

## **UPDATE ON REVISIONS TO THE 180 DAY WAIVER PROCESS**

### **SUMMARY**

The State Board of Education (SBE) is currently reviewing its procedures for waivers from the requirements of the Basic Education Act (RCW 28A.305.140). The SBE Waivers Committee and staff have drafted a set of recommendations and suggested revised rule language for consideration.

### **BACKGROUND**

Currently, both the SBE and the Office of Superintendent of Public Instruction (OSPI) have the authority to grant school districts waivers from the Basic Education Act requirements (RCW 28A.655.180). SBE provides waivers to districts for long-term planning to increase student achievement. Waivers may be granted for up to three years for the following requirements:

- Minimum 180 day school year.
- Minimum 180 day school year for the purposes of economy and efficiency (new pilot program created by the 2009 Legislature).
- Total instructional hour (no current waivers).
- Student-to-teacher ratio (no current waivers).

School districts have primarily requested 180 day school year waivers from SBE for the purposes of district-wide professional development. For the 2009-10 school year, there are 67 school districts with waivers from the 180 school day requirement. The average number of days is three and the average number of years is three.

### **POLICY CONSIDERATION**

The SBE could create a two-tier process that would decrease the number of applications coming before the full Board. One tier could consist of the current process, in which any district can apply for a waiver of their choosing. A new second tier could allow districts to use waived days within specified limits without the need to obtain full Board approval. This new pilot process could be designed to end when the legislature provides funding for three or more Learning Improvement Days (LID) (see below and Appendix A).

#### **Continuation of Current Process**

The current process could continue as an option for school districts with some revisions to the application and the creation of a rubric for renewal applications. The current process allows school districts to propose waivers with characteristics that address the unique nature of their educational community. For example, this process would be an option for districts that wish to use more days than are allowed under the proposed new pilot process. SBE staff would process these applications and present them to the full Board for case-by-case consideration and approval.

The application form that districts use to apply for waivers will be updated to include the following prompts (see Appendix B):

- Describe the measures and standards used to determine success and identify the expected benchmarks and results.
- Describe the content and process of the strategies to be used to meet the goals of the waiver.
- Describe the innovative nature of the proposed strategies.
- Provide details about the collective bargaining agreements, including the number of professional development days (district-wide and individual teacher choice), full instruction days, early-release days, and the amount of other non-instruction time.

The SBE will create a rubric for assessing the success of waivers. SBE staff will use the rubric during the processing of renewal applications and the development of recommendations to the Board. The rubric will be updated every year and posted on the SBE website by September 1, beginning in 2010.

### **New Pilot Process**

SBE could make a policy-level decision to create a new pilot process. Under this new process, any district that meets specified requirements could use a certain number of waived days once they have notified SBE. The full Board would not review each plan or need to give its approval. SBE staff would review submitted notifications to ensure districts' compliance with the requirements. If a district's proposal does not meet the requirements, then SBE staff would request that the district revise their plan or submit it as an application for approval by the Board. This new pilot process would come to an end before the 2018-19 school year or when the legislature provides funding for three or more LIDs.

As a note, the economy and efficiency pilot program created by the legislature in 2009 would not be affected by these suggested changes and would continue until it sunsets in 2014.

**Draft Pilot Process Eligibility and Program Requirements** (Appendix A is in draft rule language):

#### Eligibility:

- Districts identified by OSPI as having persistently low achieving schools will not be eligible. Note: these districts could still apply for waivers under the case-by-case approval process.

#### Program Requirements:

- **Development of Plan:** The district shall involve staff, parents, and community members in the development of the plan to use waived days. The plan can span a maximum of three school years. The plan shall be consistent with the district's improvement plan and the improvement plans of its schools. The district shall hold a public hearing and have the school board approve the final plan. The approved plan shall be submitted to the SBE in resolution form and shall include the following information:
  - Members of the plan's development team.
  - Dates and locations of public hearings.
  - Number of school days to be waived and for which school years.
  - Number of early-release days to be eliminated, if applicable.
  - Description of the measures and standards used to determine success and identification of expected benchmarks and results.

- Description of how the plan aligns with the district and school improvement plans.
  - Description of the content and process of the strategies to be used to meet the goals of the waiver.
  - Description of the innovative nature of the proposed strategies.
  - Details about the collective bargaining agreements, including the number of professional development days (district-wide and individual teacher choice), full instruction days, early-release days, and the amount of other non-instruction time.
- **Maximum Number of Waived Days:** The maximum number of waived days that a district may use is dependent on the number of Learning Improvement Days (LID) funded by the state for any given school year. A district may use up to three waived days if the state does not fund any LIDs. This maximum number of waived days will be reduced by one for each additional LID that is funded by the state for any given school year. When the state funds three or more LIDs, then no days may be waived under this pilot process.

Scenario	Number of Learning Improvement Days (LID) funded by state for a given school year	Maximum number of waived days allowed under pilot process for same school year
A	0	3
B	1	2
C	2	1
D	3 or more	0

- **Measures and Standards:** 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:
  - Increasing student achievement on state assessments in reading, mathematics, and science for all grades tested.
  - Reducing the achievement gap for student subgroups.
  - Improving on-time and extended high school graduation rates (only for districts containing high schools).
- **Strategies:** Districts shall only use one or more of the following strategies:
  1. Use evaluations that are based in significant measure on student growth to improve teachers' and school leaders' performance.
  2. 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.
  3. 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.
  4. Implement strategies designed to recruit, place, and retain effective staff.
  5. 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.

6. Increase graduation rates through, for example, credit-recovery programs, smaller learning communities, and acceleration of basic reading and mathematics skills.
  7. Establish schedules and strategies that increase instructional time for students and time for collaboration and professional development for staff.
  8. Institute a system for measuring changes in instructional practices resulting from professional development.
  9. Provide ongoing, high-quality, job-embedded professional development to staff to ensure that they are equipped to provide effective teaching.
  10. Develop teacher and school leader effectiveness.
  11. Implement a school-wide “response-to-intervention” model.
  12. Implement a new or revised instructional program.
  13. Improve student transition from middle to high school through transition programs or freshman academies.
  14. Develop comprehensive instructional strategies.
  15. Extend learning time and community oriented schools.
- **Early-release Days:** The plan must not duplicate activities and strategies that are otherwise provided by the district through the use of early-release days.
  - **Notification:** A district shall provide initial notification in hard copy, to the SBE, 30 days prior to implementing a new plan. The plan may span a maximum of three school years. The notification shall include the approved plan in resolution form and any other required information.
  - **Summary Report:** Within 90 days of the conclusion of an implemented plan, a school district shall report to the SBE 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.
  - **Renewal Eligibility:** A district may create a subsequent plan under this section if the summary report of the prior plan shows improvement in, at least, the following plan’s expected benchmarks and results:
    - Increasing student achievement on state assessments in reading, mathematics, and science for all grades tested.
    - Reducing the achievement gap for student subgroups.
    - Improving on-time and extended high school graduation rates (only for districts containing high schools).
  - **Renewal Requirements:** A district eligible to create a subsequent plan shall follow the steps for creating a new plan under this section. The new plan should not include strategies from the prior plan that were found to be ineffective in the summary report. The summary report of the prior plan shall be provided to the new plan’s development team and to the SBE as a part of the district’s notification to use a subsequent plan.
  - **Districts Ineligible to Renew under this Section:** Districts that are ineligible to renew their use of waived days under this section may submit a request for the use of waived days to the SBE under the current case-by-case process.

## **EXPECTED ACTION**

Direction to the Waivers Committee to amend the recommended draft rule revisions or submit the draft as is to the Code Reviser in preparation for a public hearing at the March Board meeting.

### **Timeline of work:**

<b>Item</b>	<b>Date</b>
Waivers Committee presents draft revised procedures to Board.	January Meeting
SBE submits proposed rule language to the Code Reviser.	February
Stakeholder input. Draft application and procedure posted on the website and shared with stakeholders, including: <ul style="list-style-type: none"><li>• School districts with current waivers.</li><li>• Members of past 180-Day Waiver Advisory Committee.</li><li>• Other agency and legislative staff.</li></ul>	January – February
Board will consider adopting revised procedures. Board will hold a hearing if needed for rule change. A Board decision at this time of year will assist districts as they negotiate collective bargaining agreements for the 2010-11 school year.	March Regular Board Meeting
Waivers Committee will develop a rubric for assessing the success of waivers.	March – May
Waivers Committee presents draft rubric.	May Regular Board Meeting
Stakeholder input. Draft rubric posted on the website and shared with stakeholders, including: <ul style="list-style-type: none"><li>• School districts with current waivers.</li><li>• Members of past 180-Day Waiver Advisory Committee.</li><li>• Other agency and legislative staff.</li></ul>	May – July
Board will consider adopting draft rubric for assessing the success of waivers.	July Regular Board Meeting
SBE will post on its Web site the rubric for assessing the success of waivers.	September

## Appendix A

### Proposed amendments to rules WAC 180-18-040 and WAC 180-18-050 (New text is underlined and deleted text is ~~stricken~~)

#### **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.150.220(5) 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.150.220(5) 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.

[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.]

**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 (~~thirty~~) 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 ensure 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.150.220(5) 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 identified by the superintendent of public instruction as having persistently low achieving schools will not be eligible to develop and implement a plan under this section.

(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 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 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 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 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, early-release days, and the amount of other non-instruction time.

(k) 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.

(l) 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).

(m) 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.

(n) 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 WAC 180-18-050 (1) and (2).

[Statutory Authority: RCW 28A.150.220(4), 28A.305.140, 28A.305.130(6), 28A.655.180. 07-20-030, § 180-18-050, filed 9/24/07, effective 10/25/07. Statutory Authority: RCW 28A.150.220(4), 28A.305.140, and 28A.305.130(6). 04-04-093, § 180-18-050, filed 2/3/04, effective 3/5/04. Statutory Authority: Chapter 28A.630 RCW and 1995 c 208. 95-20-054, § 180-18-050, filed 10/2/95, effective 11/2/95.]

## Appendix B

Proposed amendments to the application for waivers from the  
180-day requirement as part of the current process  
(New text is underlined and deleted text is ~~stricken~~)

### Application for Waiver from the Minimum One Hundred Eighty-day School Year Requirement of the Basic Education Program Requirements

The State Board of Education's authority to grant waivers from the basic education program requirement is RCW 28A.305.140 and RCW 28A.655.180(1). The rules that govern requests for waivers are in WAC 180-18-030, WAC 180-18-040, and WAC 180-18-050.

The State Board of Education respects the value of teacher and student contact time. Waivers are exceptions from basic education program requirements in that they provide "exceptional opportunities" for districts and schools to be innovative in enhancing the educational program for all students while meeting the challenges of their school calendars.

#### **Directions:**

Waiver requests must use the Waiver Application Form and must be submitted electronically to the State Board of Education at least fifty (50) days prior to the SBE meeting where consideration of the waiver will occur. Districts or schools are responsible for finding out when the State Board of Education meetings are held. The Board's meeting schedule is posted on its website <http://www.sbe.wa.gov> or may be obtained by contacting the Board by calling 360.725.6029 or emailing to [sbe@k12.wa.us](mailto:sbe@k12.wa.us).

The application must be accompanied by a resolution adopted and signed by the district board of directors requesting the waiver. The **resolution shall identify:**

- The basic education requirements for which the waiver is requested;
- The school of years for which the waiver is requested;
- How the waiver will support increasing student achievement;
- Assurance that the district will meet the annual average 1,000 hours of instructional hour offerings (RCW 28A.150.220 and WAC 180-16-215); and
- The number of days each school year for which the waiver is requested.

Complete this application form and submit it with the Board resolution and supporting documents to (electronic submission through email is preferred):

Brad Burnham  
The Washington State Board of Education  
P.O. Box 47206  
Olympia, WA 98504-7206  
360-725-6029; Fax 360-586-2357  
[brad.burnham@k12.wa.us](mailto:brad.burnham@k12.wa.us)

Part A: For all new and renewal applications:  
 (Please include as much detail as possible. The spaces provided below each question for answers will expand as you type or paste text).

1. School District Information	
District	
Superintendent	
County	
Phone	
Mailing Address	

2. Contact Person Information	
Name	
Title	
Phone	
Email	

3. Application type:	
New Application or Renewal Application	

4. Is the request is for all schools in the district?	
Yes or No	
If no, then which schools or grades is the request for?	

3. How many days are being requested to be waived and for which school years?	
Number of Days	
School Years	

4. Will the waiver days result in a school calendar with fewer half-days?	
Number of half-days before any reduction	
Reduction	
Remaining number of half days in calendar	

5. Will the district be able to meet the required annual instructional hour offerings (RCW 28A.150.220 and WAC 180-16-215) for the school years for which the waiver is requested?

Yes or No

6. Waiver requests may be for up to three school years. How will activities in the subsequent years be connected to those of the first year of the waiver?

7. What are the purpose and goals of the waiver?

8. What is the student achievement data motivating the purpose and goals of the waiver?

9. Describe the measures and standards used to determine success and identification of expected benchmarks and results.

10. Describe the evidence the district and/or schools will collect to show whether the goals were attained.

11. Describe the innovative nature of the proposed strategies.

12. Describe the content and process of the strategies to be used to meet the goals of the waiver.

13. Describe how the waiver directly supports the district and/or school improvement plans? Include links or information about how the State Board of Education may review the district and school improvement plans (do not send hard copies).

14. Describe how administrators, teachers, other staff, parents, students, and the community been involved in the development of the request for this waiver.

15. Provide details about the collective bargaining agreements, including the number of professional development days (district-wide and for individual teacher choice), full instruction days, early-release days, and the amount of other non-instruction time.

New 180 Day Applications- Stop here and skip to the "Last Steps" section.

Part B: For Renewal Applications.

16. Describe how the district or schools used the waiver days and whether the days were used as planned and reported in your prior request?

17. How well were the purpose and goals for the previous waiver met? Using the measures and standards, describe the district's success at meeting each of the expected benchmarks and results of the previous waiver. ~~What student achievement data and other evidence did the district or schools collect and analyze that showed this result?~~

18. How were the parents and the community kept informed on an on-going basis about the use and impact of the waiver?

Last Steps:

- Please print a copy for your records.
- Mail or email the school board resolution, supporting documents, and this application to the email or mailing address on the first page.
- Note: When providing supplemental documents, please identify the questions that the documents support.
- Thank you for completing this application.