

The Washington State Board of Education

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

Title:	Basic Education Waiver Criteria – Options Moving Forward	
As Related To:	<input type="checkbox"/> Goal One: Advocate for effective and accountable P-13 governance in public education <input type="checkbox"/> Goal Two: Provide policy leadership for closing the academic achievement gap <input type="checkbox"/> Goal Three: Provide policy leadership to strengthen students' transitions within the P-13 system	<input type="checkbox"/> Goal Four: Promote effective strategies to make Washington's students nationally and internationally competitive in math and science <input type="checkbox"/> Goal Five: Advocate 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:	Board members will consider a motion to approve the filing of the CR101 to begin the rule revision process. In summary, the proposed rule revision would include the following: A. Continue to approve waiver requests for parent-teacher conferences. B. Integrate Option Three with Option One to eliminate confusion. C. Adopt criteria for Option One waivers. D. Cap the number of waiver days available. E. Create a new innovation option with no cap of days. F. Adopt criteria for Option Two 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:	Current 180-day waiver options are reviewed. Specific recommendations are made to improve the waiver options and approval process.	

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

Background

SBE has authority to grant waivers from the basic education minimum 180-day school year (see Appendix A). SBE has granted these waiver days using four options:

- **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 both of these waivers were renewed at the March 2012 Board meeting.
- **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 the Board has established a pre-approval process for specific activities.
- House Bill 1546 established **Innovation Waivers**, a one-time process to select innovation schools and innovation zones. As a part of the approval process, innovation schools and zones were allowed to seek a waiver from both the SBE and OSPI. In February 23, SBE approved waivers for two of these schools.

Table: 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 Persistently Lowest-Achieving school*	30
Innovation School/Zone	To implement an innovation school or zone.	May only 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.	2

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

Policy Considerations

According to RCW 28A.150.220, SBE shall adopt rules to implement and ensure compliance with the program requirements of basic education. These include, but are not limited to, instructional hours, school days, and graduation credit requirements. Statute further provides that if these requirements are not met, the SBE shall “require the superintendent of public instruction to withhold state funds in whole or in part for the basic education allocation until program compliance is assured.”

The purpose of the minimum basic education program requirements is to “comply with the requirements of Article IX, section 1 of the state Constitution, which states that ‘It is the paramount duty of the state to make ample provision for the education of all children residing within its borders, without distinction or preference on account of race, color, caste, or sex.’” They are adopted pursuant to Article IX, section 2 of the state Constitution, which states that “The legislature shall provide for a general and uniform system of public schools” (RCW 28A.150.200 (1)). Basic education requirements also represent the state’s assurance that districts are providing instruction “of sufficient quantity and quality” to give students the opportunity to complete graduation requirements, prepare for post-secondary education, gainful employment, and citizenship” (28A.150.220 (1)).

The SBE may grant waivers from any of the requirements contained in RCW 28A.150.200 through RCW 28A.150.220 on the basis that waivers are “necessary to... 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 ... (which) may include alternative ways to provide effective educational programs for students who experience difficulty with the regular education program” (RCW 28A.150.140).

Waiver Criteria

SBE is directed in law to adopt criteria to evaluate the need for waivers. RCW 28A.305.140, authorizing SBE to grant waivers (current Options One and Three), states “the state board shall adopt criteria to evaluate the need for the waiver or waivers.” RCW 28A.305.141, creating the Economy and Efficiency waiver opportunity (Option Two), states “the state board of education shall adopt criteria to evaluate waiver requests.”

The SBE has strived to balance two roles – the responsibility to ensure district compliance with basic education laws, and advocacy for improving support for the education system, including increased funding. Because there is not enough funding for districts to structure professional development outside of the 180 days, SBE has been reluctant to disapprove waiver requests, instead opting to support districts by permitting operational flexibility. Adopting rigorous criteria to evaluate waiver requests has presented a challenge in this context.

Conflicting Statutes

The task is further complicated by conflicting statutes. Districts are required by law to provide *both* 180 school days and an average of 1,000 instructional hours. Whether full day parent teacher conferences should be considered a school day has been the subject of ongoing analysis and debate. WaKIDS has further highlighted this issue.

For the past several years, SBE has been clear that full-day parent teacher conferences do not constitute a school day. RCW 28A.150.203 states: “‘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.” Full-day parent-teacher conferences do not count toward the required 180 days because all students are not present on these days. While the definition does not specifically say all pupils, “all” is implicit. If the language is read to mean “some” pupils, 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. An example would be a calendar in which all students attend four days and only students needing intervention attend on the fifth day of the week).

The confusion about parent-teacher conferences also stems from the definition of an instructional hour. RCW 28A.150.205 states, “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.”

The definitions of instructional hours and school days are related in that instructional hours comprise a school day, but distinct, in that a school day must be available to all students.

SBE has operated on the necessary assumption that the distinction between instructional hours (parent teacher conferences count for these) and school days (parent teacher conferences do not count for these) was intentional on the part of the Legislature. A review of the legislative history of WaKIDS, however, suggests the Legislature may not have intended this distinction.

Economy and Efficiency Waivers (Option Two)

Under legislation enacted in 2009 (SHB 1292, Chapter 543, Laws of 2009), the State Board of Education has authority to grant waivers from the basic education minimum 180-day school year to a limited number of school districts that propose to operate one or more schools on a flexible calendar for purposes of economy and efficiency. SBE has termed these Option Two waivers to distinguish them from the other types of waivers of the 180-day school year authorized in law (See BEA Waivers, January 2012 Board Meeting and Basic Education Program Requirements – Requests for Option Two Waivers, March 2012 Board Meeting).

SBE may grant a total of five school districts Option Two waivers for up to three years. Two of the recipient districts must have enrollments of less than 150, with three of the five districts must have enrollments of 151 to 500.

The statute directs SBE to adopt criteria to evaluate requests for these waivers.

At its Special Board Meeting on February 23, SBE reviewed a presentation on Option Two waivers and discussed a framework for consideration of waiver requests. Staff presented a recommended three-point framework for members’ consideration. Based on discussion by members, that framework was revised as follows:

1. Does the district provide clear and detailed estimates of the expected cost savings from the proposed flexible calendar that are quantified and supported by data, and that can be substantiated by external data to the extent available?
2. Does the district provide a clear and compelling explanation of how estimated cost savings from the proposed calendar will be redirected to student learning in such a way as to make a difference to academic outcomes?
3. Does the district adequately address other statutory requirements of the application in RCW 28A.305.141(2), including:
 - a) Impact on children who rely on free-and-reduced price nutrition services.

- b) Impact on the ability to recruit and retain employees in support positions.
- c) Impact on children whose parents work during the missed school day.
- d) Other concerns raised by the community at the required public hearing.

At the regular March 2012 Board Meeting, SBE applied this framework to recommend approval of two of the three applications currently under consideration. Staff recommends formal approval in rule of this framework for future Option Two requests.

Review of Board Input for the Waiver Process

In response to recurring Board member concerns, staff has suggested alternative processes and frameworks, beginning with the July 2011 meeting. Direction from past meetings is summarized in the table below.

	July	September	November	January
Summary	Keep all Options but cap the number of days.	Keep all Options and do not cap the number of days.	Staff is directed to develop criteria and return for further discussion.	Discussion on waiver criteria shall be tabled until after the Legislature adjourns.
Proposed Rule Changes	Revise rules to cap Option One at five days.	Do not cap Option One.	Do not cap Option One without clear criteria for review. First establish criteria, and then make decisions about capping days. File CR 101 to add language to Option Three rules that reduce the number of waiver days granted if the Legislature reduces days below 180 days.	Retract CR 101 that was filed to initiate the rule change discussed in November.

Proposed Timeline for Rule Adoption

If the Board Members authorize staff to begin the rule making process, a proposed timeline is as follows:

Board approves filing of new CR 101 (Intended rule-making) See Appendix B	May 9
File CR 101	By noon May 23
Publication of CR 101 in Register	June 6
Board approves CR 102 (Text of proposed rule)	July 12
File CR 102	By July 18

Earliest date hearing could be held on CR 102	August 21
Public hearing on CR 102	September 25

Possible:		OR	Recommended (to allow for additional stakeholder input)	
Board approves final rule	September 26		Board approves final rule	November 9
File CR 103	October 3		File CR 103	November 10
Rule effective	November 1		Rule effective	December 10

Policy Consideration

Staff was directed to provide recommendations to improve the waiver process and establish criteria. Those recommendations include:

- A. Continue to approve waiver requests for full-day parent teacher conferences. Given the apparent conflict between the legal definitions of a school day and instructional hours, as well as the issue brought forth by the requirement to use WaKIDS in state-funded full day Kindergarten, it is not constructive to deny districts the flexibility they request.
- B. Condense Option Three into Option One. Both were created under the same authority. Districts find the differences confusing. Option Three currently disallows districts with persistently-lowest achieving schools and is structurally flawed (it contains a process for renewal but the necessary data to be granted renewal are not available in the time frame required).
- C. Establish criteria to review and approve Option One which would now also include those previously eligible for Option Three) waivers. A committee of SBE Members should review each application against a rubric and provide a recommendation to the Board as a whole (see Draft Rubric, Appendix D).

The following criteria except 1 and 4 are already contained within the application but are not currently evaluated and therefore have no impact on waiver decisions:

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

Examples of local or temporary characteristics or circumstances

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 circumstance and it is temporary situation. Once teachers receive the professional development they need over the course of three years, they will be better able to meet all students' needs.

Example: One of a district's elementary school 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 needs 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 a temporary situation.

Non-example: A district requests three days for each of the next three years to establish and operate professional learning communities (PLCs) for teachers to examine data and adjust instruction. It is clear that, although the creation of PLCs is likely to boost student achievement, this will be an ongoing need for the foreseeable future. This waiver request would not likely be approved.

- D. Cap Option One waivers at five days, exclusive of WaKIDS waivers but inclusive of other waivers for parent teacher conferences. The Board has previously arrived at this number as a reasonable limit on how much of the statutory definition of basic education the Board could reasonably be expected to waive.
- E. Create a new type of waiver for Innovation with a higher bar for approval and more rigorous renewal criteria. This would give the Board discretion to approve a small number of schools within a district to implement innovative instructional models outside of the Option One cap of 5 days. Examples of current waivers that fall into this innovation category are the Tacoma School District Science and Math Institute and Tacoma School of the Arts.
- F. Establish criteria to review and approve Option Two waiver applications. Apply the three-part framework as criteria for evaluating and selecting applications:
 - 1. Does the district provide clear and detailed estimates of the expected cost savings from the proposed flexible calendar that are quantified and supported by data, and that can be substantiated by external data to the extent available?
 - 2. Does the district provide a clear and compelling explanation of how estimated cost savings from the proposed calendar will be redirected to student learning in such a way as to make a difference to academic outcomes?
 - 3. Does the district adequately address other statutory requirements of the application in RCW 28A.305.141(2), including:
 - a) Impact on children who rely on free-and-reduced price nutrition services.
 - b) Impact on the ability to recruit and retain employees in support positions.
 - c) Impact on children whose parents work during the missed school day.
 - d) Other concerns raised by the community at the required public hearing.
- G. Advocate to the Legislature for the following changes:

- Clarify whether a school day is inclusive of full-day parent teacher conferences and WaKIDS.
- Clarify whether parent-teacher conferences count as instruction on per day or per child basis (e.g., does a full day of parent-teacher conferences count as 7 hours or 40 minutes?) In other words, for the calculation of 1,000 instructional hours, does a district count time that each student receives or total instructional time that teachers deliver?
- Provide ample and reliable state funding for professional development time (LIDs) for certificated staff.
- Define a minimum school day in terms of hours or minutes. If school days are to be meaningful units of instruction, they should be defined.
- Clarify the status of Alternative Learning Experience (ALE) students and programs in terms of their need to comply with the minimum program requirements of basic education. If basic education is defined in terms of seat time, what is basic education for ALE? Clarify waiver status for ALE programs.

Expected Action

Board members will consider a motion to approve the filing of the CR101 to begin the rule revision process. In summary, the proposed rule revision would include the following:

- A. Continue to approve waiver requests for parent-teacher conferences.
- B. Integrate Option Three with Option One to eliminate confusion.
- C. Adopt criteria for Option One waivers.
- D. Cap the number of waiver days available.
- E. Create a new innovation option with no cap of days.
- F. Adopt criteria for Option Two waivers.

Appendix A: RCW and WAC

Appendix B: CR 101

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	# Days for Parent Teacher Conferences
Adna			4	4	4	3	
Arlington			3	3	3	3	
Asotin/Anatone						2	
Auburn		5	5	5	5	5	
Bainbridge	K-6					4	4/4 for parent teacher conferences
Bainbridge	7-8					2	2/2 for parent teacher conferences
Battle Ground				3	3	3	
Bellingham					3	3	
Bethel			2	2	2	2	
Blaine			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	
Colfax				2	2	2	
College Place			3	3	3		
Colton					2	2	
Columbia (Hunters)				3	3	3	
Columbia (Walla Walla)			3	3	3	3	
Curlew					2	2	
Cusick		4	4	4			
Davenport					2	2	
Deer Park						4	4/4 for parent teacher conferences
Edmonds		5	5	5	5	5	
Elma					3	3	
Endicott		5	5				
Entiat						4	4/4 for parent teacher conferences
Everett			3	3	3		
Federal Way			3	3	3	7	4/7 for parent teacher conferences
Garfield						3	
Garfield and Palouse			3	3	3		
Granger				5	5	5	

District Name	Specific Schools	2007-08	2008-09	2009-10	2010-11	2011-12	# Days for Parent Teacher Conferences
Granite Falls		3	3	1	2	2	
Grapeview		2	2	2			
Highline	Elem	3					
Highline	All Schools		5	5	5		
Highline	Elem					4	3/4 for parent teacher conferences
Highline	Secondary					2	1/2 for parent teacher conferences
Hoquiam				1			
Inchelium			3	3	3		
Kettle Falls						4	4/4 for parent teacher conferences
Kittitas						3	
LaCrosse						1	
Lake Quinault			4	4	4	4	
Lake Stevens		1	1				
Longview						3	
Loon Lake		3	2	2			
Lopez Island			4	4	4	4	
Lyle			4	4			
Mary Walker		2	2	2	2	3	
Marysville			5			3	
Medical Lake			2	2	2	4	4/4 for parent teacher conferences
Methow Valley			6	6	6	6	
Monroe		4	4	4	4	4	
Morton		5	5	5	5		
Mount Baker			4	4	4	4	
Mount Vernon						1	
Mukilteo		2	2	2			
Naches Valley			2	2	2	2	
Napavine			4	4	4	4	
Nespelem		8	6	6	6	6	
Newport		7	7	5	5	5	
North Kitsap			5	5	5	5	5/5 for parent teacher conferences
Northport		4	4	4	4		
Northshore			5	5	5	5	
Oak Harbor						4	4/4 for parent teacher conferences
Oakesdale					2	2	
Ocean Beach			2	2	2	2	

District Name	Specific Schools	2007-08	2008-09	2009-10	2010-11	2011-12	# Days for Parent Teacher Conferences
Odessa				5	5	5	
Okanogan						4	4/4 for parent teacher conferences
Olympia						3	
Omak						4	4/4 days for parent teacher conferences
Onalaska			2	2	2		
Onion Creek			5	5	5	5	
Orient			5	5	5	5	
Orondo					1	4	4/4 days parent teacher conferences
Oroville						3	
Othello			6	6	6	6	
Palouse						3	
Pe Ell		2	2	3			
Pomeroy		3	3	4	4	3	
Port Angeles			2	2	2	2	
Prescott			2	2	2		
Raymond		5	5	5	5	3	
Reardan-Edwall					3	3	
Riverside		2	2	2	1	6	4/6 for parent teacher conferences
Rosalia					2	2	
Seattle	Elementary	3	6	6	6	6	3/6 for parent teacher conferences
Seattle	High					1	1/1 for parent teacher conferences
Sedro-Woolley						3	
Selkirk			4	4	4	3	
Sequim						4	2/4 for parent teacher conferences
Shoreline		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	
Sunnyside			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				11	8	

District Name	Specific Schools	2007-08	2008-09	2009-10	2010-11	2011-12	# Days for Parent Teacher Conferences
	Middle						
Tahoma		3	5	5	5	3	
Tekoa						2	
Thorp		3	2	2	2	2	
Valley			4	4	4	3	
Wahkiakum			4	4	4	4	
Waitsburg			2	2	2	2	2/2 for parent teacher conferences
Wellpinit			3	3	3		
White Pass					5		
Wishram		4					
Zillah			3	3	3	7	4/7 for parent teacher conferences

Table 1: 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
# Districts with Option One Waivers	29	67	69	66	50
# Districts with Option Three Waivers	0	0	0	6	30
Total Districts with Option One and Three Waivers	29	67	69	72	80
% of Districts with Waivers (295 districts)	10%	23%	23%	24%	27%

Table 2: 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
# Districts with Option One Waivers	29	67	69	66	50
# Districts with Waivers for Parent Teacher Conferences	1 (3%)	2 (3%)	2 (3%)	2 (3%)	18 (36%)
# of Districts with Waivers <i>Solely</i> for Parent Teacher Conferences	1 (3%)	1 (1%)	1 (1%)	1 (2%)	11 (22%)

Table 3: 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
# Waiver Days for Parent Teacher Conferences	3	8	8	8	64
# Waiver Days for All Other Purposes	109	239	243	294	259
# Total Waiver Days	112	247	251	302	323

Table 4: SBE has approved waivers for full-day parent-teacher conferences since March 2007.

	2007-08	2008-09	2009-10	2010-11	2011-12
Number of districts with waivers for parent teacher conferences	1	2	2	2	18
Total number of days waived for parent teacher conferences*	3	8	8	8	64
Number of 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 wavier days for secondary conferences; for this table, that district is counted as having three waiver days for 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 measureable 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

Chapter 180-18 WAC

WAIVERS FOR RESTRUCTURING PURPOSES

WAC

180-18-010	Purpose and authority.
180-18-030	Waiver from total instructional hour requirements.
180-18-040	Waivers from minimum one hundred eighty-day school year requirement and student-to-teacher ratio requirement.
180-18-050	Procedure to obtain waiver.
180-18-055	Alternative high school graduation requirements.
180-18-090	Alternative option to WAC 180-18-055.

DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

180-18-020	Purpose. [Statutory Authority: Chapter 28A.630 RCW and 1995 c 208. 95-20-054, § 180-18-020, filed 10/2/95, effective 11/2/95.] Repealed by 02-18-056, filed 8/28/02, effective 9/28/02. Statutory Authority: RCW 28A.150.220(4), 28A.305.140, 28A.305.130(6).
180-18-060	Waiver renewal procedure. [Statutory Authority: Chapter 28A.630 RCW. 01-24-092, § 180-18-060, filed 12/4/01, effective 1/4/02. Statutory Authority: Chapter 28A.630 RCW and 1995 c 208. 95-20-054, § 180-18-060, filed 10/2/95, effective 11/2/95.] Repealed by 07-20-030, filed 9/24/07, effective 10/25/07. Statutory Authority: RCW 28A.150.220(4), 28A.305.140, 28A.305.130(6), 28A.655.180.
180-18-080	Alternative waiver application procedure. [Statutory Authority: Chapter 28A.630 RCW and 1995 c 208. 95-20-054, § 180-18-080, filed 10/2/95, effective 11/2/95.] Repealed by 01-24-092, filed 12/4/01, effective 1/4/02. Statutory Authority: Chapter 28A.630 RCW.

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).

[Statutory Authority: RCW 28A.150.220(4), 28A.305.140, 28A.305.130(6), 02-18-056, § 180-18-010, filed 8/28/02, effective 9/28/02. Statutory Authority: RCW 28A.305.140 and 28A.630.945. 98-05-001, § 180-18-010, filed 2/4/98, effective 3/7/98. Statutory Authority: Chapter 28A.630 RCW and 1995 c 208. 95-20-054, § 180-18-010, filed 10/2/95, effective 11/2/95.]

WAC 180-18-030 Waiver from total instructional hour requirements. 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.

[Statutory Authority: RCW 28A.150.220(4), 28A.305.140, 28A.305.130(6), 28A.655.180. 07-20-030, § 180-18-030, filed 9/24/07, effective 10/25/07. Statutory Authority: Chapter 28A.630 RCW. 01-24-092, § 180-18-030, filed 12/4/01, effective 1/4/02. Statutory Authority: Chapter 28A.630 RCW and 1995 c 208. 95-20-054, § 180-18-030, filed 10/2/95, effective 11/2/95.]

(11/16/10)

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.

[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.]

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 res-

olution 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 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

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
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 sub-groups;

(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 noninstruction 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.

[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, § 180-18-050, filed 11/16/10, effective 12/17/10. Statutory Authority: RCW 28A.305.140 and 28A.655.180. 10-10-007, § 180-18-050, 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, § 180-18-050, 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.]

WAC 180-18-055 Alternative high school graduation requirements. (1) The shift from a time and credit based system of education to a standards and performance based education system will be a multiyear transition. In order to facilitate the transition and encourage local innovation, the state board of education finds that current credit-based graduation requirements may be a limitation upon the ability of high schools and districts to make the transition with the least amount of difficulty. Therefore, the state board will provide districts and high schools the opportunity to create and implement alternative graduation requirements.

(2) A school district, or high school with permission of the district board of directors, or approved private high school, desiring to implement a local restructuring plan to provide an effective educational system to enhance the educational program for high school students, may apply to the state board of education for a waiver from one or more of the requirements of chapter 180-51 WAC.

(3) The state board of education may grant the waiver for a period up to four school years.

(4) The waiver application shall be in the form of a resolution adopted by the district or private school board of directors which includes a request for the waiver and a plan for restructuring the educational program of one or more high schools which consists of at least the following information:

- (a) Identification of the requirements of chapter 180-51 WAC to be waived;
- (b) Specific standards for increased student learning that the district or school expects to achieve;
- (c) How the district or school plans to achieve the higher standards, including timelines for implementation;
- (d) How the district or school plans to determine if the higher standards are met;
- (e) Evidence that the board of directors, teachers, administrators, and classified employees are committed to working cooperatively in implementing the plan;
- (f) Evidence that students, families, parents, and citizens were involved in developing the plan; and
- (g) Identification of the school years subject to the waiver.

(5) The plan for restructuring the educational program of one or more high schools may consist of the school improvement plans required under WAC 180-16-220, along with the requirements of subsection (4)(a) through (d) of this section.

(6) The application also shall include documentation that the school is successful as demonstrated by indicators such as, but not limited to, the following:

- (a) The school has clear expectations for student learning;

(b) The graduation rate of the high school for the last three school years;

(c) Any follow-up employment data for the high school's graduate for the last three years;

(d) The college admission rate of the school's graduates the last three school years;

(e) Use of student portfolios to document student learning;

(f) Student scores on the high school Washington assessments of student learning;

(g) The level and types of family and parent involvement at the school;

(h) The school's annual performance report the last three school years; and

(i) The level of student, family, parent, and public satisfaction and confidence in the school as reflected in any survey done by the school the last three school years.

(7) A waiver of WAC 180-51-060 may be granted only if the district or school provides documentation and rationale that any noncredit based graduation requirements that will replace in whole or in part WAC 180-51-060, will support the state's performance-based education system being implemented pursuant to RCW 28A.630.885, and the noncredit based requirements meet the minimum college core admissions standards as accepted by the higher education coordinating board for students planning to attend a baccalaureate institution.

(8) A waiver granted under this section may be renewed upon the state board of education receiving a renewal request from the school district board of directors. Before filing the request, the school district shall conduct at least one public meeting to evaluate the educational requirements that were implemented as a result of the waiver. The request to the state board shall include information regarding the activities and programs implemented as a result of the waiver, whether higher standards for students are being achieved, assurances that students in advanced placement or other postsecondary options programs, such as but not limited to: College in the high school, running start, and tech-prep, shall not be disadvantaged, and a summary of the comments received at the public meeting or meetings.

(9) The state board of education shall notify the state board for community and technical colleges, the higher education coordinating board and the council of presidents of any waiver granted under this section.

(10) Any waiver requested under this section will be granted with the understanding that the state board of education will affirm that students who graduate under alternative graduation requirements have in fact completed state requirements for high school graduation in a nontraditional program.

(11) Any school or district granted a waiver under this chapter shall report annually to the state board of education, in a form and manner to be determined by the board, on the progress and effects of implementing the waiver.

[Statutory Authority: RCW 28A.150.220 and 28A.305.140. 04-23-006, § 180-18-055, filed 11/4/04, effective 12/5/04. Statutory Authority: RCW 28A.150.220(4), 28A.305.140, and 28A.305.130(6). 04-04-093, § 180-18-055, filed 2/3/04, effective 3/5/04. Statutory Authority: RCW 28A.230.090, 28A.305.140 and 28A.600.010. 99-10-094, § 180-18-055, filed 5/4/99, effective 6/4/99.]

WAC 180-18-090 Alternative option to WAC 180-18-055. See WAC 180-51-050 (1)(b) as another option to award high school credit on the basis of competency.

[Statutory Authority: RCW 28A.150.220(4), 28A.305.140, and 28A.305.130(6). 04-04-093, § 180-18-090, filed 2/3/04, effective 3/5/04.]



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: Amendments to WAC 180-18-040 (Waivers from minimum one hundred eighty-day school year requirement and student to teacher ratio requirement), WAC 180-18-050 (Procedure to obtain waiver); and the adoption of any rules necessary to implement criteria for the granting of waivers to a school district from the 180 day school year.

Statutes authorizing the agency to adopt rules on this subject: RCW 28A.305.140, RCW 28A.305.141, RCW 28A.655.180

Reasons why rules on this subject may be needed and what they might accomplish: The Washington State Board of Education is considering the adoption of criteria governing requests for waivers from the statutory requirement for a 180 day school year and providing for other requirements as determined necessary to evaluate a district's need for a waiver or waivers. These changes are intended to delete language relating to waivers for student-to-teacher ratio requirements that is now obsolete due to legislation adopted in 1999 and provide clarity, consistency and greater certainty in how the Board will exercise its delegated waiver authority.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:

No other federal and 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 SBE will solicit comments and recommendations regarding new or amended rules governing waivers from school districts prior to the filing of the CR 102. Interested parties who wish to provide public comment may do so at upcoming board meetings; please see www.sbe.wa.gov for upcoming meeting agendas. In addition, information regarding the development of the rule can also be found in upcoming SBE newsletters and on the waiver web page at www.sbe.wa.gov.

How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication:

Contact:
Jack Archer, Senior Policy Analyst
Washington State Board of Education
Old Capitol Building, Room 253
P.O. Box 47206
Olympia, WA 98504
Parties are encouraged to submit comments in writing to: jack.archer@k12.wa.us

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