

CHAPTER 266

EDUCATION - PUBLIC SCHOOLS

SENATE BILL 02-124

BY SENATOR(S) Windels, Fitz-Gerald, Hernandez, Nichol, Pascoe, Takis, Tate, and Tupa;
also REPRESENTATIVE(S) Hefley, Boyd, Daniel, Harvey, King, Lawrence, Lee, Mace, Romanoff, Spence, Stafford, and Williams S..

AN ACT

CONCERNING THE RESOLUTION OF DISPUTES ARISING FROM A CHARTER SCHOOL CONTRACT, AND, IN CONNECTION THEREWITH, SPECIFYING PROCEDURES FOR THE USE OF FORMS OF ALTERNATIVE DISPUTE RESOLUTION AND MODIFYING THE PROCESS OF APPEALS TO THE STATE BOARD OF EDUCATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 22-30.5-107.5, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

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,

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

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.

SECTION 2. 22-30.5-108 (1) and (2), the introductory portion to 22-30.5-108 (3), and 22-30.5-108 (3) (c) and (3) (d), Colorado Revised Statutes, are amended, and the said 22-30.5-108 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

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 ~~charter schools~~ 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, 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.

(2) A charter applicant or any other person who wishes to appeal a decision of a local board of education concerning a charter ~~school~~ APPLICATION, OR THE NONRENEWAL OR REVOCATION OF A CHARTER, OR THE UNILATERAL IMPOSITION OF CONDITIONS ON A CHARTER APPLICANT, 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. ~~If the appeal is of a denial, nonrenewal, or revocation of a charter,~~ The person bringing the appeal shall limit the grounds of the appeal to the grounds for THE DENIAL OF OR THE NONRENEWAL OR REVOCATION OF A CHARTER, OR THE UNILATERAL IMPOSITION OF CONDITIONS ON A CHARTER APPLICANT, WHICHEVER IS BEING APPEALED, specified by the local board of education. The notice shall include a brief statement of the reasons the charter school applicant contends the local board of education's denial OF OR NONRENEWAL OR REVOCATION OF A CHARTER, OR IMPOSITION OF CONDITIONS ON A CHARTER APPLICANT 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, 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, refuse to renew, or revoke a charter or to a local board's unilateral imposition of conditions that are unacceptable to ~~the charter school~~ or the charter applicant, the appeal and review process shall be as follows:

(c) If the local board of education's final decision is still to deny, refuse to renew, or revoke a charter or to unilaterally impose conditions unacceptable to ~~the charter school~~ or the charter applicant, 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. The decision of the state board shall be final and not subject to appeal.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 1, 2002