

# The Washington State Board of Education

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

<b>Title:</b>	Rule Revision Memo	
<b>As Related To:</b>	<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
<b>Relevant To Board Roles:</b>	<input type="checkbox"/> Policy Leadership <input checked="" type="checkbox"/> System Oversight <input type="checkbox"/> Advocacy	<input type="checkbox"/> Communication <input type="checkbox"/> Convening and Facilitating
<b>Policy Considerations / Key Questions:</b>	SBE is asked to consider further rule making on WAC 180-18-040.	
<b>Possible Board Action:</b>	<input checked="" type="checkbox"/> Review <input type="checkbox"/> Adopt <input checked="" type="checkbox"/> Approve <input type="checkbox"/> Other	
<b>Materials Included in Packet:</b>	<input checked="" type="checkbox"/> Memo <input type="checkbox"/> Graphs / Graphics <input type="checkbox"/> Third-Party Materials <input type="checkbox"/> PowerPoint	
<b>Synopsis:</b>	<p>Following a November 2011 SBE discussion about potential revisions to the waiver process, SBE members directed staff to begin the rule revision process, which would enact three changes to WAC 180-18-040:</p> <ol style="list-style-type: none"> <li>1. The first change would put into rule the waiver motion the Board has had in place for waivers issued in March 2011 and beyond. The proposed amendment to <u>WAC 180-18-040</u> would make it explicit that if state law authorizes a school district to operate on less than the current statutory requirement of 180 school days, and a school district reduces the number of school days in response to that change in law, then the total number of days for which a waiver is granted in any year shall automatically be reduced.</li> <li>2. The second change constitutes a new direction for the Board. This change would extend the reach of the proportional reduction in waiver days to Option Three waivers. The motion language has only so far applied to Option One waivers. Putting this language into <u>WAC 180-18-040</u> would extend the proportional reduction of waiver days to Option Three waivers, which so far have been unaffected by motion language.</li> <li>3. The third change is to delete section (3) due to a change in legislation which renders the language obsolete.</li> </ol> <p>Reductions would apply only to Option One and Option Three waivers. Option Two waivers (Economy and Efficiency) would not be affected. This rule change would not be retroactive. Districts with Option One waivers that were granted prior to March 2011 will continue to be allowed to use the number of waiver days granted. Districts with Option One waivers that were granted using the above-described motion language would have a proportional reduction of waiver days because of the motion language itself. If the rule is revised, waivers that are approved after the rule language is finalized would be subject to this rule change.</p>	

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## 180-DAY WAIVER RULE REVISION

### BACKGROUND

WAC 180-18-040 provides districts the opportunity to apply for waivers from the basic education minimum 180-day school year requirement. The State Board of Education (SBE) conducts regular reviews of districts' waiver applications and has granted multiple waivers (a list of waivers granted is available on the SBE website).

Beginning in March 2011, the Board has stated in the motion language used to approve Option One waivers that if the Legislature reduces school days there will be an automatic proportional reduction in the number of waiver days granted. Option One waivers approved beginning in March, 2011 have all included specific language that reads:

*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.*

In other words, for each day that the Legislature cuts from the 180 days, a district's approved waiver would be reduced by a day.

### 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 (see Appendix A).
- 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.

## **POLICY CONSIDERATION**

Following a November 2011 SBE discussion about potential revisions to the waiver process, SBE Members directed staff to begin the rule revision process, which would enact three changes to WAC 180-18-040:

1. The first change would put into rule the waiver motion the Board has had in place for waivers issued March 2011 and beyond. The proposed amendment to WAC 180-18-040 would make it explicit that if state law authorizes a school district to operate on less than the current statutory requirement of 180 school days, and a school district reduces the number of school days in response to that change in law, then the total number of days for which a waiver is granted in any year shall automatically be reduced. 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. The second change constitutes a new direction for the Board. This change would extend the reach of the proportional reduction in waiver days to Option Three waivers. The motion language has only so far applied to Option One waivers. Putting this language into WAC 180-18-040 would extend the proportional reduction of waiver days to Option Three waivers, which so far have been unaffected by motion language.
3. Additionally, the Board will be amending WAC 180-18-040 to delete section (3) due to a change in legislation which renders the language obsolete. In 2009, the Legislature amended RCW 28A.150.250 to delete the requirement for the student/teacher ratio for grades K-3. The prior version of RCW 28A.150.250 (effective until September 2011) read as follows:

*“Operation of a program approved by the state board of education, for the purposes of this section, shall include a finding that the ratio of students per classroom teacher in grades kindergarten through three is not greater than the ratio of students per classroom teacher in grades four and above for such district . . .”*

Reductions would apply only to Option One and Option Three waivers. Option Two waivers (Economy and Efficiency) would not be affected.

This rule change would not be retroactive. Districts with Option One waivers that were granted prior to March, 2011, will continue to be allowed to use the number of waiver days granted. Districts with Option One waivers that were granted using the above-described motion language would have a proportional reduction of waiver days because of the motion language itself. If the rule is revised, waivers that are approved after the rule language is finalized would be subject to this rule change.

## **PROPOSED RULE AMENDMENT**

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. If a state law is enacted authorizing or mandating that a school district operate on less than 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 180 days.

(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.~~

## **RULE REVISION TIMELINE**

### Completed:

November 10, 2011: SBE directed staff to begin the rule revision process  
December 2, 2011: Staff filed CR 101 (see Appendix B)  
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

## **EXPECTED ACTION**

SBE Members will be asked to consider the proposed amendment to the rule language and direct staff on next steps.

**Appendix A**

Districts with Option One Waivers That Will Be Reduced if the Legislature Reduces the School Year to 176 Days (per Motion Language)

District	# of Waiver Days Granted	Date Granted	Exp. Date	Net Waiver Days if School Days Are Reduced to 176
Auburn	5	9/15/2011	2011-12	1
Bainbridge - Elem	4	9/15/2011	2013-14	0
Bainbridge - Secondary	2	9/15/2011	2013-14	0
Bethel	2	3/10/2011	2013-14	0
Deer Park	4	9/15/2011	2013-14	0
Edmonds	5	3/10/2011	2013-14	1
Entiat	4	9/15/2011	2013-14	0
Federal Way	7	7/14/2011	2013-14	3
Highline - Elementary	4	9/15/2011	2013-14	0
Highline - Secondary	2	9/15/2011	2013-14	0
Kettle Falls	4	9/15/2011	2013-14	0
Lake Quinault	4	5/12/2011	2013-14	0
Longview	3	5/12/2011	2013-14	0
Lopez Island	4	5/12/2011	2013-14	0
Medical Lake	4	9/15/2011	2013-14	0
Methow Valley	6	3/10/2011	2013-14	2
Monroe	4	3/10/2011	2013-14	0
Mount Baker	4	7/14/2011	2013-14	0
Mount Vernon	1	9/15/2011	2013-14	0
Napavine	4	5/12/2011	2013-14	0
Newport	5	3/10/2011	2013-14	1
North Kitsap	5	9/15/2011	2013-14	1
Northshore	5	3/10/2011	2013-14	1
Oak Harbor	4	9/15/2011	2013-14	0
Okanogan	4	9/15/2011	2013-14	0
Omak	4	7/14/2011	2013-14	0
Onion Creek	5	5/12/2011	2013-14	1
Orient	4	5/12/2011	2013-14	0
Orondo	4	9/15/2011	2011-12	0
Oroville	3	7/14/2011	2013-14	0
Othello	6	5/12/2011	2013-14	2
Riverside	6	7/14/2011	2011-12	2
Saint John-Endicott	5	5/12/2011	2011-12	1
Seattle	3	3/10/2011	2012-13	0
Seattle Elementary	3	3/10/2011	2012-13	0
Seattle Middle/High	1	3/10/2011	2012-13	0

District	# of Waiver Days Granted	Date Granted	Exp. Date	Net Waiver Days if School Days Are Reduced to 176
Sedro Wooley	3	3/10/2011	2013-14	0
Sequim	4	7/14/2011	2013-14	0
Shoreline	5	3/10/2011	2013-14	1
Sunnyside	7	9/15/2011	2013-14	3
Tacoma	varies by school	5/12/2011	2013-14	varies by school
Tacoma	2	7/14/2011	2011-12	0
Thorp	2	9/15/2011	2011-12	0
Wahkiakum	4	9/15/2011	2013-14	0
Waitsburg	2	7/14/2011	2013-14	0
Zillah	7	5/12/2011	2013-14	3



# PREPROPOSAL STATEMENT OF INQUIRY

**CR-101 (June 2004)**  
**(Implements RCW 34.05.310)**  
Do **NOT** use for expedited rule making

**Agency:** Washington State Board of Education

**Subject of possible rule making:**  
Amending WAC 180-18-040 governing reduction in waiver days authorized under the rule if the Washington State Legislature enacts legislation reducing the number of school days to less than 180 school days; and deleting section (3) of the rule in its entirety.

**Statutes authorizing the agency to adopt rules on this subject:**  
RCW 28A.305.140

**Reasons why rules on this subject may be needed and what they might accomplish:**  
WAC 180-18-040 provides the authority for school districts to apply for a waiver from the minimum one hundred eighty day school year requirement in RCW 28A.150.220. WAC 180-18-050(3) provides a process for eligible school districts to develop and implement a plan for a maximum waiver of 3 school days per year from the 180 school day requirement in RCW 28A.305.140 under prescribed circumstances. Unlike section (1) waivers, a waiver under section (3) of WAC 180-18-050 is not required to occur at a State Board of Education (SBE) meeting prior to implementation. The SBE has conditioned all section (1) waivers to provide for a reduction in waiver days granted in any year by a number equal to the total number of school days a district reduces its school calendar for that year below the current 180 day statutory requirement in response to a change in legislation authorizing the reduction as a consequence of the state's economic plight. An amendment to WAC 180-18-040 will make it explicit that waivers granted under sections (1) and (3) of WAC 180-18-050 will both be subject to the condition now placed on section (1) waivers. Additionally, the Board will be amending WAC 180-18-040 to delete section (3) due to a change in legislation eliminating the student teacher ratio under RCW 28A.150.250 effective September 1, 2011.

**Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:**  
No other federal or state agencies regulate this subject.

Process for developing new rule (check all that apply):  
 Negotiated rule making  
 Pilot rule making  
 Agency study  
 Other (describe) The State Board of Education will notify school districts of the intended change to WAC 180-18-040 and give them an opportunity to provide comments prior to the filing of the CR 102.

How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:  
Contact person: Loy McColm  
Mailing Address: Washington State Board of Education, Old Capital Building, P.O. Box 47206, Olympia, Washington 98504  
Email address: loy.mccolm@k12.wa.us  
Phone number: 360-725-6025  
Fax number: 360-586-2357

**DATE**

**CODE REVISER USE ONLY**

**NAME (TYPE OR PRINT)**  
Ben Rarick

**SIGNATURE**

*Ben Laro*

**TITLE**

Executive Director, Washington State Board of Education



**WAC 180-18-040 Waivers from minimum one hundred eighty-day school year requirement. ~~and student-to-teacher ratio requirement.~~**

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[Statutory Authority: Chapter 28A.305 RCW, RCW 28A.150.220, 28A.230.090, 28A.310.020, 28A.210.160, and 28A.195.040.

10-23-104, § 180-18-040, filed 11/16/10, effective 12/17/10.

Statutory Authority: RCW 28A.305.140 and 28A.655.180. 10-10-007, § 180-18-040, filed 4/22/10, effective 5/23/10. Statutory

Authority: RCW 28A.150.220(4), 28A.305.140, 28A.305.130(6), 28A.655.180. 07-20-030, § 180-18-040, filed 9/24/07, effective

10/25/07. Statutory Authority: Chapter 28A.630 RCW and 1995 c 208. 95-20-054, § 180-18-040, filed 10/2/95, effective 11/2/95.]