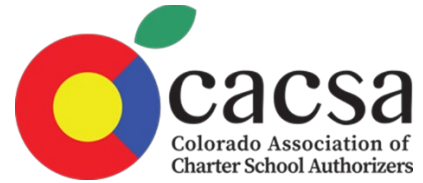


# CACSA MEMO

May 17, 2022



## Updating Charter Application Deadlines: Application Windows Need Starting Dates

### *Summary*

Because of a recent decision by the Colorado State Board of Education, school districts should review charter school policies and application materials. If district policies and application materials do not include a window for charter applications, with an identified start date and end date, districts could be subject to “rolling” charter applications, meaning charter applicants may apply at any time prior to an application deadline, including six months early or more. The 90-day period for districts to review a charter application begins when they receive an application, not after the application deadline.

### *Background*

A recent decision by the State Board of Education (SBE) on a charter school appeal may prompt districts to update charter school policies and application materials regarding application deadlines. The appeal between Ascent Classical Academy (Ascent) and the Durango 9R School District (Durango) addressed application deadlines. The [SBE order](#) was passed on a [4 to 3 vote](#) (see agenda item 11.01 on the May 12, 2022 SBE meeting). For more background information, see this [CACSA Update](#).

After this decision, districts preferring not to receive applications at any time before a deadline, should review their district policies and application materials; and, if necessary, update policies and related materials to specify a window during which the district will accept charter proposals.

Durango policies list an August 1 deadline for charter applications. Ascent submitted a charter application early, on February 7, about 6 months ahead of the application deadline, and 18 months before its expected opening. Ascent argued that the district had 90 days to review the charter application, starting immediately upon the February 7 submission. The district declined to review the application before the deadline. Durango argued in court and before the SBE that they should be allowed to wait until after the August 1 deadline had passed to begin reviewing the proposal. The SBE remanded the appeal back to the district and instructed Durango to reconsider its position.

A series of jurisdictional and substantive issues were addressed by the SBE. At the center of the conflict, the district’s policies and application materials state that an application must be received “on or before” a particular date. Ascent argued, persuasively for the SBE, that such language implies that a charter applicant could apply at any time before the deadline. Once an application was received, the 90-day timeline for reviewing the charter application began.

While siding with Ascent, the SBE order for this appeal clarified that districts still have the right to establish a window for charter applications, including a start date and end date. The only requirement for application windows is that their final deadline must fall between August 1 and October 1.

Districts can establish an application window before August 1 if they receive a waiver from the state. With a waiver, and aligned district policy, a district can clarify that applications must be received during

a window, including windows that close before August 1. This approach would mean that applications submitted outside the district's window need not be reviewed unless the district agrees to do so. The SBE action does not change anything regarding applications submitted after a district's deadline.

At this point, if a district intends to restrict how far in advance of deadline an application can be submitted, they should review, and update, if necessary, their policies and application materials.

With such a window established, districts and charter applicants would still have the option to agree to receive applications earlier. However, districts would retain the right to decline early applications and could reject applications received outside the window or choose to wait until after their established window to begin reviewing an application that was submitted early.

This appeal raises three questions for most districts:

1. Should applications be accepted during a window or on a rolling basis?
2. If a district desires to use an application window, how should a district codify its position? and
3. If a district specifies an application window, when should it fall?

### ***Rolling Applications or Application Window?***

Nationally there is some agreement that authorizing best practices include a charter application window and deadline. Some states, like California and Florida, do not allow authorizers to establish an application window. In these states, authorizers use a rolling process that accepts applications at any time. In contrast, Colorado policy allows authorizers to establish a deadline, including one with an identified window. Despite Colorado's charter law, the recent SBE action may cause a district to be treated as if it had a rolling process rather than an application window if a district has not designated the window's starting date.

Establishing an authorizing timeline helps districts plan for and implement a comprehensive and rigorous review. In contrast, conducting a review at any time (or multiple times in a single year) places a considerable burden on an authorizer. Ultimately, this burden can undermine an authorizer's ability to implement their approach effectively.

In addition to dedicated authorizing staff, a rigorous review includes other district leaders from various departments and the District Accountability Committee, as well as at least one expert from outside the district. Authorizers should train all reviewers in using their charter application and rubric and the details of their process. The district division leaders and the DAC have additional work and other considerations that can decrease their ability to focus on an application at various times during the year. For example, applications received just before the winter holidays make scheduling all components of an application review difficult and state testing can distract district staff during testing season.

Given the work that goes into assembling the review team, and preparing for and conducting a rigorous review, most authorizers establish a single application window. A single application window effectively safeguards their processes' rigor and facilitates efficient use of time and resources.

Despite an application window, authorizers may still decide to receive charter applications that are submitted under exceptional circumstances. Colorado law allows authorizers to waive aspects of their charter policies. Districts may consider a charter application before or after a deadline when the

applicant and the authorizer agree. However, districts retain the right to decline to receive a charter application outside their established application window.

### ***Codifying an Application Window***

Districts that intend to use an application window should review their district policies and all application materials to identify references to applications and reviews. Windows should include a starting date as well as a closing date. Potential language addressing details of the charter application review should be in the district charter school policy and the district's charter application materials.

Districts that do not clarify a window may eventually receive a charter application before the deadline that they are required to review upon submission. Early submissions have been relatively rare thus far. The recent SBE action, and charter founders' experiences with hectic charter openings after a fall approval, could lead to an increase in the proportion of charter applications submitted early.

### ***Spring or Fall Review Cycles?***

Several experienced authorizers have adopted longer application cycles. These authorizers set a Spring deadline for applications, roughly 18 months before school opening. Districts must request a state waiver to adopt the earlier deadline, and models of these applications are available to help a district make this transition. Authorizing staff working in districts with longer application cycles are available to discuss the pros and cons of this approach and the key lessons for implementing an earlier deadline or window. Information on state waivers is available [here](#), and an example of a district waiver to move to an earlier application deadline (without an explicit window) is available [here](#).

The period between charter approval and school opening is referred to as "Year Zero." Authorizers and charter founders have found that the extra time helps charter schools complete all the tasks required to open a school successfully. With spring application windows, applicants are more likely to have a signed contract a full year before their school opens. An executed contract makes it more likely that the applicants can finalize leases or other facilities agreements. An applicant that submits their proposal in the fall of the year before they open may not have an executed contract until the spring, as few as four months before opening day. This makes it challenging to accomplish pre-opening tasks.

When new schools face opening challenges during a short application cycle, they are often forced to delay opening for an entire school year, or their opening can be disruptive to students and families, leading to last-minute transfers in and out of the charter school. Starting the review process earlier can support district-charter collaboration and ease these obstacles, producing fewer last-minute failures or problematic changes during opening. Last-minute changes to a school opening can severely impact students and families and make the district's budgeting and planning for enrollment more difficult.

Reviewing a charter application earlier requires adjustments in the review process. For example, some developmental milestones are unreasonable to expect 18 months before opening, while these same measures are prudent to require of an applicant planning to open within ten months. Authorizers have addressed these issues by creating a timeline with benchmarks that a school is expected to perform during the Year Zero. Districts can incorporate these benchmarks into the charter contract, which formalizes the process for tracking the pre-opening activities. A firm contract is crucial when a school

fails to achieve benchmarks. In these cases, the charter contract ensures the authorizer can require changes or cancel the opening if necessary.

After considering these trade-offs, several large authorizers have decided longer timelines are better for charter applicants, authorizers, and families. Colorado's smaller authorizers may be interested in adopting a similar timeline. Given the recent SBE actions and the need to clarify district policies and update application materials, this may be a good time for districts to consider adopting earlier deadlines as they review and update their policies and materials.