

# The Washington State Board of Education

Governance | Accountability | Achievement | Oversight | Career & College Readiness

<b>Title:</b>	<b>CR 103 Rule Adoption, Amendments to Rules on BEA waivers</b>	
<b>As Related To:</b>	<input checked="" type="checkbox"/> Goal One: Effective and accountable P-13 governance. <input type="checkbox"/> Goal Two: Comprehensive statewide K-12 accountability. <input type="checkbox"/> Goal Three: Closing achievement gap.	<input checked="" type="checkbox"/> Goal Four: Strategic oversight of the K-12 system. <input type="checkbox"/> Goal Five: Career and college readiness for all students. <input 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>	Does the SBE wish to adopt the rules establishing criteria for evaluation of requests for basic education waivers and making changes to existing rules? Does it wish any changes to the rules?	
<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 type="checkbox"/> Memo <input type="checkbox"/> Graphs / Graphics <input type="checkbox"/> Third-Party Materials <input checked="" type="checkbox"/> PowerPoint	
<b>Synopsis:</b>	<p>In May the SBE approved the filing of a CR 101 to adopt new and amended rules on request for basic education waivers under RCW 28A.305.140 and RCW 28.305.141, and set direction for the drafting of proposed rules. In July the SBE approved the publication in the State Register of draft rules for a public hearing (CR 102).</p> <p>On the agenda for the November meeting of the SBE is adoption of the final rules, which become effective 31 days after the filing of a CR 103-P, Rule-Making Order. There are no changes between the published rules and the final rules for adoption.</p> <p>In your packet you will find a copy of the CR 103, the rules as proposed for adoption, and a draft copy of the Concise Explanatory Statement prepared by staff. RCW 34.05.325 provides that before it files an adopted rule with the Code Reviser, an agency must prepare a concise explanatory statement of the rule that:</p> <ol style="list-style-type: none"> <li>1. Identifies the agency's reasons for adopting the rule.</li> <li>2. Describes the differences between the text of the proposed rule as published in the State Register and the text of the rule as adopted, and states the reasons for differences.</li> <li>3. Summarizes all comments received regarding the proposed rule and responds to the comments by category or subject matter.</li> </ol>	



# RULE-MAKING ORDER

**CR-103P (May 2009)**  
**(Implements RCW 34.05.360)**

**Agency:** State Board of Education

**Permanent Rule Only**

**Effective date of rule:**

**Permanent Rules**

31 days after filing.

Other (specify) \_\_\_\_\_ (If less than 31 days after filing, a specific finding under RCW 34.05.380(3) is required and should be stated below)

**Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?**

Yes  No If Yes, explain:

**Purpose:**

1. Meet the requirement of RCW 28A.305.140(2) to adopt criteria to evaluate the need for a school district waiver from the provisions of RCW 28A.150.200 through 28A.150.220.
2. Meet the requirement of RCW 28A.305.141(3) to adopt criteria to evaluate requests for waivers for a limited number of school districts from the requirement of a minimum 180-day school year for purposes of economy and efficiency.
3. Simplify the procedure for obtaining expedited waivers under RCW 28A.305.140 by eliminating lengthy provisions in WAC 180-18-050(3) that are excessively difficult for school districts to implement.
4. Establish an expedited procedure for granting of waivers for the purpose of full-day parent-teacher conferences.
5. Make corrections to WAC 180-18-040 and 180-18-050 for clarity, streamlining and consistency with current law.

**Citation of existing rules affected by this order:**

Repealed:

Amended: WAC 180-18-040. WAC 180-18-050. NEW WAC 180-18-065

Suspended:

**Statutory authority for adoption:** RCW 28A.305.140(2), 28A.305.141(3).

**Other authority :**

**PERMANENT RULE (Including Expedited Rule Making)**

Adopted under notice filed as WSR \_\_\_\_\_ WSR 12-17-132 on August 21, 2012 (date).

Describe any changes other than editing from proposed to adopted version:

If a preliminary cost-benefit analysis was prepared under RCW 34.05.328, a final cost-benefit analysis is available by contacting:

phone \_\_\_\_\_

fax \_\_\_\_\_

e-mail \_\_\_\_\_

**Date adopted:** November 9, 2012

**CODE REVISER USE ONLY**

**NAME (TYPE OR PRINT)**

Ben Rarick

**SIGNATURE**

**TITLE**

Executive Director

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	<u>1</u>	Amended	_____	Repealed	_____

**The number of sections adopted at the request of a nongovernmental entity:**

New	_____	Amended	_____	Repealed	_____
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**The number of sections adopted in the agency's own initiative:**

New	<u>1</u>	Amended	<u>2</u>	Repealed	_____
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**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

New	<u>1</u>	Amended	<u>2</u>	Repealed	_____
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**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	<u>1</u>	Amended	<u>2</u>	Repealed	_____

AMENDATORY SECTION (Amending WSR 10-23-104, filed 11/16/10, effective 12/17/10)

**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~~) while offering the equivalent in annual minimum (~~program~~) instructional hours (~~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.)~~ The state board of education, pursuant to RCW 28A.305.140(2), shall evaluate the need for a waiver based on whether:

(a) The resolution by the board of directors of the requesting district attests that if the waiver is approved, the district will meet the required annual instructional hour offerings under RCW 28A.150.220(2) in each of the school years for which the waiver is requested;

(b) The purpose and goals of the district's waiver plan are closely aligned with school improvement plans under WAC 180-16-220 and any district improvement plan;

(c) The plan explains goals of the waiver related to student achievement that are specific, measurable, and attainable;

(d) The plan states clear and specific activities to be undertaken that are based in evidence and likely to lead to attainment of the stated goals;

(e) The plan specifies at least one state or locally determined assessment or metric that will be used to collect evidence to show the degree to which the goals were attained;

(f) The plan describes in detail the participation of administrators, teachers, other district staff, parents, and the community in the development of the plan.

(3) In addition to the requirements of subsection (2) of this section, the state board of education shall evaluate requests for a waiver that would represent the continuation of an existing waiver for additional years based on the following:

(a) The degree to which the prior waiver plan's goals were met, based on the assessments or metrics specified in the prior plan;

(b) The effectiveness of the implemented activities in achieving the goals of the plan for student achievement;

(c) Any proposed changes in the plan to achieve the stated goals;

(d) The likelihood that approval of the request would result in advancement of the goals;

(e) Support by administrators, teachers, other district staff, parents, and the community for continuation of the waiver.

AMENDATORY SECTION (Amending WSR 10-23-104, filed 11/16/10, effective 12/17/10)

**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~~) include, at a minimum, a resolution adopted by the district board of directors, an application form, a proposed school calendar, and a summary of the collective bargaining agreement with the local education association stating the number of professional development days, full instruction days, late-start and early-release days, and the amount of other noninstruction time. 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 must include a statement attesting that the district will meet the minimum instructional hours requirement of RCW 28A.150.220(2) under the waiver plan. The resolution shall be accompanied by information detailed in the guidelines and application form available on the state board of

education's web site.

(2) The application for a waiver and all supporting documentation must be received by the state board of education at least ~~((fifty))~~ forty 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
C	2	1
D	3 or more	0

~~(h) The plan shall include goals that can be measured through established data collection practices and assessments. At a minimum, the plan shall include goal benchmarks and results that address the following subjects or issues:~~

~~(i) Increasing student achievement on state assessments in reading, mathematics, and science for all grades tested;~~

~~(ii) Reducing the achievement gap for student subgroups;~~

~~(iii) Improving on-time and extended high school graduation rates (only for districts containing high schools).~~

~~(i) Under this section, a district shall only use one or more of the following strategies in its plan to use waived days:~~

~~(i) Use evaluations that are based in significant measure on student growth to improve teachers' and school leaders' performance;~~

~~(ii) Use data from multiple measures to identify and implement comprehensive, research-based, instructional programs that are vertically aligned from one grade to the next as well as aligned with state academic standards;~~

~~(iii) Promote the continuous use of student data (such as from formative, interim, and summative assessments) to inform and differentiate instruction to meet the needs of individual students;~~

~~(iv) Implement strategies designed to recruit, place, and retain effective staff;~~

~~(v) Conduct periodic reviews to ensure that the curriculum is being implemented with fidelity, is having the intended impact on student achievement, and is modified if ineffective;~~

~~(vi) Increase graduation rates through, for example, credit-recovery programs, smaller learning communities, and acceleration of basic reading and mathematics skills;~~

~~(vii) Establish schedules and strategies that increase instructional time for students and time for collaboration and professional development for staff;~~

~~(viii) Institute a system for measuring changes in instructional practices resulting from professional development;~~

~~(ix) Provide ongoing, high-quality, job-embedded professional development to staff to ensure that they are equipped to provide effective teaching;~~

~~(x) Develop teacher and school leader effectiveness;~~

~~(xi) Implement a school-wide "response-to-intervention" model;~~

~~(xii) Implement a new or revised instructional program;~~

~~(xiii) Improve student transition from middle to high school through transition programs or freshman academies;~~

~~(xiv) Develop comprehensive instructional strategies;~~

~~(xv) Extend learning time and community oriented schools.~~

~~(j) The plan must not duplicate activities and strategies that are otherwise provided by the district through the use of late-start and early-release days.~~

~~(k) A district shall provide notification to the state board of education thirty days prior to implementing a new plan. The notification shall include the approved plan in resolution form signed by the superintendent, the chair of the school board, and the president of the local education association; include a statement indicating the number of certificated employees in the district and that all such employees will be participating in the strategy or strategies implemented under the plan for a day that is subject to a waiver, and any other required information. The approved plan shall, at least, include the following:~~

~~(i) Members of the plan's development team;~~  
~~(ii) Dates and locations of public hearings;~~  
~~(iii) Number of school days to be waived and for which school years;~~

~~(iv) Number of late-start and early-release days to be eliminated, if applicable;~~

~~(v) Description of the measures and standards used to determine success and identification of expected benchmarks and results;~~

~~(vi) Description of how the plan aligns with the district and school improvement plans;~~

~~(vii) Description of the content and process of the strategies to be used to meet the goals of the waiver;~~

~~(viii) Description of the innovative nature of the proposed strategies;~~

~~(ix) Details about the collective bargaining agreements, including the number of professional development days (district-wide and individual teacher choice), full instruction days, late-start and early-release days, and the amount of other 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.)~~ (3) Under this section, a district seeking to obtain a waiver of no more than five days from the provisions of the minimum one hundred eighty-day school year requirement pursuant to RCW 28A.305.140 solely for the purpose of conducting parent-teacher conferences shall provide notification of the district request to the state board of education at least thirty days prior to implementation of the plan. A request for more than five days must be presented to the state board under subsection (1) of this section for approval. The notice shall provide information and documentation as directed by the state board. The information and documentation shall include, at a minimum:

(a) An adopted resolution by the school district board of directors which shall state, at a minimum, the number of school days and school years for which the waiver is requested, and attest that the district will meet the minimum instructional hours requirement of RCW 28A.150.220(2) under the waiver plan.

(b) A detailed explanation of how the parent-teacher conferences to be conducted under the waiver plan will be used to improve student achievement;

(c) The district's reasons for electing to conduct parent-teacher conferences through full days rather than partial days;

(d) The number of partial days that will be reduced as a result of implementing the waiver plan;

(e) A description of participation by administrators, teachers, other staff and parents in the development of the waiver request;

(f) An electronic link to the collective bargaining agreement with the local education association.

Within thirty days of receipt of the notification, the state board will, on a determination that the required information and documentation have been submitted, notify the requesting district that the requirements of this section have been met and a waiver has been granted.

#### NEW SECTION

**WAC 180-18-065 Waiver from one hundred eighty-day school year requirement for purposes of economy and efficiency--Criteria for evaluation of waiver requests.** (1) In order to be granted a waiver by the state board of education under RCW 28A.305.141 to operate

one or more schools on a flexible calendar for purposes of economy and efficiency, a school district eligible for such waiver must meet each of the requirements of RCW 28A.305.141(2).

(2) In the event that a greater number of requests for waivers are received that meet the requirement of subsection (1) of this section than may be granted by the state board of education under RCW 28A.305.141(3), priority shall be given to those plans that best redirect monetary savings from the proposed flexible calendar to support student learning.

## CONCISE EXPLANATORY STATEMENT

### Amendments to WAC 180-18-040 and WAC 180-18-050. New WAC 180-18-065.

This document has been prepared in compliance with RCW 34.05.325, the concise explanatory statement requirement of the Administrative Procedure Act. Included are: (1) The reasons for adopting the rules; (2) a description of any differences between the text of the proposed rules as published in the Register and the text of the final rules, and (3) a summary of all comments received, and responses to the comments by subject matter.

#### 1. Reasons for Adopting the Rules

The Legislature has established basic education requirements in order to meet the paramount duty of the state under Article IX of the Washington Constitution to make ample provision for the education of all children . . . and “provide for a general and uniform system of public schools.” (RCW 28A.150.200-220.) Districts must “provide instruction of sufficient quantity and quality and give students the opportunity to complete graduation requirements that are intended to prepare them for postsecondary education, gainful employment and citizenship.” The law sets a minimum instructional program of basic education that districts must offer, including but not limited to instructional hours, school days, and graduation credit requirements. The Washington State Board of Education oversees districts’ compliance with basic education program requirements.

RCW 28A.305.140 authorizes the SBE to grant waivers from the provisions of RCW 28A.150.200 through RCW 28A.150.220 on the basis that such 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.” RCW 28A.305.141 creates a temporary authority to grant waivers for the purposes of economy and efficiency to a limited number of small districts.

Both statutes require SBE to adopt criteria to evaluate waiver requests. By adopting rules to guide waiver decisions, SBE demonstrates that it is meeting its statutory obligation to ensure compliance by school districts with basic education requirements. The criteria are intended to be clear, rigorous and directly tied to state and district goals for improving student achievement.

RCW 28A.305.141, authorizing “economy and efficiency” waivers, presents a specific challenge to the SBE, as that statute, enacted in 2009, limits the waivers that may be granted at any time to a very small number, by district enrollment. Were SBE to receive more requests than may be granted, it lacks a basis in rule for approving one application over another.

Rule adoption is further intended to clarify issues related to basic education waivers that cause substantial confusion for both school districts and policy makers, simplify procedures that are overly complex and difficult of implementation, and repeal obsolete language.

For example, districts are required by law to provide both 180 school days and a district-wide average of 1,000 instructional hours. Whether full-day parent-teacher conferences are considered a “school day” under the definition in RCW 28A.150.203 has been a subject of analysis by SBE, with assistance of counsel, and ongoing communication with school districts and other interested parties. SBE has sought to clarify that full days devoted to conferences do not constitute a school day, because all pupils are not “engaged in academic and career and technical instruction planned by and under the direction of the school” on that day, and that districts seeking to use a day for this purpose must secure a waiver to ensure compliance with basic education requirements. Over the last four years both the number and share of waivers for the purpose of parent-teacher conferences have grown significantly. Of the 24 “Option One”

waivers under WAC 180-18-050 the Board has granted in 2012, ten (42 percent) have been solely for the purpose of parent-teacher conferences. Confusion nevertheless persists among some districts, resulting sometimes in difficulties for certification of basic education compliance. The rules seek to dispel remaining confusion, while affirming the value of parental involvement for student achievement, by creating a distinct category of waivers for parent-teacher conferences with distinct requirements.

In 2010 SBE established, as WAC 180-18-050(3), a pilot program in which districts meeting certain eligibility and other requirements may use up to three waived days for specified innovative strategies. The waivers could be obtained through a “fast-track” process requiring lengthy documentation by the district, but with approval in advance by the State Board. The “Option Three” waiver is excessively complex in procedure for both districts and SBE, and unintentionally difficult to renew. The proposed rules eliminate this subsection and incorporate certain of its themes into criteria for Option One waivers.

Technical and clean-up changes include the striking of a subsection in WAC 18-18-040 that authorizes waivers from a basic education requirement that has been repealed by the Legislature, and making the reference to the 1,000 instructional hours requirement more closely mirror the language in statute.

## 2. Differences between Proposed and Final Rules

There are no differences between the proposed and final rules.

## 3. Summary of All Comments and Responses

The State Board of Education received 23 written comments on the proposed amendments to WACs 180-18-040 and 180-18-050 and the proposed new WAC 180-18-065. In addition, four persons submitted testimony at the public hearing held on the rules, in accordance with RCW 34.05.325, at the State Board’s meeting in Walla Walla on September 26. Most asserted that the proposed rules reduce the length of the school year or otherwise would result in students attending school fewer days. The comments are categorized as follows, with SBE response:

Comment	Response
Don't shorten the school year when we should be increasing time in school.	<p>The proposed rules do not shorten the school year. The basic education requirement of a minimum 180-day school year is established in RCW 28A.150.220, and cannot be amended by rule.</p> <p>The State Board of Education has a responsibility to ensure compliance with state basic education requirements. Since 1995, it has had authority delegated to it by the Legislature to grant waivers from basic education requirements “on the basis that such waivers are necessary to implement successfully a local plan to enhance the educational program for each student.” (RCW 28A.150.305.) By adopting specific criteria in rule for evaluation of waiver requests, the State Board provides for greater accountability in the exercise of this authority and increases the assurance that waivers, when granted, will satisfy the intent of the Legislature in enacting this law.</p>
The proposed rules will increase districts’ use of waivers, and so reduce the number of days that children are in school. Fewer days in school mean less learning. Students are better served by a robust calendar.	<p>Ultimately the impact of the rules on the number of waivers granted in any year depends on the behavior of school districts and the rigor with which SBE implements the rules. (It will also be affected by the policies of the Legislature for funding basic education, as waivers are frequently sought for professional development activities that previously were supported by funding for teacher days outside of the 180-day calendar.)</p> <p>Establishing criteria for evaluation of waiver requests gives the SBE a legally accountable basis for disapproval of waiver</p>

	<p>requests that it has previously not had. The criteria for Option One waivers, while starting from elements of the application process currently in place, are also written to increase the rigor and discipline of the review process.</p> <p>SBE strongly sympathizes with the concern expressed about the importance of time in school. It respectfully disagrees, however, that the proposed rules will result in a decrease in the number of days that children are in school. The rules do not expand the opportunity for waivers; just clarify the criteria that must be met for approval.</p>
<p>Don't reduce the number of hours that teachers teach. Don't shorten the time students spend in class. Don't shorten school days.</p>	<p>RCW 28A.220(2) requires that school districts make available to students a minimum instructional offering consisting of at least a district-wide annual average of 1,000 instructional hours for students in grades 1-12, and of at least 450 instructional hours for students enrolled in kindergarten. Chapter 548, Laws of 2009 (ESHB 2261) required that these requirements be increased according to an implementation plan to be established by the Legislature, with full implementation by 2018. The proposed rules make no change to instructional hours requirements. Nor do they address waivers from those requirements. Moreover, the rules require that the board of directors of a district requesting a 180-day waiver attest, through a signed resolution, that if the waiver is approved the district will meet the required annual instructional offerings under RCW 28A.150.220(2) for each of the school years for which the waiver is requested. (Waivers of the minimum 180-day requirement may result in more or fewer instructional hours above the minimum 1,000, depending on the local plan.) While this statement by the local board has been part of the informal application process, it has not to now been established in rule.</p>
<p>The proposed new category of waivers for parent-teacher conferences will result in many more districts applying for them. The proposed rules lower scrutiny of waiver requests. We should be making waivers harder to obtain, not easier.</p>	<p>The decision by the SBE to create a separate procedure for waivers for the purpose of parent-teacher conferences, not requiring formal action by the State Board for approval, stems from the following considerations:</p> <ol style="list-style-type: none"> <li>(1) The inconsistency between the statutory definitions of "school day" in RCW 28A.150.203 and "instructional hours" in RCW 28A.150.205, in which parent-teacher conferences are within the definition of "hours" but not of "days."</li> <li>(2) The Board's conviction of the value of face-to-face communication between parents and teachers for improving student achievement.</li> <li>(3) The repeated testimony of educators that the scheduling of multiple partial days for parent-teacher conferences is both disruptive to instruction, particularly in the earlier grades, and an obstacle to parental participation, particularly in rural districts.</li> <li>(4) The increasing number of waivers the Board has already been granting for this purpose under the regular Option One procedure.</li> <li>(5) The recent legislative enactment that school districts receiving state support for all-day kindergarten administer the Washington Inventory of Developing Skills (WaKIDS) program, a required component of which is a specific model of parent-teacher conference most practically conducted through full rather than partial days.</li> </ol> <p>It is unclear whether the new proposed WAC 180-18-050(3) will increase the number of waiver requests. The current procedures in WAC 180-18-050(1) and (2) have not appeared to be a hindrance to district requests. It is therefore not self-evident that the new procedure in (3), which requires applicants to provide information specifically related to the goals and activities of the</p>

	<p>planned parent-teacher conferences, would result in an increase in the number of requests. As with other rule amendments, the determination of results will come through experience.</p>
<p>Days are being shortened and the school year should be increased to 365 days to get the services the taxpayers are paying for.</p>	<p>SBE does not have authority to set the length of the school day or the school year. Legislation enacted in 2009 requires, by 2018, that school districts increase the instructional offerings they make available to students in grades 1-12 from a district-wide average of 1,000 instructional hours to 1,080 hours in each grade, and in kindergarten from 450 hours to 1,000. SBE is on record in support of this legislation.</p> <p>State law (RCW 28A.150.220) requires school districts to provide access to a minimum of 180 days per school year. Arguments are made for a longer school year and a shorter break between school years. According to one state, each additional school day the state might require costs about \$25 million in state funds. Estimates vary, however, depending on how costs are calculated.</p>
<p>In years past teachers contracted for more than 180 days, there were no conference days, and teachers held conferences with parents in the evenings and on weekends.</p>	<p>The comment is noted. There appears to be a strong commitment on the part of certificated and administrative staff to meeting with parents to inform them of students' progress and work together on improvement. At present it is a common practice to schedule parent-teacher conferences through early releases. We would note the potential for additional costs to districts for keeping school buildings open in the evening for the purpose of conferences, at a time when resources are stretched thin.</p>
<p>There should be a cap on the number of waiver days that may be requested by districts and granted by SBE. Limit the rule to a low number of days.</p>	<p>The State Board gave long consideration, in a deliberative process that began more than a year ago, to imposing a cap on the number of days that may be waived from the 180-day school year requirement. In approving rules for public hearing, the Board chose not to include this provision for Option One waivers. In making this decision the Board considered both the need for local flexibility and the practical limit that the 1,000 instructional hours requirement – soon to be increased to 1,080 hours for all grades -- imposes on the number of days that may be waived. As a result of concerns heard in public comment, however, the rules as approved for publication in the State Register (CR 102) placed a limit of five on the number of days that may be waived for the purpose of parent-teacher conferences under the amended rules.</p>
<p>The proposed criteria for evaluation of waiver requests are vague and tied to intentions rather than results. Elements of the rules are softer than they should be.</p>	<p>The purpose of the criteria is to evaluate requests for waivers submitted to SBE "on the basis that such waiver or waivers are necessary to . . . implement successfully a <i>local plan</i> to provide for all students in the district an effective education system that is designed to enhance the education program for each student." (RCW 28A.150.305(1). Emphasis added.) They are therefore by definition tied to a district's intentions. We would further note that that new WAC 180-18-040(3) sets criteria for evaluation of requests that would represent the continuation of an existing waiver for a term of years additional to that originally granted, and that criteria (a) and (b) relate specifically to the results of the initial waiver.</p> <p>We respectfully disagree that the criteria are vague or soft. In drafting WAC 180-18-040 (2) and (3), SBE sought to make the criteria for evaluation of waiver requests specific enough to provide strong accountability for the use of waivers to improve student learning, but not so specific or technical that they would be difficult for school districts to address SBE to use. Experience will show how well we succeeded. We would note that the criteria have much in common with questions districts have been asked for some time to address through the informal application process, as refined over the years.</p>

<p>The rules remove the prohibition on waivers for schools that are persistently underachieving.</p>	<p>This prohibition applies only to waivers granted through the pilot program authorized in WAC 180-18-050(3), which are eliminated in these rules. It has never applied to “regular” 180-day waivers granted through WAC 180-18-050(1) and (2). The State Board did not consider adding this condition to the waivers granted under that authority. Should that change be considered there are likely to be concerns articulated that persistently underachieving schools may be among those most in need of a degree of flexibility in the school calendar in order to implement innovative ways to improve student performance?</p>
<p>Limit the rule to those cases which increase services. Waivers should be used for programmatic additions such as summer school and full-day kindergarten.</p>	<p>Districts frequently report in applications for waivers that their proposed calendars will result in an increase in instructional hours, whether in individual schools or district-wide, as fewer days are exchanged for longer ones. The statewide data that would be needed to more closely examine the relationship between 180-day waivers and instructional hours are not at this time available.</p> <p>Some of the response to this comment depends on whether the most frequent uses of waiver days – professional development of staff and parent-teacher conferences – should be regarded as increasing services to children. In individual cases, they may be seen as increasing the quantity of services received. Used well, they surely improve the quality of services, which most in the field would judge as of at least equal importance.</p>
<p>There is no evidence that waivers, whether for professional development or other purposes, increase student learning.</p>	<p>This is a comment on RCW 28A.305.140 and RCW 28A.655.180, rather than on the rule amendments. SBE’s authority to grant waivers from minimum basic education requirements is not at issue in the rules. That authority was established by the Legislature in [get it right], and amended several times since. It would not have been consistent with legislative intent for the SBE, once delegated that authority by the Legislature for express purposes, to then decline to exercise it. The purpose of the rules on which SBE has solicited comment is to implement that law, in a way that fully meets legislative intent, by adopting criteria to evaluate requests for waivers, in accordance with RCW 28A.305.140(2) and RCW 28A.305.141(3).</p> <p>Whether there is evidence that the purposes for which waivers are most commonly granted increase student learning is more a policy question for the Legislature than a rules question for SBE. The Concise Explanatory Statement on these rule amendments is not the place for that policy debate. We would note briefly only that:</p> <ol style="list-style-type: none"> <li>(1) The importance of parental involvement for student achievement is well-established in the research literature, and reflected in state policy and district practice. “A convincing body of evidence confirms what common sense suggests: The higher the expectations of parents, the steadier their guidance and support, and the greater sense their partnership with teachers and other staff, the better their child’s chances of academic success.” (Taylor and Dounay, “Strengthening Parents’ Ability to Provide the Guidance and Support That Matter Most in High School,” Education Commission of the States, August 2008.) In waiver applications, districts frequently emphasize the importance of face-to-face communication with parents in setting academic expectations for individual students and monitoring progress against them, particularly for students most at risk.</li> <li>(2) The Legislature and study committees it has created have made repeated findings on the importance of staff professional development for student learning. In the Education Reform Act of 1993, the Legislature declared its finding “that improving student achievement will</li> </ol>



require . . . time and resources for educators to collaboratively develop and implement strategies for improved student learning.” (ESHB 1209, C 336, L 93). The Washington Learns Commission found that, “Professionals in every field must continue to learn about the latest issues, research and practices in order to maintain and improve their skills and abilities. This is especially critical for teachers and other educators as we discover more about how students learn, what supports different students need, and how to be the most effective facilitators in various learning environments.” (Final Report, November 2006, p. 41.) The Basic Education Finance Task Force created by the 2007 Legislature recommended that the state increase the number of Learning Improvement Days for professional development of educators from two to ten as part of the state-funded salary allocation model. (Final Report, January 2009, p. 17.) In ESHB 2261, redefining basic education and creating a new funding structure, the Legislature declared its recognition that “the key to providing all students the opportunity to achieve the basic education goal is effective teaching and leadership. Teacher, principals and administrators must be provided with access to the opportunities they need to gain the knowledge and skills that will enable them to be increasingly successful in their classroom and schools.” (C 548 L 09, Sec. 401.) Most recently, the Quality Education Council, created by ESHB 2261 to inform the Legislature on implementation of the new funding structure recommended that the state allocate funding for 80 additional hours of professional development time for certificated instructional staff and instructional aides. [Citation.] While implementation has varied over time, mostly for reasons of funding availability, the Legislature has been consistent in its recognition of the importance of instructional quality for student learning, and of the importance of professional development for instructional quality.

Because the Legislature, in response to budget pressures, has reduced and now eliminated state funding for educator professional development outside the 180 days, the SBE has seen fit to support district requests for waivers for this essential activity. The amended rules, however, reflect the recognition that for professional development to be effective, it must be directed to achievement of state standards, aligned with local school improvement plans, based on valid research evidence, clear about the activities to be undertaken and their application to student learning, and accountable for results. The criteria for evaluation of waiver requests in (2)(a) through (f) in amended WAC 180-18-040 provide the means through which to test these and other requirements.