

The Washington State Board of Education

Governance | Achievement | High School and College Preparation | Math & Science | Effective Workforce

Title:	180 Day Waiver	
As Related To:	<input type="checkbox"/> Goal One: Advocacy for an effective, accountable governance structure for public education <input type="checkbox"/> Goal Two: Policy leadership for closing the academic achievement gap <input type="checkbox"/> Goal Three: Policy leadership to increase Washington's student enrollment and success in secondary and postsecondary education	<input type="checkbox"/> Goal Four: Effective strategies to make Washington's students nationally and internationally competitive in math and science <input type="checkbox"/> Goal Five: Advocacy for policies to develop the most highly effective K-12 teacher and leader workforce in the nation <input checked="" type="checkbox"/> Other
Relevant To Board Roles:	<input checked="" type="checkbox"/> Policy Leadership <input checked="" type="checkbox"/> System Oversight <input type="checkbox"/> Advocacy	<input type="checkbox"/> Communication <input type="checkbox"/> Convening and Facilitating
Policy Considerations / Key Questions:	SBE is asked to consider establishing criteria for 180 day waivers.	
Possible Board Action:	<input checked="" type="checkbox"/> Review <input type="checkbox"/> Adopt <input checked="" type="checkbox"/> Approve <input type="checkbox"/> Other	
Materials Included in Packet:	<input checked="" type="checkbox"/> Memo <input type="checkbox"/> Graphs / Graphics <input type="checkbox"/> Third-Party Materials <input type="checkbox"/> PowerPoint	
Synopsis:	<p>In November 2011, Board Members directed staff to outline what specific criteria should be applied to waiver requests in order to move forward with establishing criteria to apply to waiver requests. Background information is provided in the memorandum, and staff present a series of Waiver Principles and recommendations in the final four pages beginning with the header "Policy Discussion."</p>	

BASIC EDUCATION PROGRAM REQUIREMENTS: REVIEW OF 180-DAY WAIVER CRITERIA AND RECOMMENDATIONS

BACKGROUND

SBE has authority (see Appendix A) to grant waivers from the basic education minimum 180-day school year. SBE has granted these waiver days using three options, and a fourth was just added by the 2011 Legislature:

- **Option One** is the regular request that has been available since 1995 to enhance the educational program and improve student achievement. Districts may request the number of days to be waived and the types of activities deemed necessary to enhance the educational program and improve student achievement. This option requires Board approval.
- **Option Two** is a pilot for purposes of economy and efficiency for eligible districts to operate one or more schools on a flexible calendar. It expires August 31, 2014. SBE may grant waivers to up to two districts with fewer than 150 students and up to two additional waivers to districts with between 150 and 500 students. Two districts with fewer than 150 students were approved for this option in 2009 and these waivers will expire after 2011-12. New Option Two waiver applications will be reviewed at the March 2012 Board meeting.

There are currently three bills to change these types of waivers:

- HB 2215 removes the cap of five waivers, removes the requirement that districts be small, removes the expiration date of August 2014, and removes the requirement that SBE make a recommendation whether the waivers should be continued.
 - SB 6020 maintains the cap of five and the small district size but directs SBE to extend any initial waiver to August 2014 unless SBE finds that student learning is adversely affected. If this bill passes, it would not be necessary to review any applications for these waivers in March and no additional districts with fewer than 150 students would be able to receive a waiver.
 - A third bill (not yet given a bill number) adds eligibility for districts between 500 and 2,200 students. SBE could grant waivers to up to 20 of these larger districts.
- **Option Three** is a fast track process implemented in 2010 that allows districts meeting eligibility and other requirements to use up to three waived days for specified innovative strategies. This Option requires staff review but applications are not seen by the Board members because this is essentially pre-approval for specific activities.
 - **Innovation Waivers** are a result of House Bill 1546. Statewide, up to 34 applications for designation as innovation schools/innovation zones will be approved by Educational Service Districts and the Office of Superintendent of Public Instruction. Two types of

schools, zones, and programs are authorized in the legislation: those focused on the arts, science, technology, engineering, and mathematics (A-STEM); and other innovative schools, zones, and models that implement instructional delivery methods that are engaging, rigorous, and culturally relevant at each grade. The SBE has scheduled a special meeting for February 23, 2012, to review waiver requests that are included in the innovation applications. According to HB 1546, SBE shall grant these waivers unless it is likely to result in a decrease in student achievement. More information on these waivers can be found in the September 2011 Board packet.

Table A: Summary of Types of 180-day Waivers

Type of 180 Day Waiver	Purpose	Current Criteria	Date Began	Authority	Limit of Days	Eligibility	Current # Districts are Using
Option 1 "Regular Request"	To implement local plan to provide for all students an effective education; designed to enhance the educational program for each student.	1. Complete application form. 2. District board resolution.	1995	RCW 28A.305.140 WAC 180-18-010 180-18-040 180-18-050 (1) and (2)	No limit	All districts	50
Option 2 "Economy and Efficiency"	For districts to operate a flexible calendar for purposes of economy and efficiency.	1. Complete application form. 2. District board resolution.	2009; pilot expires August 2014	RCW 28A.305.141	No limit	Up to two districts with fewer than 150 students; up to three districts between 150 and 500 students.	2 <150
Option 3 "Fast Track"	Limited to specific activities outlined in WAC.	1. Complete notification form. 2. District board resolution.	2010	RCW 28A.305.140 180-18-010 180-18-040 WAC 180-18-050 (3)	Max of three	Only districts without a PLA*	30
Innovation School/Zone	To implement an innovation school or zone.	May be denied if it is likely to result in decreased academic achievement, would jeopardize state or federal funds, or would violate a law that SBE has no authority to waive.	SY 2012-13	RCW 28A.630.083 RCW 28A.655.180	No limit	Competitive application process through OSPI and ESDs; up to 34 statewide.	Special Board Meeting set for February 23, 2012 to review.

*Persistently Lowest Achieving school per annual list produced by OSPI.

Table B: Numbers of Option One and Three Waivers Over Time

Option One waivers have decreased in 2011-2012 but Option Three waivers increased. Option Three waivers were available beginning in 2010-2011.

	School Years						
	2007-2008	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014
# Districts with Option One Waivers	29	67	69	66	50	40	35
# Districts with Option Three Waivers	0	0	0	6	30	27	19
Total Districts with Option One and Three Waivers	29	67	69	72	80	67	54
% of Districts with Waivers (295 districts)	10%	23%	23%	24%	27%	23%	18%

Table C: Waivers for Parent Teacher Conferences

Overall, Option One Waivers decreased in 2011-12 as the number of waivers for parent teacher conferences has increased. The proportion of districts seeking waivers for parent teacher conferences has increased.

	School Years						
	2007-2008	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014
# Districts with Option One Waivers	29	67	69	66	50	40	35
# Districts with Waivers for Parent Teacher Conferences	1 (3%)	2 (3%)	2 (3%)	2 (3%)	18 (36%)	16 (40%)	15 (43%)
# of Districts with Waivers <i>Solely</i> for Parent Teacher Conferences	1 (3%)	1 (1%)	1 (1%)	1 (2%)	11 (22%)	10 (25%)	10 (29%)

Table D: Waiver Days

The number of total days waived per year has increased to an all-time high of 323 in 2011-12, but that is the result of a decreased number of those days used for professional development and many more days used for conferences.

	School Years						
	2007-2008	2008-2009	2009-2010	2010-2011	2011-2012	2012-2013	2013-2014
# Waiver Days for Parent Teacher Conferences	3	8	8	8	64	56	54
# Waiver Days for All Other Purposes	109	239	243	294	259	184	148
# Total Waiver Days	112	247	251	302	323	240	202

Review of Board Input for the Waiver Process

In response to recurring Board member concerns, staff has suggested alternative processes and frameworks that began at the July 2011 meeting. Direction from the Board is summarized in the table below.

	July Direction	September Direction	November Direction
Summary	Keep all Options.	Keep all Options.	Staff is directed to develop criteria and return for further discussion.
Proposed RCW/WAC Changes	Revise rules to cap Option One at five days.	Do not cap Option One. Any number of days may be granted as long as the 1,000 instructional hours are protected.	Do not cap Option One without clear criteria for review. First establish criteria, then make decisions about capping days. Add language to Option Three rules that reduce the number of waiver days granted if the Legislature reduces days below 180 days.

POLICY DISCUSSION

In November 2011, Board Members directed staff to outline what specific criteria should be applied to waiver requests. The Waiver Principles and recommendation below are a response to that direction.

Waiver Principles:

- 1. The Legislature has defined basic education as 1,000 instructional hours and 180 school days.** There are legal definitions for each. SBE's role is ensuring compliance with these minimums, and granting exceptions when warranted. While a conversation about what is the best way to structure basic education is valuable and important (e.g. do days matter if districts provide 1,000 hours? Is seat time still relevant?), SBE's role is not to define basic education minimums. The Legislature has that role and that responsibility, and the SBE role is to grant waivers from those basic minimums.
- 2. Waivers should not be granted to back-fill legislative cuts to Learning Improvement Days or other budget constraints.** Opportunities for districts to provide professional development and parent teacher conferences are critically important. However, they are also universal. All districts need to build a system to support new teachers, implement new initiatives, and improve instruction. All districts conduct parent teacher conferences. These are legitimate and important activities but should not be part of a waiver process. SBE should not grant waivers for a basic, routine part of an educational program. Universal components of the system should be supported and funded by the Legislature as part of basic education.
- 3. Waivers should only be granted to districts in response to local characteristics/circumstances.** Waivers should *not* be granted for activities that all districts need to conduct. To grant waivers for these universal purposes is to re-define basic education. Some districts have circumstances that warrant a waiver, and it is up to SBE to define these criteria.

This framework proposes criteria as follows: the district must have an unusual or unique circumstance which can be remediated or improved in a relatively short period of time. In this framework, the SBE would grant no more than three waiver days for no more than three years. The overarching purpose of a waiver still must be to improve student achievement (see Appendix A). However, that is only a component of the full criteria, to include all the elements listed in the recommendation section below.

Example: a district is experiencing a sudden and dramatic rise in homeless students and requests three days for each of the next three years for staff to retool in order to meet students' needs. The plan for the nine total days will fully address the stated need. This is waiver-eligible because it is a local characteristic/circumstance and it is limited in time.

Example: one of a district's elementary buildings has been sold to a local non-profit to start an early childhood center. The remaining elementary buildings will absorb the students and staff from the building that is closing. Staff need time to build common expectations and align curriculum. They request two waiver days for a single year. The goals of the waiver can be accomplished in this two-day period. This is waiver-eligible because it is a local circumstance and is time bound.

Non-example: a district requests three days for each of the next three years for professional development to improve instruction. The need for professional development for teachers is common across districts so this is not a local characteristic/circumstance. This is not waiver-eligible.

Non-example: a district requests four days for parent teacher conferences. This is not waiver-eligible because all districts conduct conferences. Waiving school days for parent teacher conferences constitutes a re-defining of basic education to be fewer than 180 days.

4. **Innovation should be encouraged through the New Innovative Schools application process established in HB 1546.** SBE supports and encourages innovation. Clearly the Legislature does as well, which is why HB 1546 was created last year. Rather than having the concept of innovation vaguely permeating all waiver options, staff proposes steering innovative proposals through this option in order to provide them with the most rigorous review and highest public attention. SBE is exploring possible revisions to the bill to make this an annual application process and to ensure it is open to existing innovative schools.
5. **Waivers can only be renewed if the district can make a compelling argument that they have made significant progress that is clearly demonstrated through data, but need additional time to achieve their goals. New local characteristics/circumstances could also warrant a new waiver.** The recommendation for requiring districts to provide a summary report is directly tied to this issue. The Board may ask districts requesting a waiver to come before the Board, review their progress toward achieving their goals, explain why their initial waiver period was not adequate to achieve goals, and explain why an extension on their waiver will directly result in achievement of their goals.

To grant waivers on an ongoing basis creates an entitlement to a waiver, which constitutes a re-writing of basic education on the part of SBE. We recommend using the framework of no more than three days for no more than three years, after which the plan to address the issue should have been effective. New local characteristics/circumstances could be presented to SBE in a new waiver request.

Example: a district has very low math achievement and therefore implements a new math curriculum and needs to provide professional development for teachers for three days for the next two years. After this waiver period is complete, the district experiences a decline in the graduation rate and requests a new waiver for staff to implement a Dropout Early Warning and Intervention System.

Recommendation:

- A. Eliminate Option One. This option is open-ended and has no criteria. The granting of Option One waivers essentially amounts to a re-definition of basic education.
- B. Revise Option Three so that it is no longer a 'fast track' option intended to backfill LID days (no longer an automatic approval). Detailed review of each application should be conducted by a panel of SBE Board members who provide a recommendation to the Board as a whole. Review of these applications using the above criteria would involve significant scrutiny and application of judgment by the panel of SBE Board members and eventually the entire Board (see Draft Rubric, Appendix D). There will be grey areas and members may disagree. There is no 'formula' for approval of these requests; no rubric will ever cover every situation as presented. However, this debate is healthy and appropriate. . The Legislature has assigned this task to SBE, and clearer criteria and additional scrutiny are appropriate.

Additionally, since Option One would be eliminated, SBE should allow districts with PLAs to apply for this revised Option Three.

Apply the following criteria to the waiver applications:

1. The requesting school district has local characteristics/circumstances that warrant exception to the basic education minimums as defined by the state Legislature.

The following items (except number 4) are already contained within the application but are not currently evaluated and have no impact on waiver decisions.

2. The district has identified expected goals that are related to raising student achievement (including specific tools or metrics used).
3. The district will collect evidence to show whether the goal(s) were attained.
4. The strategies used are evidence- or research-based and likely to lead to attainment of the stated goal (new).
5. Activities in subsequent years are connected to those in the first year of the waiver, and strategies will be modified as needed throughout the waiver request.
6. The waiver request directly supports the district and school improvement plans.
7. Administrators, teachers, other staff, parents, students, and the community were involved in the development of the waiver request and will have continued input on the implementation of the waiver.
8. If the waiver is a renewal, require an explanation of how much progress was made with the first waiver, why the goals as described in the first application were not fully achieved, and what will be different in the implementation or execution of the renewed waiver. This should be a high standard for districts to meet in order to receive a renewal. Renewals are not guaranteed.
9. For renewals, there is meaningful, ongoing engagement of parents and the community.

C. Keep Option Two (as required by legislation), but adopt criteria for evaluating and selecting applications.

D. Advocate to the Legislature for the following changes:

- a. Clarify whether a school day is inclusive of full-day parent teacher conferences.
- b. Fund professional development time (LID) for teachers.
- c. Revise the Innovative Schools application process to be conducted annually and to include existing schools.

E. Consider a phase-in plan to implement these recommendations as of July, 2013.

Other Alternatives:

Alternative A: Review Option One using criteria 2-7 and cap this Option at a specific number of days below 180. This reflects Board member direction to staff from July 2011. Selection of this Option would reflect lack of agreement with Waiver Principles 1-5.

Alternative B: Continue to issue waivers to districts according to the established process. This reflects Board direction to staff in September 2011. Selection of this Option would reflect lack of agreement with Waiver Principles 1-5 and would maximize local control.

For additional discussion:

What impact will the possible reduction to 176 days have on this process as we move forward? If the Board prefers Alternative A or B, what implications do these choices have?

EXPECTED ACTION

Board members will be asked to pass a motion in support of the recommendation or an alternative so that staff can return in March with draft rules to reflect those changes.

Appendix A: RCW and WAC Language

RCW [28A.305.140](#)

Waiver from provisions of RCW 28A.150.200 through 28A.150.220 authorized. (*Effective until June 30, 2019.*)

- (1) The state board of education may grant waivers to school districts from the provisions of RCW [28A.150.200](#) through [28A.150.220](#) on the basis that such waiver or waivers are necessary to:
 - (a) Implement successfully a local plan to provide for all students in the district an effective education system that is designed to enhance the educational program for each student. The local plan may include alternative ways to provide effective educational programs for students who experience difficulty with the regular education program; or
 - (b) Implement an innovation school or innovation zone designated under RCW [28A.630.081](#).
- (2) The state board shall adopt criteria to evaluate the need for the waiver or waivers.

RCW [28A.305.141](#)

Waiver from one hundred eighty-day school year requirement — Criteria — Recommendation to the legislature. (Expires August 31, 2014.)

- (1) In addition to waivers authorized under RCW [28A.305.140](#) and [28A.655.180](#), the state board of education may grant waivers from the requirement for a one hundred eighty-day school year under RCW [28A.150.220](#) and [*28A.150.250](#) to school districts that propose to operate one or more schools on a flexible calendar for purposes of economy and efficiency as provided in this section. The requirement under RCW [28A.150.220](#) that school districts offer an annual average instructional hour offering of at least one thousand hours shall not be waived.
- (2) A school district seeking a waiver under this section must submit an application that includes:
 - (a) A proposed calendar for the school day and school year that demonstrates how the instructional hour requirement will be maintained;
 - (b) An explanation and estimate of the economies and efficiencies to be gained from compressing the instructional hours into fewer than one hundred eighty days;
 - (c) An explanation of how monetary savings from the proposal will be redirected to support student learning;
 - (d) A summary of comments received at one or more public hearings on the proposal and how concerns will be addressed;
 - (e) An explanation of the impact on students who rely upon free and reduced-price school child nutrition services and the impact on the ability of the child nutrition program to operate an economically independent program;
 - (f) An explanation of the impact on the ability to recruit and retain employees in education support positions;
 - (g) An explanation of the impact on students whose parents work during the missed school day; and
- (3) Other information that the state board of education may request to assure that the proposed flexible calendar will not adversely affect student learning.
- (4) The state board of education shall adopt criteria to evaluate waiver requests. No more than five districts may be granted waivers. Waivers may be granted for up to three years. After each school year, the state board of education shall analyze empirical evidence to determine whether the reduction is affecting student learning. If the state board of education determines that student learning is adversely affected, the school district shall discontinue the flexible calendar as soon as possible but not later than the beginning of the next school year after the determination has been made. All waivers expire August 31, 2014.
 - (a) Two of the five waivers granted under this subsection shall be granted to school districts with student populations of less than one hundred fifty students.
 - (b) Three of the five waivers granted under this subsection shall be granted to school districts with student populations of between one hundred fifty-one and five hundred students.
 - (i) The state board of education shall examine the waivers granted under this section and make a recommendation to the education committees of the legislature by December 15, 2013, regarding whether the waiver program should be continued, modified, or allowed to terminate. This recommendation should focus on whether the program resulted in improved student learning as demonstrated by empirical evidence. Such evidence includes, but is not limited to: Improved scores on the Washington assessment of student learning, results of the dynamic indicators of basic early literacy skills, student grades, and attendance.
 - (a) This section expires August 31, 2014.

RCW [28A.630.083](#)

Waivers for Innovation schools and Innovation Zones (Expires June 30, 2019).

- (1) (a) The superintendent of public instruction and the state board of education, each within the scope of their statutory authority, may grant waivers of state statutes and administrative rules for designated innovation schools and innovation zones as follows:
 - (ii) Waivers may be granted under RCW [28A.655.180](#) and [28A.305.140](#);
 - (iii) Waivers may be granted to permit the commingling of funds appropriated by the legislature on a categorical basis for such programs as, but not limited to, highly capable students, transitional bilingual instruction, and learning assistance; and
 - (iv) Waivers may be granted of other administrative rules that in the opinion of the superintendent of public instruction or the state board of education are necessary to be waived to implement an innovation school or innovation zone.
- (b) State administrative rules dealing with public health, safety, and civil rights, including accessibility for individuals with disabilities, may not be waived.
- (2) At the request of a school district, the superintendent of public instruction may petition the United States department of education or other federal agencies to waive federal regulations necessary to implement an innovation school or innovation zone.
- (3) The state board of education may grant waivers for innovation schools or innovation zones of administrative rules pertaining to calculation of course credits for high school courses.
- (4) Waivers may be granted under this section for a period not to exceed the duration of the designation of the innovation school or innovation zone.
- (5) The superintendent of public instruction and the state board of education shall provide an expedited review of requests for waivers for designated innovation schools and innovation zones. Requests may be denied if the superintendent of public instruction or the state board of education conclude that the waiver:
 - (a) Is likely to result in a decrease in academic achievement in the innovation school or innovation zone;
 - (b) Would jeopardize the receipt of state or federal funds that a school district would otherwise be eligible to receive, unless the school district submits a written authorization for the waiver acknowledging that receipt of these funds could be jeopardized; or

RCW [28A.655.180](#)

Waivers for educational restructuring programs (Effective until June 30, 2019)

- (1) The state board of education, where appropriate, or the superintendent of public instruction, where appropriate, may grant waivers to districts from the provisions of statutes or rules relating to: The length of the school year; student-to-teacher ratios; and other administrative rules that in the opinion of the state board of education or the opinion of the superintendent of public instruction may need to be waived in order for a district to implement a plan for restructuring its educational program or the educational program of individual schools within the district or to implement an innovation school or innovation zone designated under RCW 28A.630.081.
- (2) School districts may use the application process in RCW 28A.305.140 to apply for the waivers under this section.

WAC [180-18-010](#)

Purpose and Authority

- (1) The purpose of this chapter is to support local educational improvement efforts by establishing policies and procedures by which schools and school districts may request waivers from basic education program approval requirements.
- (2) The authority for this chapter is RCW [28A.305.140](#) and [28A.655.180](#)(1).

WAC [180-18-030](#)

Waivers from total instructional hours requirements

- (1) A district desiring to improve student achievement by enhancing the educational program for all students may apply to the state board of education for a waiver from the total instructional hour requirements. The state board of education may grant said waiver requests pursuant to RCW [28A.305.140](#) and WAC [180-18-050](#) for up to three school years.

WAC [180-18-040](#)

Waivers from minimum one hundred eighty-day school year requirement and student-to-teacher ratio requirement

- (1) A district desiring to improve student achievement by enhancing the educational program for all students in the district or for individual schools in the district may apply to the state board of education for a waiver from the provisions of the minimum one hundred eighty-day school year requirement pursuant to RCW [28A.305.140](#) and WAC [180-16-215](#) by offering the equivalent in annual minimum program hour offerings as prescribed in RCW [28A.150.220](#) in such grades as are conducted by such school district. The state board of education may grant said initial waiver requests for up to three school years.
- (2) A district that is not otherwise ineligible as identified under WAC [180-18-050](#) (3)(b) may develop and implement a plan that meets the program requirements identified under WAC [180-18-050](#)(3) to improve student achievement by enhancing the educational program for all students in the district or for individual schools in the district for a waiver from the provisions of the minimum one hundred eighty-day school year requirement pursuant to RCW [28A.305.140](#) and WAC [180-16-215](#) by offering the equivalent in annual minimum program hour offerings as prescribed in RCW [28A.150.220](#) in such grades as are conducted by such school district.
- (3) A district desiring to improve student achievement by enhancing the educational program for all students in the district or for individual schools in the district may apply to the state board of education for a waiver from the student-to-teacher ratio requirement pursuant to RCW [28A.150.250](#) and WAC [180-16-210](#), which requires the ratio of the FTE students to kindergarten through grade three FTE classroom teachers shall not be greater than the ratio of the FTE students to FTE classroom teachers in grades four through twelve. The state board of education may grant said initial waiver requests for up to three school years.

WAC [180-18-050](#)

Procedure to obtain waiver

- (1) State board of education approval of district waiver requests pursuant to WAC [180-18-030](#) and [180-18-040](#) (1) and (3) shall occur at a state board meeting prior to implementation. A district's waiver application shall be in the form of a resolution adopted by the district board of directors. The resolution shall identify the basic education requirement for which the waiver is requested and include information on how the waiver will support improving student achievement. The resolution shall be accompanied by information detailed in the guidelines and application form available on the state board of education's web site.
- (2) The application for a waiver and all supporting documentation must be received by the state board of education at least fifty days prior to the state board of education meeting where consideration of the waiver shall occur. The state board of education shall review all applications and supporting documentation to insure the accuracy of the information. In the event that deficiencies are noted in the application or documentation, districts will have the opportunity to make corrections and to seek state board approval at a subsequent meeting.
- (3) (a) Under this section, a district meeting the eligibility requirements may develop and implement a plan that meets the program requirements identified under this section and any additional guidelines developed by the state board of education for a waiver from the provisions of the minimum one hundred eighty-day school year requirement pursuant to RCW [28A.305.140](#) and WAC [180-16-215](#). The plan must be designed to improve student achievement by enhancing the educational program for all students in the district or for individual

schools in the district by offering the equivalent in annual minimum program hour offerings as prescribed in RCW [28A.150.220](#) in such grades as are conducted by such school district. This section will remain in effect only through August 31, 2018. Any plans for the use of waived days authorized under this section may not extend beyond August 31, 2018.

- (b) A district is not eligible to develop and implement a plan under this section if:
 - (i) The superintendent of public instruction has identified a school within the district as a persistently low achieving school; or
 - (ii) A district has a current waiver from the minimum one hundred eighty-day school year requirement approved by the board and in effect under WAC [180-18-040](#).
- (c) A district shall involve staff, parents, and community members in the development of the plan.
- (d) The plan can span a maximum of three school years.
- (e) The plan shall be consistent with the district's improvement plan and the improvement plans of its schools.
- (f) A district shall hold a public hearing and have the school board approve the final plan in resolution form.
- (g) The maximum number of waived days that a district may use is dependent on the number of learning improvement days, or their equivalent, funded by the state for any given school year. For any school year, a district may use a maximum of three waived days if the state does not fund any learning improvement days. This maximum number of waived days will be reduced for each additional learning improvement day that is funded by the state. When the state funds three or more learning improvement days for a school year, then no days may be waived under this section.

Scenario	Number of learning improvement days funded by the state for a given school year	Maximum number of waived days allowed under this section for the same school year
A	0	3
B	1	2
C	2	1
D	3 or more	0

- (h) The plan shall include goals that can be measured through established data collection practices and assessments. At a minimum, the plan shall include goal benchmarks and results that address the following subjects or issues:
- (i) Increasing student achievement on state assessments in reading, mathematics, and science for all grades tested;
 - (ii) Reducing the achievement gap for student subgroups;
 - (iii) Improving on-time and extended high school graduation rates (only for districts containing high schools).
- (i) Under this section, a district shall only use one or more of the following strategies in its plan to use waived days:
- (i) Use evaluations that are based in significant measure on student growth to improve teachers' and school leaders' performance;
 - (ii) Use data from multiple measures to identify and implement comprehensive, research-based, instructional programs that are vertically aligned from one grade to the next as well as aligned with state academic standards;
 - (iii) Promote the continuous use of student data (such as from formative, interim, and summative assessments) to inform and differentiate instruction to meet the needs of individual students;
 - (iv) Implement strategies designed to recruit, place, and retain effective staff
 - (v) Conduct periodic reviews to ensure that the curriculum is being implemented with fidelity, is having the intended impact on student achievement, and is modified if ineffective;
 - (vi) Increase graduation rates through, for example, credit-recovery programs, smaller learning communities, and acceleration of basic reading and mathematics skills;
 - (vii) Establish schedules and strategies that increase instructional time for students and time for collaboration and professional development for staff;
 - (viii) Institute a system for measuring changes in instructional practices resulting from professional development;
 - (ix) Provide ongoing, high-quality, job-embedded professional development to staff to ensure that they are equipped to provide effective teaching;
 - (x) Develop teacher and school leader effectiveness;
 - (xi) Implement a school-wide "response-to-intervention" model;
 - (xii) Implement a new or revised instructional program;
 - (xiii) Improve student transition from middle to high school through transition programs or freshman academies;
 - (xiv) Develop comprehensive instructional strategies;
 - (xv) Extend learning time and community oriented schools.
- (j) The plan must not duplicate activities and strategies that are otherwise provided by the district through the use of late-start and early-release days.
- (k) A district shall provide notification to the state board of education thirty days prior to implementing a new plan. The notification shall include the approved plan in resolution form signed by the superintendent, the chair of the school board, and the president of the local education association; include a statement indicating the number of certificated employees in the district and that all such employees will be participating in the strategy or strategies implemented under the plan for a day that is subject to a waiver, and any other required information. The approved plan shall, at least, include the following:
- (i) Members of the plan's development team;
 - (ii) Dates and locations of public hearings;
 - (iii) Number of school days to be waived and for which school years;
 - (iv) Number of late-start and early-release days to be eliminated, if applicable;
 - (v) Description of the measures and standards used to determine success and identification of expected benchmarks and results;
 - (vi) Description of how the plan aligns with the district and school improvement plans;
 - (vii) Description of the content and process of the strategies to be used to meet the goals of the waiver;
 - (viii) Description of the innovative nature of the proposed strategies;
 - (ix) Details about the collective bargaining agreements, including the number of professional development days (district-wide and individual teacher choice), full instruction days, late-start and early-release days, and the amount of other non-instruction time; and
 - (x) Include how all certificated staff will be engaged in the strategy or strategies for each day requested.
- (l) Within ninety days of the conclusion of an implemented plan a school district shall report to the state board of education on the degree of attainment of the plan's expected benchmarks and results and the effectiveness of the implemented strategies. The district may also include additional information, such as investigative reports completed by the district or third-party organizations, or surveys of students, parents, and staff.

- (m) A district is eligible to create a subsequent plan under this section if the summary report of the enacted plan shows improvement in, at least, the following plan's expected benchmarks and results:
 - (i) Increasing student achievement on state assessments in reading and mathematics for all grades tested;
 - (ii) Reducing the achievement gap for student subgroups;
 - (iii) Improving on-time and extended high school graduation rates (only for districts containing high schools).
- (n) A district eligible to create a subsequent plan shall follow the steps for creating a new plan under this section. The new plan shall not include strategies from the prior plan that were found to be ineffective in the summary report of the prior plan. The summary report of the prior plan shall be provided to the new plan's development team and to the state board of education as a part of the district's notification to use a subsequent plan.
- (o) A district that is ineligible to create a subsequent plan under this section may submit a request for a waiver to the state board of education under WAC [180-18-040](#)(1) and subsections (1) and (2) of this section.

Appendix B: Conferences

Why Waivers have been granted for Full-Day Parent-Teacher Conferences

SBE has approved waivers for full-day parent-teacher conferences since March 2007.

	2007-08	2008-09	2009-10	2010-11	2011-12
# districts with waivers for parent teacher conferences	1	2	2	2	18
Total # of days waived for parent teacher conferences*	3	8	8	8	64
# districts with waivers <i>solely</i> for parent teacher conferences	1 Waitsburg	1 Waitsburg	1 Waitsburg	1 Waitsburg	11 Bainbridge Deer Park Entiat Kettle Falls Medical Lake North Kitsap Oak Harbor Okanogan Omak Orondo Waitsburg

*When a district has more than one waiver for conferences the average number of days is used (e.g. District X has four waiver days for elementary conferences and two waiver days for secondary conferences; for this table, that district is counted as having three waiver days for conferences).

The rationale for requiring waivers for full-day parent-teacher conferences lies in the definition of a school day, cited below.

New definition of a school day (Effective on September 1, 2011). *"School day" means each day of the school year on which pupils enrolled in the common schools of a school district are engaged in academic and career and technical instruction planned by and under the direction of the school.* (RCW [28A.150.203](#))

Under this definition, full-day parent-teacher conferences do not count toward the required 180 days because all students are not present on a parent-teacher conference day. While the definition does not specifically say all pupils, 'all' is implicit. If the language read 'some' pupils, then that would permit school schedules where some students are scheduled for fewer than 180 days and on any given day only some students are present (e.g. a calendar where all students attend four days and only students needing intervention attend on the fifth day of the week).

The confusion about parent-teacher conferences stems from the definition of an instructional hour: *"Instructional hours" means those hours students are provided the opportunity to engage in educational activity planned by and under the direction of school district staff, as directed by the administration and board of directors of the district, inclusive of intermissions for class changes, recess, and **teacher/parent-guardian conferences** that are planned and scheduled by the district for the purpose of discussing students' educational needs or progress, and exclusive of time actually spent for meals.* (RCW [28A.150.205](#))

Parent-teacher conferences are explicitly included in the definition of instructional hours and can be counted toward the required 1,000 hours of instruction. The definitions are related (instructional hours comprise a school day) but distinct (a school day must be available to all students).

Appendix C: Waiver History

No Highlighting Indicates Option One Waivers

Green Highlighting Indicates Option Three Waivers

Yellow Highlighting Indicates Parent Teacher Conferences (see final column for details)

District Name	Specific Schools	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	# Days for Parent Teacher Conferences
Adna			4	4	4	3	3	3	
Arlington			3	3	3	3	3	3	
Asotin/Anatone						2	2		
Auburn		5	5	5	5	5			
Bainbridge	K-6					4	4	4	4/4 for parent teacher conferences
Bainbridge	7-8					2	2	2	2/2 for parent teacher conferences
Battle Ground				3	3	3			
Bellingham					3	3	3		
Bethel			2	2	2	2	2	2	
Blaine			3	3	3	3	3	3	
Bremerton			4	4	4				
Burlington-Edison	K-8		2	2	2				
Burlington-Edison	9-12		3	3	3				
Cle Elum			3	3	3	3	3	3	
Colfax				2	2	2			
College Place			3	3	3				
Colton					2	2	2	2	
Columbia (Hunters)				3	3	3	3		
Columbia (Walla Walla)			3	3	3	3	3		
Curlew					2	2	2		
Cusick		4	4	4					
Davenport					2	2	2		
Deer Park						4	4	4	4/4 for parent teacher conferences
Edmonds		5	5	5	5	5	5	5	
Elma					3	3	3		
Endicott		5	5						
Entiat						4	4	4	4/4 for parent teacher conferences
Everett			3	3	3				
Federal Way			3	3	3	7	7	7	4/7 for parent teacher

District Name	Specific Schools	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	# Days for Parent Teacher Conferences
									conferences
Garfield						3	3	3	
Garfield and Palouse			3	3	3				
Granger				5	5	5			
Granite Falls		3	3	1	2	2			
Grapeview		2	2	2					
Highline	Elem	3							
Highline	All Schools		5	5	5				
Highline	Elem					4	4	4	3/4 for parent teacher conferences
Highline	Secondary					2	2	2	1/2 for parent teacher conferences
Hoquiam				1					
Inchelium			3	3	3				
Kettle Falls						4	4	4	4/4 for parent teacher conferences
Kittitas						3	3	3	
LaCrosse						1			
Lake Quinault			4	4	4	4	4	4	
Lake Stevens		1	1						
Longview						3	3	3	
Loon Lake		3	2	2					
Lopez Island			4	4	4	4	4	4	
Lyle			4	4					
Mary Walker		2	2	2	2	3	3	3	
Marysville			5			3			
Medical Lake			2	2	2	4	4	4	4/4 for parent teacher conferences
Methow Valley			6	6	6	6	6	6	
Monroe		4	4	4	4	4	4	4	
Morton		5	5	5	5				
Mount Baker			4	4	4	4	4	4	
Mount Vernon						1	1	1	
Mukilteo		2	2	2					
Naches Valley			2	2	2	2	2	2	
Napavine			4	4	4	4	4	4	
Nespelem		8	6	6	6	6	6		

District Name	Specific Schools	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	# Days for Parent Teacher Conferences
Newport		7	7	5	5	5	5	5	
North Kitsap			5	5	5	5	5	5	5/5 for parent teacher conferences
Northport		4	4	4	4				
Northshore			5	5	5	5	5	5	
Oak Harbor						4	4	4	4/4 for parent teacher conferences
Oakesdale					2	2	2	2	
Ocean Beach			2	2	2	2	2		
Odessa				5	5	5			
Okanogan						4	4	4	4/4 for parent teacher conferences
Olympia						3	3	3	
Omak						4	4	4	4/4 days for parent teacher conferences
Onalaska			2	2	2				
Onion Creek			5	5	5	5	5	5	
Orient			5	5	5	5	5	5	
Orondo					1	4			4/4 days parent teacher conferences
Oroville						3	3	3	
Othello			6	6	6	6	6	6	
Palouse						3	3	3	
Pe Ell		2	2	3					
Pomeroy		3	3	4	4	3			
Port Angeles			2	2	2	2	2	2	
Prescott			2	2	2				
Raymond		5	5	5	5	3	3	3	
Reardan-Edwall					3	3	3		
Riverside		2	2	2	1	6			4/6 for parent teacher conferences
Rosalia					2	2	2		
Seattle	Elementary	3	6	6	6	6	6		3/6 for parent teacher conferences
Seattle	High					1	1		1/1 for parent teacher conferences

District Name	Specific Schools	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	# Days for Parent Teacher Conferences
Sedro-Woolley						3	3	3	
Selkirk			4	4	4	3	3	3	
Sequim						4	4	4	2/4 for parent teacher conferences
Shoreline		5	5	5	5	5	5	5	
Snohomish		6	1						
South Bend		3	3	3	3	3			
St. John		5	5	5	5	5			
Sultan		5	4	4					
Sumner						3	3	3	
Sunnyside			7	7	7	7	7	7	4/7 for parent teacher conferences
Tacoma			4	3	2	2			
Tacoma	TSOTA				19	12			
Tacoma	SAMI				19	12			
Tacoma	Stewart Middle				11	8			
Tahoma		3	5	5	5	3	3	3	
Tekoa						2	2	2	
Thorp		3	2	2	2	2			
Valley			4	4	4	3	3	3	
Wahkiakum			4	4	4	4	4	4	
Waitsburg			2	2	2	2	2	2	2/2 for parent teacher conferences
Wellpinit			3	3	3				
White Pass					5				
Wishram		4							
Zillah			3	3	3	7	7	7	4/7 for parent teacher conferences

Appendix D: Draft Rubric

For use by a subcommittee of SBE Members; all elements must be rated at least “Acceptable” for approval

Waiver Criteria	Not Acceptable	Acceptable	Exceptional
Meet the required annual instructional hour offerings	Resolution does not state that the district will meet requirement	Resolution states that district will meet requirement and application provides evidence of the hours calculation	NA
Local characteristics or circumstances warrant exception to basic education minimum # of days	Application is for a universal or very common need; not a local circumstance	Some evidence of a local circumstance/characteristic	Clearly a local circumstance or characteristic and not a situation that every district must address
Goals are identified and are related to student achievement	Goals are unclear; not related to student achievement; not measurable using valid tools; goal does not represent meaningful change	Explains a goal related to student achievement and a valid and specific tool to measure is identified; goal is reasonably attainable and meaningful	Goal(s) related to student achievement are very clearly articulated and valid tool(s) are identified to measure whether the goal was attained
District will collect evidence to show if goals were attained	Does not include a state or locally-determined assessment system or data collection method that will provide information related to goals	Provides details of a state or locally-determined assessment system and one data collection method, if applicable, that will provide information related to goals	Provides details of a state or locally-determined assessment system and one data collection method, if applicable, that will provide information related to goals ; data collection is imbedded in systematic decision making process

Waiver Criteria	Not Acceptable	Acceptable	Exceptional
Strategies used are evidence- or research-based and likely to lead to the attainment of the stated goal(s)	Strategies are unclear, unstated, or unlikely to lead to attainment of the goal	Strategies are articulated, seem likely to lead to attainment of the goal; some evidence or research is presented to support the strategies	Strategies are clearly articulated; strategies are highly likely to lead to attainment of the goal; application clearly states the body of research or evidence upon which the strategies are based
Innovative nature of strategies	Does not provide information about how the strategies are innovative	Provides details of how the strategies are innovative to their district or are identified by state or known groups to be innovative best practices	"Acceptable" met; utilizes one or more of the strategies listed in WAC 180-16-050(3)(i); multiple strategies are identified as innovative best practices
Connections of activities from year to year , if applicable	Does not provide clear connections between activities from year to year; or restates identical activities from one year to the next	Provides details of how the activities are connected across the years of the waiver	Provides details of how the activities are connected across the years of the waiver; use of data to inform planning for subsequent years of waiver
Supports District or Schools Improvement Plans (DIP & SIP)	The purpose and goals do not parallel or connect with the DIP or SIPs; or no DIP or DIP is available for comparison	The purpose and goals of the waiver plan parallel or are strongly connected to the purpose and goals of the DIP or SIPs	The purpose and many of the goals are identical to the purpose and goals of the DIP or SIPs; the DIP or SIPs were used as the foundation of the waiver plan
Involvement of administrators, teachers, staff, parents, students, and the community	No clearly stated details of how the groups were involved, or groups were passively notified (e.g. newsletter or website) without active engagement	Provides details of how the groups were involved in the development of the plan	Provides details of how the groups were involved in the development of the plan; district has established planning team with representatives of the groups that participated in the development of plan

Waiver Criteria	Not Acceptable	Acceptable	Exceptional
For renewals, explain how much progress was made with the original waiver, why goals were not fully achieved, and what will be different in the implementation or execution of a new waiver	Unclear how much progress was made in original waiver; lacking analysis and reflection about why goals were not fully achieved and lacking description of what will be different with renewal	High degree of reflection and analysis about how much progress was made with original waiver, why goals were not fully achieved, and clear description of what will be different in the implementation or execution of the renewal waiver	
For Renewals- Meaningful ongoing engagement of the parents and the community	No clearly stated details of how the groups were involved or groups were involved passively (e.g. notified in a newsletter)	Provides details of how the groups were involved in a meaningful, ongoing manner about the use and impact of the waiver activities	Provides details of how the groups were involved in an ongoing manner about the use and impact of the waiver activities ; district has established planning team with representatives of the groups that participated in the development of plan

State Board of Education 180-Day Waivers



Two separate 180-day waiver topics:

1. Rule Revision under way (page 121 of your packet)
2. Proposed criteria for waiver approval process (page 95 of your packet)

Motion Language for Option One Waivers

From March 2011 – present
motion language used to approve Option One
waivers included:

Move to grant the requests of X, Y, and Z School Districts for waivers from the 180 day school year requirement for the number of days and school years requested;

Provided, however, that if a state law is enacted authorizing or mandating that a school district operate on less than the current statutory requirement of 180 school days, and a school district reduces the number of school days in a year in response to the change in law, then the total number of days for which a waiver is granted in any year shall automatically be reduced by a number equal to the total number of school days a district reduces its school calendar for that year below the current statutory requirement.

Result of Potential Days Reductions Under *Current Motion Language*

Under current discussion is the Governor's proposal to reduce the 180-day school year to a 176-day school year. If that occurs:

- Any district whose Option One waiver was approved after March 1, 2011, *would be reduced by four days because of motion language.*
- Districts with Option One waivers that were approved prior to March 2011, *would not* have an automatic reduction in their number of waiver days.
- Districts with Option Two waivers (Economy and Efficiency) waivers *would not* have an automatic reduction because they were approved without motion language that would cause a reduction.
- Districts with Option Three waivers (“Fast Track”) *would not* have an automatic reduction in their waiver days because motions are not required to approve these waivers.

Three Proposed Changes to WAC 180-18-040

1. Puts motion language into rule.
This change would help districts by notifying them in advance of their waiver application submission, rather than after the fact in the approval motion language.
2. Extends reach of the reduction to Option Three waivers.
3. Deletes Section (3) because it is obsolete.

Rule Changes Are Not Retroactive

If the rule is approved, and if the Legislature reduces days:

1. Option One waivers granted prior to March 2011 (eight districts) would *not* be reduced.
2. Existing Option Three waivers would *not* be reduced.
3. Option One and Three waivers approved *after* the rule language is finalized would be subject to this rule change.

Timeline

Completed:

- November 10, 2011: SBE directed staff to begin rule revision
- December 2, 2011: Staff filed CR 101
- December 15, 2011: Staff sent request for input statewide to superintendents, WSSDA Members

Proposed:

- *January 12 2012: SBE considers approving filing with the Code Reviser the proposed amendment to the rule*
- *January 20, 2012: Staff files the CR 102**
- *March 14-15, 2012: SBE holds public hearing and considers adoption of rule language*
- *April 1, 2012**: Staff files the CR 103**
- *May 1, 2012**: WAC change takes effect*

*contingent upon SBE approval at each step

**these are approximate dates

Current Types of 180-day Waivers



Type of Waiver	Purpose	Date Began	Day Limit	Eligibility	Current # Districts
Option 1 “Regular Request”	To provide for all students an effective education; to enhance the educational program for each student	1995	No limit	All districts	49
Option 2 “Economy and Efficiency”	For districts to operate a flexible calendar for purposes of economy and efficiency	2009; pilot expires 8/2014	No limit	Up to 2 districts with <150 students, Up to 3 districts between 150 and 500 students	2 <150
Option 3 “Fast Track”	Limited to specific activities outlined in WAC	2010	Max of 3	Only districts without a PLA*	30
Innovation Waivers	To allow for districts to implement innovative models in A-STEM; other models as well	SY 12-13	No limit	Competitive application process through OSPI and ESDs; max of 34	None yet--scheduled for February

Review of Board Input



Review of July – November Input

	July	September	November
Summary	Keep all Options.	Keep all Options.	Staff is directed to develop criteria and return for further discussion.
Proposed RCW/WAC Changes	Revise rules to cap Option One at five days.	Do not cap Option One. Any number of days may be granted as long as the 1,000 instructional hours are protected.	First establish criteria, then make decisions about capping days. Add language to Option Three rules that reduce the number of waiver days granted if the Legislature reduces days below 180 days.

Waiver Principles



1. The Legislature has defined basic education as 1,000 instructional hours and 180 school days.
2. Waivers should not be granted to back-fill legislative cuts to Learning Improvement Days or other budget constraints.
3. Waivers should only be granted to districts in response to local characteristics/circumstances.
4. Innovation should be encouraged through the New Innovative Schools application process established in HB 1546.
5. Waivers should be renewed if the district can make a compelling argument that they have made significant progress that is clearly demonstrated through data, but need additional time to achieve their goals.

Recommendation A and B:



- A. Eliminate Option One.
- B. Revise Option Three so that it is no longer a 'fast track' option intended to backfill LID days (no longer an automatic approval). Detailed review of each application should be conducted by a panel of SBE Board members who provide a recommendation to the Board as a whole. Allow districts with a persistently lowest achieving school to apply.

Recommendation C: Waiver Criteria



C. Apply specific criteria to the waiver applications:

1. The requesting school district has local characteristics/circumstances that warrant exception to BEA minimums.
2. The district has identified goals related to raising student achievement (including specific tools or metrics used).*
3. The district will collect evidence to show whether the goal(s) were attained.*
4. The strategies used are evidence- or research-based and likely to lead to attainment of the stated goal.
5. Activities in subsequent years are connected to those in the first year of the waiver.*
6. The waiver request directly supports the district and school improvement plans.*
7. Administrators, teachers, other staff, parents, students, and the community were involved in the development of the waiver request and will have continued input on the implementation of the waiver.*
8. Create a rigorous renewal process, including ongoing engagement of parents and the community.*

*these elements are already required in the application but are not evaluated

Recommendation D – E:



C. Keep Option Two (as required by legislation), but adopt criteria for evaluating and selecting applications.

D. Advocate to the Legislature for the following changes:

- Clarify whether a school day is inclusive of full-day parent teacher conferences.
- Fund professional development time (LID) for teachers.
- Revise the Innovative Schools application process to be conducted annually and to include existing schools.

E. Consider a phase-in plan to implement these recommendations as of July, 2013.

Other Alternatives:



Alternative A: Review Option One using criteria 2-7 and cap this Option at a specific number of days below 180. This reflects Board member direction to staff from July 2011.

Alternative B: Continue to issue waivers to districts according to the established process. This reflects Board direction to staff in September 2011.

Alternative C: Review Option One using criteria 2-7 (see Alternative A) but do not cap the number of days. This reflects Board direction to staff in November 2011.