

The Washington State Board of Education

Governance | Achievement | Transitions | Math & Science | Effective Workforce

Title:	Public Hearing on Proposed Rules on Basic Education Waiver Criteria (CR 102)	
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 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:	<ol style="list-style-type: none"> 1. Do the proposed rules meet the statutory requirements they're intended to address? 2. Do the proposed rules provide clear and effective criteria on which to evaluate waiver requests? 3. What are the main themes heard in public comment on the proposed rules? 4. What changes, if any, should be made to the proposed rules based on testimony provided at the public hearing? 	
Possible Board Action:	<input type="checkbox"/> Review <input type="checkbox"/> Adopt <input type="checkbox"/> Approve <input checked="" type="checkbox"/> Other	
Materials Included in Packet:	<input type="checkbox"/> Memo <input type="checkbox"/> Graphs / Graphics <input checked="" type="checkbox"/> Third-Party Materials <input type="checkbox"/> PowerPoint	
Synopsis:	<p>The State Board of Education will hear public testimony on WSR 12-17-132, criteria for evaluation of requests for waivers from the minimum 180-day school year under RCW 28A.140 and RCW 28A.141, amending WAC 180-18-040 and WAC 180-18-050, and creating new section WAC 180-18-065.</p> <p>The State Board approved the filing of a CR 101 Preposal Statement of Inquiry at its May 2012 meeting, and the filing of a CR 102 of the proposed rules as amended at its July 2012 meeting.</p> <p>Provided in your packet is WSR 12-17-132, including the CR 102, the school district fiscal impact statement prepared by the Office of the Superintendent of Public Instruction under RCW 28A.305.135, and the the proposed rules.</p>	

WSR 12-17-132

PROPOSED RULES

STATE BOARD OF EDUCATION

[Filed August 21, 2012, 3:13 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 12-11-064.

Title of Rule and Other Identifying Information: Amending [WAC 180-18-040](#) Waivers from minimum one hundred eighty-day school year requirement and student-to-teacher ratio requirement and 180-18-050 Procedure to obtain waiver (waivers from one hundred eighty-day school year requirement including waivers for purposes of economy and efficiency).

Hearing Location(s): Walla Walla Community College, 3020 East Isaacs Avenue, Walla Walla, WA 99632, on September 26, 2012, at 3:15 p.m.

Date of Intended Adoption: November 9, 2012.

Submit Written Comments to: Jack Archer, Washington State Board of Education, 600 Washington Street, P.O. Box 47206, Olympia, WA 98504-7206, e-mail jack.archer@k12.wa.us, fax (360) 586-2357, by October 26, 2012.

Assistance for Persons with Disabilities: Contact Jack Archer by September 24, 2012, TTY (360) 664-3631 or (360) 725-6035.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of the proposal is first to meet the requirements of [RCW 28A.305.140\(2\)](#), which requires the state board of education (SBE) to adopt criteria to evaluate the need for a school district waiver under this section from the provisions of [RCW 28A.150.200](#) through 28A.150.220, and 28A.305.141(3), which requires SBE to adopt criteria to evaluate requests for waivers for certain districts from the requirement of a minimum one hundred eighty day school year for purposes of economy and efficiency. The purpose is second to simplify the procedure for obtaining waivers under [RCW 28A.305.140](#) by eliminating lengthy provisions in [WAC 180-18-050\(3\)](#) for waivers that are excessively difficult for districts to implement and do not permit renewal. A further purpose is to provide an expedited process for the granting of one hundred eighty day waivers for the sole purpose of full-day, parent-teacher conferences. The proposal also makes necessary and appropriate corrections to [WAC 180-18-040](#) and 180-18-050, removing obsolete provisions and amending other language to improve clarity and more closely reflect legislative intent.

Reasons Supporting Proposal: Adoption of this proposal assures compliance with [RCW 28A.305.140](#), 28A.305.141, and 28A.655.180. It provides SBE with a formal basis for decisions on requests by school districts for waivers from minimum basic education program requirements. Through rule adoption SBE demonstrates that it is meeting its statutory duty to ensure compliance with minimum basic education program requirements. For school districts, it provides clarity on SBE evaluation of waiver requests and simplifies overly complex procedures in current rule for obtaining waivers. By creating a separate procedure for waivers for parent-teacher conferences, it reduces the confusion arising from inconsistency between the statutory definitions of "school day" and "instructional hours," and recognizes the importance of parental involvement to student achievement.

Statutory Authority for Adoption: [RCW 28A.305.140](#)(2), 28A.305.141(3).

Statute Being Implemented: [RCW 28A.305.140](#), 28A.305.141, and 28A.655.180.

Rule is not necessitated by federal law, federal or state court decision.

Name of Proponent: SBE, governmental.

Name of Agency Personnel Responsible for Drafting: Jack Archer, Old Capitol Building, 600 Washington Street, Olympia, WA 98504, (360) 866-0755; Implementation and Enforcement: Ben Rarick, Old Capitol Building, 600 Washington Street, Olympia, WA 98504, (360) 725-6025.

SBE RULE CHANGE

SCHOOL DISTRICT FISCAL IMPACT STATEMENT

WSR 12-11-064

Title of Rule: Amending [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, (waivers from one hundred eighty-day school year requirement including waivers for purposes of economy and efficiency); and new [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. **Agency:** SDF - School District Fiscal Impact - SPI

Part I: Estimates: No fiscal impact.

Part II: Narrative Explanation

A - Brief Description of What the Measure Does That Has Fiscal Impact: Office of superintendent of public instruction (OSPI) uses the WASBO Legislative Committee to gather input on costs for proposed legislation and rule changes. Fiscal impact for this rule change was requested on July 23, 2012. No fiscal impact was identified by either OSPI staff or school districts for this rule change.

B - Cash Receipts Impact: None.

C - Expenditures: None.

Part III: Expenditure Detail

A - Expenditures by Object or Purpose: None.

Part IV: Capital Budget Impact: None. Jack Archer, Old Capitol Building, 600 Washington Street, Olympia, WA 98504, phone (360) 725-6035, fax (360) 586-2357, e-mail jack.archer@k12.wa.us.

A cost-benefit analysis is not required under [RCW 34.05.328](#). Not required.

August 21, 2012

Ben Rarick

Executive Director

OTS-4974.1

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.

[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.]

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.

[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.]

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.

□