

## 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)(I) 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.

For additional questions about this school’s waivers, please use the following contact:

**Name:** \_\_\_\_\_

**Contact Information:** \_\_\_\_\_

## O. Waivers

### *Waivers of State Statutes*

#### **FOUNDATIONS ACADEMY REQUEST FOR WAIVER OF COLORADO REVISED STATUTES**

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##### **STATUTE**

##### **DESCRIPTION AND RATIONALE**

C.R.S. § 22-9-106

Local Board of Education – Duties  
Certificated Personnel Evaluations

This section requires that employee performance evaluations be performed by a person holding an administrative certificate (Type D).

**Rationale:** The Foundations Academy principal must have the ability to perform the evaluation of all personnel. Should the principal not have a Type D certificate from the State of Colorado, this should not preclude him or her from administering the evaluations.

**Plan:** NHA has a personnel evaluation processes and procedures consistent with the mission and goals of the school.

**Duration of the Waivers:** Foundations Academy requests that the waiver be for the duration of its contract with School District 27J.

**How the Impact of the Waivers will be Evaluated:** Since teacher performance has a critical impact on the performance of the entire school, the impact of this waiver will be measured by the same performance criteria and assessments that apply to the school.

**Expected Outcome:** With this waiver, Foundations Academy will be able to implement its program and evaluate its teachers in accordance with its own procedures. This will benefit staff members as well as students and the community.

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##### **STATUTE**

##### **DESCRIPTION AND RATIONALE**

C.R.S. § 22-32-109 (l)(b)

Boards of Education – Specific Duties

Grants board of education the authority to adopt policies and prescribe rules and regulations for efficient administration of the district.

**Rationale:** Foundations Academy will be operating independently from other schools in the district and should be delegated the authority to develop, adopt, and implement its own operational policies, rules and regulations, subject to the limitations in the Charter School Application.

**Replacement Plan:** The Board of Directors of Foundations Academy will adopt policies and the Principal of Foundations Academy will prescribe rules and regulations.

**Duration of the Waiver:** Foundations Academy requests that the waiver be for the duration of its contract with School District 27J.

**How the impact of the Waiver will be Evaluated:** The impact of this waiver will be measured by the performance criteria and assessments that apply to Foundations Academy as set forth in this Charter School Application.

**Expected Outcome:** As a result of this waiver, Foundations Academy will be able to carry out its educational program, administer its affairs in an efficient manner, and accomplish its mission as set forth in the Charter School Application.

C.R.S. § 22-32-109 (l)(f)      Boards of Education – Specific Duties  
Requires the Board of Education to employ all personnel and fix their compensation.

**Rationale:** Foundations Academy will contract with National Heritage Academies to provide staff. NHA will employ staff and establish terms and conditions of employment, policies, rules and regulations, and provide training. Therefore, the school requests that these statutory duties be delegated from the School District 27J Board of Education to the principal of Foundations Academy. The success of Foundations Academy will depend in large part upon its ability to select and employ its own staff and to train and direct that staff in accordance with this Charter School Application and the goals and objectives of the school. All Foundations Academy staff will be employed by National Heritage Academies (NHA) on an at-will basis.

**Replacement Plan:** Foundations Academy will be responsible for these matters rather than the district.

**Duration of the Waivers:** Foundations Academy requests that the waivers be for the duration of its contract with School District 27J.

**How the Impact of the Waivers will be Evaluated:** The impact of the waivers will be measured by the same performance criteria and assessments that apply to Foundations Academy, as set forth in this Charter School Application.

**Expected Outcome:** As a result of these waivers, NHA will select, employ and provide professional development for its own teachers and staff, in accordance with the terms and conditions set forth in the Charter School Application.

C.R.S. § 22-32-109 (l)(t)      Boards of Education – Specific Duties  
Grants board of education authority to determine the educational program to be carried on in schools of the district and to prescribe textbooks.

**Rationale:** Foundations Academy should have the authority to determine the educational program and textbooks to be used.

**Replacement Plan:** The Foundations Academy educational program and curriculum is described in this Charter application.

**Duration of the Waiver:** Foundations Academy requests that the waiver be for the duration of its contract with School District 27J.

**How the Impact of the Waiver will be Evaluated:** The impact of this waiver will be measured by the performance criteria and assessments that apply to Foundations Academy, as per this Charter School Application.

**Expected Outcome:** Foundations Academy expects that as a result of this waiver it will be able to implement its curriculum and ensure that students meet the educational standards of Foundations Academy.

C.R.S. § 22-32-110 (1) (h)    Local Board Powers  
Makes Board of Education responsible for terminating personnel.

**Rationale:** Foundations Academy will contract for educational services with NHA. NHA will be responsible for its own personnel matters, including employing its own staff and establishing its own terms and conditions of employment, policies, rules and regulations, and terminating its own employees. Therefore, Foundations Academy requests that these statutory duties be delegated from the School District 27J Board of Education to the principal of Foundations Academy. The success of Foundations Academy will depend in large part upon its ability to select and employ its own staff and to terminate individual staff members should they not perform in accordance with this Charter School Application and the goals and objectives of the school. All Foundations Academy staff will be employed on an at-will basis.

**Replacement Plan:** Foundations Academy will be responsible for these matters rather than the district.

**Duration of the Waiver:** Foundations Academy requests that the waivers be for the duration of its contract with School District 27J.

**How the Impact of the Waivers will be Evaluated:** The impact of the waivers will be measured by the same performance criteria and assessments that apply to Foundations Academy, as set forth in this Charter School Application.

**Expected Outcome:** As a result of these waivers, Foundations Academy will select, employ and provide professional development for its own teachers and staff, in accordance with the terms and conditions set by this Charter School Application.

C.R.S. § 22-32-126                      Employment & Authority of Principals

Authorizes Board of Education to employ Principals.

**Rationale:** Foundations Academy will contract for educational services with NHA. NHA will be responsible for its own personnel matters, including employing the principal, its own staff and establishing its own terms and conditions of employment, policies, rules and regulations, and providing its own training. Principals employed at Foundations Academy will be employed on an at-will basis. Therefore, Foundations Academy requests that these statutory duties be delegated from the School District 27J Board of Education to NHA. The success of Foundations Academy will depend in large part upon its ability to select and employ its own principal and staff in accordance with this Charter School Application and the goals and objectives of the school.

**Replacement Plan:** NHA will be responsible for these matters rather than the district.

**Duration of the Waiver:** Foundations Academy requests that the waivers be for the duration of its contract with School District 27J.

**How the Impact of the Waivers will be Evaluated:** The impact of the waivers will be measured by the same performance criteria and assessments that apply to Foundations Academy, as set forth in this Charter School Application.

**Expected Outcome:** As a result of these waivers, Foundations Academy will select, employ and provide professional development for its principal, teachers, and staff, in accordance with the terms and conditions set by the Charter School Application.

C.R.S. § 22-63-201  
(substantive)

Employment – Certificate required

Prohibits board from entering into an employment contract with a person who does not hold a teacher's certificate or letter of authorization.

C.R.S. § 22-63-402

Services – Disbursements

Prohibits disbursement of district monies to teacher without a valid teacher's certificate, letter of authorization or written authorization.

**Rationale:** NHA should be granted the authority to hire teachers and principals that will support the schools goals and objectives. The Principal will not function as a traditional district school principal, but rather will be responsible for a wider range of tasks and act as the CEO of Foundations Academy. NHA will seek to attract principals and teachers from a wide variety of backgrounds, including, but not limited to teachers from out-of-state, teachers with a lapsed Colorado certificate, persons with several years of successful teaching experience in a setting not requiring a license, as well as persons with business or professional experience. All employees of NHA will be employed on an at-will basis.

**Replacement Plan:** NHA will, where possible, hire certified teachers and principals. However, in some instances it may be advantageous to be able to hire teachers and/or principals without a

Colorado certificate and who possess unique background and/or skills or fill the need of the School.

**Duration of the Waivers:** Foundations Academy requests that the waivers be for the duration of its contract with School District 27J.

**How the Impact of the Waivers will be Evaluated:** The impact of these waivers will be measured by the performance appraisal criteria and assessments that apply to Foundations Academy, as per this Charter School Agreement.

**Expected Outcome:** As a result of these waivers, the School will be able to employ professional staff possessing unique skills and/or background filling all staff needs.

C.R.S. § 22-63-202	<u>Teacher Employment – compensation and dismissal act of 1990</u> Provides for contracts to be in writing – duration – damage provision
C.R.S. § 22-63-203	<u>Probationary Teachers – renewal and non-renewal of employment contract – Specific Duties</u> Provides for contract with probationary teachers and allows for non-renewal and renewal of employment contract.
C.R.S. § 22-63-403	<u>Payment of Salaries</u> Governs payment of salaries upon termination of employment of a teacher.

**Rationale:** Foundations Academy will contract for educational services with NHA. NHA should be granted the authority to develop its own employment contracts and terms and conditions of employment. All employees of NHA will be employed on an at-will basis.

**Replacement Plan:** NHA will pay salaries upon termination of employment of a teacher consistent with at-will employment.

**Duration of the Waivers:** Foundations Academy requests that the waivers be for the duration of its contract with School District 27J.

**How the Impact of the Waivers will be Evaluated:** The impact of these waivers will be measured by the performance appraisal criteria and assessments that apply to Foundations Academy, as per this Charter School Application.

**Expected Outcome:** As a result of these waivers, Foundations Academy will be able to employ professional staff possessing unique skills and/or background, filling all staff needs.

C.R.S. § 22-63-206	<u>Teacher Employment, Compensation and Dismissal Act</u>
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Permits transfer of teachers between schools upon recommendation of district's chief administrative officer.

**Rationale:** Foundations Academy will contract for educational services with NHA. NHA should be granted the authority to select its own teachers. The district should not have the authority to transfer teachers into Foundations Academy or transfer teachers from Foundations Academy to district schools or any schools outside the district.

**Replacement Plan:** Foundations Academy will hire teachers on a “best qualified” basis.

**Duration of the Waiver:** Foundations Academy requests that this waiver be for the duration of its contract with School District 27J.

**How the Impact of the Waiver will be Evaluated:** The impact of this waiver will be measured by the performance criteria and assessments that apply to Foundations Academy, as set forth in this Charter School Application.

**Expected Outcome:** Foundations Academy expects that as a result of this waiver it will be able to manage its own personnel affairs.

C.R.S. § 22-63-301                      Transfer Employment, Compensation and Dismissal Act  
Grounds for dismissal.

C.R.S. § 22-63-302                      Procedures for dismissal of teachers.

**Rationale:** The success of Foundations Academy in accomplishing its mission is dependent primarily upon the talents, skills and personal commitment of its teachers. NHA must be able to terminate employees who cannot deliver its educational program successfully. The concept of tenure does not apply to NHA. All employees of NHA will be employed on an at-will basis.

**Replacement Plan:** Continued employment in Foundations Academy shall be subject to an annual satisfactory performance evaluation. Teachers who are rated unsuccessful may be terminated by NHA.

**Duration of the Waivers:** Foundations Academy requests that the waivers be for the duration of its contract with School District 27J.

**How the Impact of the Waivers will be Evaluated:** The impact of these waivers will be measured by the performance criteria and assessments that apply to Foundations Academy, as set forth in this Charter School Application.

**Expected Outcome:** As a result of these waivers, Foundations Academy will be able to provide instruction in accordance with the philosophy and mission as stated in this Charter Proposal.

C.R.S. § 22-63-401                      Transfer Employment, Compensation and Dismissal Act

Provides for district board of education to adopt a salary schedule and place teachers on the schedule.

**Rationale:** Foundations Academy will contract for educational services with NHA. NHA should be delegated the authority to determine compensation rates, in accordance with its policies. The workday and work year in Foundations Academy may be different from that of the District and compensation must be adjusted accordingly.

**Replacement Plan:** NHA has its own pay schedule.

**Duration of the Waiver:** Foundations Academy requests that the waivers be for the duration of its contract with School District 27J.

**How the impact of the Waiver will be Evaluated:** The impact of this waiver will be measured by the performance criteria and assessments that apply to Foundations Academy as set forth in this Charter School Application.

**Expected Outcome:** As a result of this waiver, Foundations Academy should be able to attract qualified personnel and provide instruction in accordance with the philosophy and mission as stated in this Charter Proposal.

*Waivers of district policy*

**Foundations Academy  
School District 27J Policy Waivers Sought**

District Policy	Title	Rationale
ADCR-R	Use of Tobacco Products on School Premises by staff	Foundations Academy will establish its own procedure for violations of the tobacco policy
CHCA	Approval of Handbooks and Directive	Foundations Academy will provide a copy of handbooks to the district
DJ/DJA	Purchasing/Purchasing Authority	Foundations Academy will have its own process for authorizing purchases and is responsible for its own fiscal management.
DJB-R	Purchasing Procedures	Foundations Academy will establish its own procedures for purchasing.
DJE, DJE-R	Bidding Procedures	Foundations Academy will have its own procedures for competitive bidding.

DJG, DJG-R	Vendor Relations	Foundations Academy will have its own purchasing policies.
IKAC, IKAC-E	Grade Change Policy	Foundations Academy will have its own policies and forms for grade changes.
DKA	Payday Schedules	Foundations Academy will establish its own payday schedules.
DKA-R	Payroll Procedures	Foundations Academy will establish its own payroll procedures
DKB	Salary Deductions	Foundations Academy will establish its own payroll procedures.
EEA	Student Transportation	Foundations Academy will not provide transportation services for students in order to preserve funds for educational programming
FED-R	Construction Contracts – Bidding and Awards	Foundations Academy will contract to lease a facility from NHA.
GBED-R	Use of Tobacco Products on School Premises	Foundations Academy will establish its own, more strict procedure, for violations of the tobacco policy.
GBJ	Personnel Records and Files	Foundations Academy will employ and maintain the personnel records of its own employees.
GC (ALL SECTIONS BEGINNING WITH GC)	Professional Staff	Foundations Academy will contract for educational services with NHA. NHA has professional staff policies. All professional staff is employed on an “at-will” basis.
GD	Classified Staff	Foundations Academy will contract for support services with NHA. NHA has staff policies. All

		support staff are employed on an “at-will” basis.
H (ALL SECTIONS)	Negotiations	Foundations Academy is not a party to these negotiations.
IC/ICA, ICA/ICA-R	School Year/School Calendar	Foundations Academy will establish its own school year and calendar to meet District and State requirements and academic needs.
ID	School Day	Foundations Academy will establish its own school day.
IE	Organization of Instruction	Foundations Academy will operate as a K-8 school according to its charter.
IGA TO IGF	Curriculum Development and Adoption	Foundations Academy will develop, adopt, and review its own curriculum in accordance with its charter.
IJ, IJKA, IJL, IJND, IJ-R	Instructional Resources and Materials Selection	Foundations Academy will select and adopt instructional material, supplementary material, library resources, and technology resources to support the curriculum.
IJOA	Field trips	Foundations Academy will establish field trip policy. The principal will approve all Foundations Academy field trips.
IKA, IKAC, IKAC-E	Grading system and changes	Foundations Academy will develop its own grading system.
IKAB	Student Progress Reports	Foundations Academy will provide student progress reports to parents on NHA forms
IKE-R	Student Progress, K-12	Foundations Academy will have its own procedures for student placement

ILA, ILA-R, ILBA, ILBA-R, ILBC	Testing Programs	Foundations Academy will establish its own procedures for administering standardized testing. CSAP testing will align with state and district approved procedures.
JC	School Attendance Areas	Foundations Academy will be open to students throughout the district.
JEB	Entrance Age	Foundations Academy will use the date for entrance established in Colorado Statute rather than the district date of September 15 <sup>th</sup> .
JEB-R	Entrance Age Procedures	Foundations Academy will establish its own procedures
JFAB-E	Student Non-Resident application	Foundations Academy will use its own form.
JF-R	School Admissions	Foundations Academy will use its own admissions procedures
JICA	Student Dress Code	Foundations Academy will establish its own uniform policy.
JHJB/JLIE	Student Automobile Use/Parking Lot Searches	Foundations Academy will not have student drivers or student parking
KE	Public/Parent Concerns and Complaints	Foundations Academy will establish board policy to resolve concerns, complaints & grievances.
KEC, KEC-E, KEC-R	Public Concerns/Complaints about Instructional Resources	Foundations Academy will establish board policy to resolve concerns, complaints & grievances.
KF/KFB/ KFC KF/KFB/KFC-R	Community Use of School Facilities	Foundations Academy will lease a facility from NHA and have its own policy regarding the use of that facility.
KHA, KHA-E, KHA-R	Gifts and Donations from the Public	Foundations Academy shall retain ownership of

		assets donated, gifted, or granted to Foundations Academy, and monitor such assets by its own policies.
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