

Illinois State Board of Education

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Jesse H. Ruiz
Chairman

Christopher A. Koch, Ed.D.
State Superintendent of Education

The State Board of Education was formerly required to file an annual report with the General Assembly summarizing by topic area the waivers and modifications approved to date and to list the number and percentages of eligible applicants receiving such approvals. That requirement was eliminated in August of 2010 (P.A. 96-1423). The last Cumulative Waiver Report, from January of 2010, is displayed here.

January 29, 2010

TO: The Honorable John J. Cullerton, Senate President
The Honorable Christine Radogno, Senate Republican Leader
The Honorable Michael J. Madigan, Speaker of the House
The Honorable Tom Cross, House Republican Leader

FROM: Christopher A. Koch, Ed.D.
State Superintendent of Education

SUBJECT: Summary of Approved Waivers and Modifications: A Cumulative Report

As required by Section 2-3.25g of the School Code (105 ILCS 5/2-3.25g), this report summarizes the waivers and modifications approved either by the General Assembly or the Illinois State Board of Education. The report lists each by topic area and provides the number and percentage of eligible applicants for which the waiver or modification has been granted. In addition, the report contains recommendations for changes in law for certain requested waivers or modifications that have been approved.

If you have questions or comments, please contact Darren Reisberg, General Counsel, at 217-782-8535.

cc: The Honorable Pat Quinn, Governor
Mark Mahoney, Clerk of the House
Jillayne Rock, Secretary of the Senate
Legislative Research Unit
State Government Report Center

SUMMARY OF APPROVED WAIVERS AND MODIFICATIONS

Cumulative Report -- 1995 - 2009

**Illinois State Board of Education
Rules and Waivers Division February
2010**

**Jesse H. Ruiz, Chairman
State Board of Education**

**Christopher A. Koch, Ed.D.
State Superintendent of Education**

Foreword

The Illinois State Board of Education, pursuant to 105 ILCS 5/2-3.25g, must submit to the Illinois General Assembly on or before February 1 of each year a report listing "all types of waivers of mandates and modifications of mandates granted by the State Board of Education or the General Assembly . . . (identifying) the topic of the waiver along with the number and percentage of eligible applicants for which the waiver has been granted." In addition, the report must include any recommendations for amendments to or repeal of School Code mandates involved in the waivers or modifications. This is the thirteenth report submitted under that law.

This cumulative report covers all waivers and modifications of School Code mandates or administrative rules granted as of January 2010 that have been included in waiver reports submitted to the General Assembly through October 1, 2009.

Christopher A. Koch, Ed.D.
State Superintendent of Education

Introduction

Summary of Approved Waivers and Modifications lists all requests that have been approved either by the Illinois State Board of Education or the General Assembly since March 1995, when the waiver law was amended to allow school districts to request waivers and modifications from almost all educational mandates contained in the School Code or in the State Board of Education's administrative rules.

The report identifies approved requests alphabetically by general category followed by topic area (with statutory or rule citation); lists the total number of requests granted, including a breakdown by entity granting the request; and identifies the number of school districts for which these requests have been granted and the percentage that number represents out of the state's 869 school districts operating as of fall 2009. Three additional subsections report the waivers and modifications granted to area vocational centers, regional offices of education, and special education cooperatives. The summary is presented in chart form. The report includes comments on potential changes in laws that are the subject of approved waivers or modifications.

Summary Chart

The chart organizes the 5,295 waiver and modification requests approved as of October 2009 into seven general categories: Accountability; Calendar/Instructional Time Issues; Course Offerings; Employment Issues; Fiscal Issues; Governance; and Health and Safety. Under each category, approved waivers and modifications are further delineated by topic area. In some instances, large topic areas (i.e., "Driver Education," "Holidays," and "Physical Education") are further subdivided for clarity.

Often a single eligible applicant will submit a request in more than one area or several in a single area. Therefore, the total number of petitions will exceed the number of eligible applicants receiving approval. To date, 934 school districts, or 107.5 percent of districts statewide, have been granted waivers or modifications of School Code mandates or of mandates contained in administrative rules. (This number includes districts that have consolidated or no longer exist.) In addition, nine area vocational centers (36 percent), 34 regional offices of education (75.6 percent), and 37 special education cooperatives (54.4 percent) have been granted waivers or modifications.

Recommendations and Discussion

In requiring that a cumulative report on approved waivers and modifications be submitted each year, the General Assembly recognized that the waiver process could raise policy and administrative issues that need to be considered separately from individual requests. Over the past several years, the cumulative waiver report examined legally mandated school holidays and made specific recommendations for legislative changes in that area; in more recent reports, recommendations regarding use of parent-teacher conference time were also made, along with recommendations concerning fees charged for driver's education.

In the spring of 2009, Senate Bill 1956 was passed by both chambers of the General Assembly and was signed into law as Public Act 96-640 in August of 2009. Passage of this bill allows districts and other entities eligible for waivers to use legally mandated school holidays for purposes other than school dismissal and to modify the school schedule for the majority of parent-teacher configurations without using the waiver process.

Recommendations and Discussion

Legislative Recommendations

The following recommendation proposes amendments to the School Code in the area of driver's education fees.

Driver's Education

Section 27-24.2 (formerly Section 27-23) of the School Code authorizes school districts to charge up to \$50 for students participating in a driver's education course. The General Assembly has approved 274 petitions from 153 school districts since May 1996 seeking to raise this \$50 limit. Of the 40 petitions receiving approval during the last two waiver reports, 30 were renewals of previously approved requests; in those cases, six districts asked for approval to increase the fee over the amount previously approved.

Requests to raise driver's education fees are the third most common type of waiver request, after holidays and daily physical education. (Fee requests share third place with waivers for administrative expenditure limits.) The number of these applications, and the maximum fees requested, strongly indicate that many school districts believe the \$50 fee is insufficient to fund driver's education programs, and they are seeking ways to cover the shortfall in revenues by charging students more to take the course. Up until May 2003, the General Assembly considered fewer than 10 requests in each report. There was a substantial increase in petitions during 2004 and while numbers have varied since then, the last five years have seen 143 petitions to raise fees, with 52 percent of these requests involving a fee greater than \$250 per student. Indeed, only 12 percent of districts with waivers still in effect have asked to limit the fee to \$150 or less. The General Assembly has approved seven requests to charge up to \$450 per student and eight requests to charge up to \$500.

The majority of the requests that have been approved – 65 percent – are from districts located in Cook County and the five collar counties or districts in or near urban centers such as Rockford, Bloomington, and the metro-east area.

Given that the law establishing the \$50 maximum is more than 20 years old and that of all driver education fee waiver requests approved, 52 percent have been approved in the past five years, the State Board recommends to the General Assembly that (1) the fee limit be eliminated, thus allowing districts to set the fee in response to local conditions, but that (2) the district set a fee only after providing appropriate advance notices and holding a public hearing in order to take comments from parents, other community members, and affected teachers and staff members.

Driver's Education

105 ILCS 5/27-24.2

Safety education; driver education course. Instruction shall be given in safety education in each of grades one through 8, equivalent to one class period each week, and any school district which maintains grades 9 through 12 shall offer a driver education course in any such school which it operates. Its curriculum shall include content dealing with Chapters 11, 12, 13, 15, and 16 of the Illinois Vehicle Code, the rules adopted pursuant to those Chapters insofar as they pertain to the operation of motor vehicles, and the portions of the Litter Control Act relating to the operation of motor vehicles. The course of instruction given in grades 10 through 12 shall include an emphasis on the development of knowledge, attitudes, habits, and skills necessary for the safe operation of motor vehicles, including motorcycles insofar as they can be taught in the classroom, and instruction on distracted driving as a major traffic safety issue. In addition, the course shall include instruction on special hazards existing at and required safety and driving precautions that must be observed at emergency situations, highway construction and maintenance zones, and railroad crossings and the approaches thereto. The course of instruction required of each eligible student at the high school level shall consist of a minimum of 30 clock hours of classroom instruction and a minimum of 6 clock hours of individual behind-the-wheel instruction in a dual control car on public roadways taught by a driver education instructor endorsed by the State Board of Education. Both the classroom instruction part and the practice driving part of such driver education course shall be open to a resident or non-resident student attending a non-public school in the district wherein the course is offered. Each student attending any public or non-public high school in the district must receive a passing grade in at least 8 courses during the previous 2 semesters prior to enrolling in a driver education course, or the student shall not be permitted to enroll in the course; provided that the local superintendent of schools (with respect to a student attending a public high school in the district) or chief school administrator (with respect to a student attending a non-public high school in the district) may waive the requirement if the superintendent or chief school administrator, as the case may be, deems it to be in the best interest of the student. A student may be allowed to commence the classroom instruction part of such driver education course prior to reaching age 15 if such student then will be eligible to complete the entire course within 12 months after being allowed to commence such classroom instruction. Such a course may be commenced immediately after the completion of a prior course. Teachers of such courses shall meet the certification requirements of this Act and regulations of the State Board as to qualifications. Subject to rules of the State Board of Education, the school district may charge a reasonable fee, ~~not to exceed \$50,~~ to students who participate in the course, unless a student is unable to pay for such a course, in which event the fee for such a student must be waived. A district that chooses to exercise such authority must first provide notices, hold a public hearing, and approve the action in the same manner required of eligible applicants in Section 2-3.25g(c) of the School Code [105 ILCS 5/2-3.25g(c)]. The total amount from driver education fees and reimbursement from the State for driver education must not exceed the total cost of the driver education program in any year and must be deposited into the school district's driver education fund as a separate line item budget entry. All moneys deposited into the school district's driver education fund must be used solely

for the funding of a high school driver education program approved by the State Board of Education that uses driver education instructors endorsed by the State Board of Education.

**Summary of Approved Waiver/Modification Requests of Rules and School Code Mandates
(October 1995 through October 2009 Reports)**

SCHOOL DISTRICTS

Accountability

Topic	Code/Rule Citation¹	Approved - ISBE	Approved - GA	Total Approved	Number of Districts²	Percentage of Districts³
Accountability Procedures	5/2-3.64; 23 Ill. Adm. Code 1.30-1.70	11	4	15	13	1.5%
School Report Card	5/10-17a	0	1	1	1	0.1%
Statement of Affairs	5/10-17	0	6	6	5	0.6%
SUBTOTAL		11	11	22		

Alternative Schools ⁴	5/Art.13A	1	0	1	1	0.1%
Attendance Procedures	23 Ill. Adm. Code 1.290	1	0	1	1	0.1%
Holidays ⁵	5/24-2	2,973	6	2,979	908 ¹⁵	104.5% ¹⁵
• <i>Lincoln's Birthday</i>					• 897 ¹⁵	• 103.2% ¹⁵
• <i>Casimir Pulaski Day</i>					• 674	• 77.6%
• <i>Columbus Day</i>					• 396	• 45.6%
• <i>Veterans' Day</i>					• 435	• 50.1%
• <i>Dr. M.L. King, Jr.'s, Birthday</i>					• 395	• 45.5%
• <i>Memorial Day</i>					• 17	• 2.0%
• <i>Labor Day</i>					• 15	• 1.7%
Inservice Training ⁶	5/18-8.05(F)(2)(d)(2)	20	151	171	83	9.6%

¹All citations are to 105 ILCS 5 (the School Code); some requests involve State Board of Education administrative rules and are noted.

²School districts may have submitted more than one petition for the same topic area, making the number of districts fewer than the number of petitions in many instances.

Calendar/Instructional Time Issues (continued)

Topic	Code/Rule Citation ¹	Approved - ISBE	Approved - GA	Total Approved	Number of Districts ²	Percentage of Districts ³
Instructional Time (day/yr.) ⁷	5/10-19, 18-8.05	115	4	119	63	7.2%
Kindergarten	5/10-20.19a, 10-22.18	0	4	4	1	0.1%
Parent-Teacher Conferences ⁵	5/18-8.05(F)(2)(d)(1)	20	160	180	100	11.5%
SUBTOTAL		3,130	325	3,455		

Course Offerings

Topic	Code/Rule Citation ¹	Approved - ISBE	Approved - GA	Total Approved	Number of Districts ²	Percentage of Districts ³
Bilingual Education	5/14C-2, 14C-2.1, 14C-3	3	0	3	1	0.1%
Course Requirements	23 Ill. Adm. Code 1.420 & 1.430	6	1	7	3	0.3%
Driver Education	5/27-23, 27-24 & 23 Ill. Adm. Code 252	42	299	341	160	18.4%
• Amount of Fee					• 149	• 17.1%
• When to Offer Course					• 16	• 1.8%
• Contracting					• 9	• 10.0%
• Behind the Wheel					• 17	• 1.6%
Graduation Requirements	27-22.10	0	1	1	1	0.1%
Health Education ⁸	5/27-5	9	5	14	13	1.5%
Physical Education	5/27-6	158	440	598	261	30.0%
• Other Courses					• 91	• 10.5%
• Block Scheduling ⁹					• 85	• 9.8%
• Other Activities					• 66	• 7.6%
• Inadequate Facilities					• 56	• 6.4%
• Other (local control, equal time)					• 24	• 2.8%

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Course Offerings (continued)

Vocational Education	23 Ill. Adm. Code 254.1150(b)	3	0	3	2	0.2%
SUBTOTAL		221	746	967		

Employment Issues

Topic						
Administration of Medication ¹⁰	5/10-22.21b	2	5	7	6	0.7%
Certificates	5/21-5, 21-7(e)(4), 10-21.4a	4	2	6	3	0.3%
Contracts (employment)	5/10-23.8a	0	1	1	1	0.1%
Criminal Background Checks ¹¹	5/10-21.9	3	0	3	2	0.2%
Evaluation Process	5/24A-5	1	63	64	43	4.9%
Interim/Part-time Superintendent	5/10-21.4	0	5	5	2	0.2%
Protection from Suit	5/34-18.1	1	0	1	1	0.1%
Reduction-in-Force Notices (Chicago)	5/34-84	0	1	1	1	0.1%
Reduction-in-Force Notices ⁸	5/24-12, 10-23.5	0	7	7	6	0.7%
School Nurse ¹²	5/10-22.23	15	77	92	90	10.4%
Substitute Teachers ¹³	5/21-9	9	41	50	36	4.1%
Superintendent Duties	23 Ill. Adm. Code 1.310(f)(1), (2); 5/10-21.4	2	2	4	2	0.2%
Teacher Aides	23 Ill. Adm. Code 1.630, 25.510(d)(1); 5/10-22.34	4	2	6	3	0.3%
Treasurer – Appointment	5/5-1	0	4	4	4	0.5%
Treasurer – Qualifications	5/8-1(c) & (e)	0	1	1	1	0.1%
Treasurer – Residency ⁸	5/8-1(c)	0	9	9	8	0.9%
SUBTOTAL		41	220	261		

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Fiscal Issues

Topic	Code/Rule Citation ¹	Approved - ISBE	Approved - GA	Total Approved	Number of Districts ²	Percentage of Districts ³
ADA/GSA Calculations	5/18-8.05	0	7	7	3	0.3%
Administrative Expenditure Limits ¹⁴	5/17-1.5	0	216	216	150	17.3%
Administrative Expenditure Limits	5/34-43.1(c)	1	0	1	1	0.1%
Bid Limit	5/34-21	3	0	3	1	0.1%
Bonds	5/5-22	0	2	2	1	0.1%
Debt Limit	5/19-1	0	7	7	5	0.6%
Fiscal Year Change	5/3-15.1	0	1	1	1	0.1%
Funds (transfers/use of funds, interest)	5/10-22.14, 10-22.22, 10-22.44, Art. 17	0	26	26	17	2.0%
Lease Agreements	5/10-22.11	0	1	1	1	0.1%
School Food Program	23 Ill. Adm. Code 305.15(b) & (f)	4	0	4	2	0.2%
Tax Rates, Levies	5/17-2, 17-6.1	0	2	2	2	0.2%
Transportation	5/29-3	1	0	1	1	0.1%
Transportation Reimbursement	23 Ill. Adm. Code 120.90(e) (appeal)	0	1	1	1	0.1%
Tuition	5/10-20.12a, 10-22.5	0	93	93	71	8.2%
SUBTOTAL		9	356	365		

Governance

Topic	Code/Rule Citation ¹	Approved - ISBE	Approved - GA	Total Approved	Number of Districts ²	Percentage of Districts ³
Consolidation	Various	0	4	4	4	0.5%
Educational Service Center Administration	5/2-3.62	1	2	3	1	0.1%
Local School Councils	5/34-2.1	1	0	1	1	0.1%
Regional Offices of Education	5/3-14.2	0	2	2	1	0.1%
SUBTOTAL		2	8	10		

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Regional Offices of Education (ROEs)

Topic						
ADA/GSA Calculations	5/18-8.05	0	2	2	2	4.4%
Holidays ⁵	5/24-2	76	0	76	34	75.6%
• <i>Lincoln's Birthday</i>					• 34	• 75.6%
• <i>Casimir Pulaski Day</i>					• 27	• 60.0%
• <i>Veterans' Day</i>					• 14	• 31.1%
• <i>Dr. M.L. King, Jr.'s, Birthday</i>					• 12	• 26.7%
• <i>Columbus Day</i>					• 16	• 35.6%
Inservice Training ⁶	5/18-8.05(F)(2)(d)(2)	0	2	2	1	2.2%
Parent-Teacher Conferences ⁵	5/18-8.05(F)(2)(d)(1)	0	4	4	4	8.9%
Physical Education	5/27-6	0	1	1	1	2.2%

TOTALS: REGIONAL OFFICES OF EDUCATION

76

9

85

34

75.6%

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Special Education Cooperatives/Joint Agreements (SECs)

Topic						
Evaluation Process	5/24A-5	0	2	2	1	1.5%
Holidays ⁵	5/24-2	62	0	62	37	54.4%
• <i>Lincoln's Birthday</i>					• 34	• 50.0%
• <i>Casimir Pulaski Day</i>					• 18	• 26.5%
• <i>Columbus Day</i>					• 11	• 16.2%
• <i>Veterans' Day</i>					• 11	• 16.2%
• <i>Dr. M.L. King, Jr.'s, Birthday</i>					• 7	• 10.3%
Parent-Teacher Conferences ⁵	18-8.05(F)(2)(d)(1)	0	3	3	2	2.9%
Substitute Teachers ¹³	5/21-9	0	1	1	1	1.5%
TOTALS: SPECIAL EDUCATION COOPERATIVES		62	6	68	37	54.4%
TOTALS: ALL APPLICANTS		3,569	1,726	5,295		

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