1)(i) Local Board Duties – Reimburse Employees for Expenses. This statute authorizes each school district to reimburse employees for work-related expenses. A waiver of this statute permits a charter school to adopt its own policies and procedures for employee expense reimbursement.

C.R.S. 22-32-110(1)(j) Local Board Powers – Procure Life, Health, and Accident Insurance. This statute authorizes each school district to obtain insurance coverage for its employees. A waiver of this statute permits a charter school to negotiate and procure its own group life, health, or accident insurance coverage for its employees.

C.R.S. 22-32-110(1)(k) Local Board Powers – Policies Related to In-service Training and Official Conduct. This statute authorizes each school district to adopt written policies relating to employee efficiency, in-service training, professional growth, official conduct, and welfare of employees. A waiver of this statute permits a charter school to adopt its own policies in these areas.

C.R.S. 22-32-110(1)(ee) Local Board Powers- Employ Teachers' Aides and Other Non-certified Personnel. This statute authorizes each school district to employ teachers' aides and other non-licensed personnel. A waiver of this statute permits a charter school to employ its own teachers' aides and other non-licensed personnel.

C.R.S. 22-32-126 Employment and Authority of Principals. This statute authorizes each school district to employ licensed principals. A waiver of this statute permits a charter school to employ its own, possibly non-licensed, principals.

C.R.S. 22-33-104(4) Compulsory School Attendance. This statute requires each school district to adopt a written policy setting forth attendance requirements. A waiver of this statute permits a charter school to adopt its own attendance requirements in accordance with applicable laws and regulations (e.g., C.R.S. 22-33-104; 1 CCR 301-78).

C.R.S. 22-63-301 Teacher Employment, Compensation, and Dismissal Act – Grounds for Dismissal. This statute sets forth the grounds under which a school district may dismiss a teacher. A waiver of this statute permits a charter school to exercise at-will employment and establish its own grounds for teacher dismissal, provided that employment decisions are made in accordance with applicable laws and regulations (e.g., anti-discrimination laws).

C.R.S. 22-63-302 Teacher Employment, Compensation, and Dismissal Act – Procedures for Dismissal of Teachers. This statute sets forth the state procedures for teacher dismissal. A waiver of this statute permits a charter school to exercise at-will employment and determine its own procedures for teacher dismissal, provided that decisions are made in accordance with applicable laws and regulations

C.R.S. 22-63-401 Teacher Employment, Compensation, and Dismissal Act – Teachers Subject to Adopted Salary Schedule. This statute authorizes each school district to adopt a teacher salary schedule. A waiver of this statute permits a charter school to create its own salary schedule that fits its unique needs.

C.R.S. 22-63-402 Teacher Employment, Compensation, and Dismissal Act – Certificate Required to Pay Teachers. This statute authorizes each school district to pay only licensed teachers. A waiver of this statute permits a charter school to pay non-licensed teachers, provided that the school has a waiver from C.R.S. 22-63-201 (relating to the requirement to employ licensed teachers).

C.R.S. 22-63-403 Teacher Employment, Compensation, and Dismissal Act – Payment of Salaries

upon Termination. This statute requires that upon the dismissal of a teacher and prior to the end of that teacher's employment contract, each school district must pay the pro rata share of salary installments due and payable under the employment contract for the period during which no services are required to be performed. Consistent with the at-will nature of charter school employment, a waiver of this statute enables a charter school to terminate a teacher's pay upon dismissal, provided that decisions are made in accordance with applicable laws and regulations.