

1 TITLE 23: EDUCATION AND CULTURAL RESOURCES
2 SUBTITLE A: EDUCATION
3 CHAPTER I: STATE BOARD OF EDUCATION
4 SUBCHAPTER a: PUBLIC SCHOOL RECOGNITION

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145 AUTHORITY: Implementing Sections 2-3.25, 2-3.25g, 2-3.44, 2-3.96, 2-3.159, 10-17a, 10-
 146 20.14, 10-21.4a, 10-22.43a, 21B-5, 21B-20, 22-30, 22-60, 24-24, 26-13, 27-3.5, 27-6, 27-12.1,
 147 27-13.1, 27-20.3, 27-20.4, 27-20.5, 27-22, 27-23.3 and 27-23.8 and authorized by Section 2-3.6
 148 of the School Code [105 ILCS 5].

149

150 SOURCE: Adopted September 21, 1977; codified at 7 Ill. Reg. 16022; amended at 9 Ill. Reg.
 151 8608, effective May 28, 1985; amended at 9 Ill. Reg. 17766, effective November 5, 1985;
 152 emergency amendment at 10 Ill. Reg. 14314, effective August 18, 1986, for a maximum of 150
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 154 effective February 26, 1988; amended at 14 Ill. Reg. 12457, effective July 24, 1990; amended at
 155 15 Ill. Reg. 2692, effective February 1, 1991; amended at 16 Ill. Reg. 18010, effective November
 156 17, 1992; expedited correction at 17 Ill. Reg. 3553, effective November 17, 1992; amended at 18
 157 Ill. Reg. 1171, effective January 10, 1994; emergency amendment at 19 Ill. Reg. 5137, effective
 158 March 17, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 6530, effective May 1,
 159 1995; amended at 19 Ill. Reg. 11813, effective August 4, 1995; amended at 20 Ill. Reg. 6255,
 160 effective April 17, 1996; amended at 20 Ill. Reg. 15290, effective November 18, 1996; amended
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 162 effective March 21, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 12985, effective
 163 August 14, 2000; amended at 25 Ill. Reg. 8159, effective June 21, 2001; amended at 25 Ill. Reg.
 164 16073, effective November 28, 2001; amended at 26 Ill. Reg. 1157, effective January 16, 2002;
 165 amended at 26 Ill. Reg. 16160, effective October 21, 2002; amended at 28 Ill. Reg. 8486,
 166 effective June 1, 2004; emergency amendment at 28 Ill. Reg. 13637, effective September 27,
 167 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 1891, effective January 24, 2005;
 168 amended at 29 Ill. Reg. 11811, effective July 13, 2005; amended at 29 Ill. Reg. 12351, effective
 169 July 28, 2005; amended at 29 Ill. Reg. 15789, effective October 3, 2005; amended at 29 Ill. Reg.
 170 19891, effective November 23, 2005; amended at 30 Ill. Reg. 8480, effective April 21, 2006;
 171 amended at 30 Ill. Reg. 16338, effective September 26, 2006; amended at 30 Ill. Reg. 17416,
 172 effective October 23, 2006; amended at 31 Ill. Reg. 5116, effective March 16, 2007; amended at

173 31 Ill. Reg. 7135, effective April 25, 2007; amended at 31 Ill. Reg. 9897, effective June 26,
 174 2007; amended at 32 Ill. Reg. 10229, effective June 30, 2008; amended at 33 Ill. Reg. 5448,
 175 effective March 24, 2009; amended at 33 Ill. Reg. 15193, effective October 20, 2009; amended
 176 at 34 Ill. Reg. 2959, effective February 18, 2010; emergency amendment at 34 Ill. Reg. 9533,
 177 effective June 24, 2010, for a maximum of 150 days; amended at 34 Ill. Reg. 17411, effective
 178 October 28, 2010; amended at 35 Ill. Reg. 1056, effective January 3, 2011; amended at 35 Ill.
 179 Reg. 2230, effective January 20, 2011; amended at 35 Ill. Reg. 12328, effective July 6, 2011;
 180 amended at 35 Ill. Reg. 16743, effective September 29, 2011; amended at 36 Ill. Reg. 5580,
 181 effective March 20, 2012; amended at 36 Ill. Reg. 8303, effective May 21, 2012; amended at 38
 182 Ill. Reg. 6127, effective February 27, 2014; amended at 38 Ill. Reg. 11203, effective May 6,
 183 2014; amended at 39 Ill. Reg. 2773, effective February 9, 2015; emergency amendment at 39 Ill.
 184 Reg. 12369, effective August 20, 2015, for a maximum of 150 days; amended at 39 Ill. Reg.
 185 13411, effective September 24, 2015; amended at 40 Ill. Reg. 1900, effective January 6, 2016;
 186 amended at 40 Ill. Reg. 2990, effective January 27, 2016; amended at 40 Ill. Reg. 4929, effective
 187 March 2, 2016; amended at 40 Ill. Reg. 12276, effective August 9, 2016; emergency amendment
 188 at 40 Ill. Reg. 15957, effective November 18, 2016, for a maximum of 150 days; amended at 41
 189 Ill. Reg. 126, effective December 27, 2016; amended at 41 Ill. Reg. 4430, effective April 5,
 190 2017; amended at 41 Ill. Reg. 6924, effective June 2, 2017; emergency amendment at 41 Ill. Reg.
 191 8932, effective June 28, 2017, for a maximum of 150 days; amended at 41 Ill. Reg. 14044,
 192 effective November 3, 2017; amended at 42 Ill. Reg. 11512, effective June 8, 2018; amended at
 193 43 Ill. Reg. 3792, effective February 28, 2019; amended at 43 Ill. Reg. 10213, effective August
 194 30, 2019; amended at 43 Ill. Reg. 10718, effective September 11, 2019; amended at 43 Ill. Reg.
 195 13324, effective October 29, 2019; emergency amendment at 43 Ill. Reg. 14305, effective
 196 November 20, 2019, for a maximum of 150 days; emergency amendment to emergency rule at
 197 43 Ill. Reg. 14941, effective December 4, 2019, for the remainder of the 150 days; emergency
 198 amendment to amended emergency rule at 44 Ill. Reg. 4085, effective February 25, 2020, for the
 199 remainder of the 150 days; amended at 44 Ill. Reg. 1929, effective January 13, 2020; amended at
 200 44 Ill. Reg. 6377, effective April 9, 2020; emergency amendment at 44 Ill. Reg. 7971, effective
 201 April 27, 2020, for a maximum of 150 days; emergency expired September 23, 2020; emergency
 202 amendment at 44 Ill. Reg. 8382, effective May 1, 2020, for a maximum of 150 days; emergency
 203 expired September 27, 2020; amended at 44 Ill. Reg. 9961, effective May 21, 2020; emergency
 204 amendment at 44 Ill. Reg. 13498, effective July 31, 2020, for a maximum of 150 days;
 205 emergency expired December 27, 2020; emergency amendment at 44 Ill. Reg. 16860, effective
 206 September 29, 2020, for a maximum of 150 days; emergency amendment to emergency rule at
 207 44 Ill. Reg. 17816, effective October 23, 2020, for the remainder of the 150 days; emergency
 208 rule as amended expired February 25, 2021; amended at 45 Ill. Reg. 867, effective January 4,
 209 2021; amended at 45 Ill. Reg. 1644, effective January 22, 2021; emergency amendment at 45 Ill.
 210 Reg. 4543, effective March 24, 2021, for a maximum of 150 days; emergency expired August
 211 20, 2021; amended at 45 Ill. Reg. 5362, effective April 12, 2021; amended at 45 Ill. Reg. 5744,
 212 effective April 21, 2021; amended at 45 Ill. Reg. 8280, effective June 24, 2021; amended at 45
 213 Ill. Reg. 9446, effective July 7, 2021; amended at 45 Ill. Reg. 9760, effective July 22, 2021;
 214 emergency amendment at 45 Ill. Reg. 11212, effective August 26, 2021, for a maximum of 150
 215 days; emergency expired January 22, 2022; amended at 45 Ill. Reg. 13180, effective October 8,

216 2021; emergency amendment at 45 Ill. Reg. 14211, effective October 28, 2021, for a maximum
217 of 150 days; emergency amendment to emergency rule at 45 Ill. Reg. 15344, effective November
218 22, 2021, for the remainder of the 150 days; emergency rule as amended expired March 26,
219 2022; amended at 45 Ill. Reg. 14769, effective November 10, 2021; amended at 45 Ill. Reg.
220 15997, effective December 1, 2021; amended at 46 Ill. Reg. 6272, effective April 11, 2022;
221 amended at 46 Ill. Reg. 12736, effective July 13, 2022; amended at 46 Ill. Reg. 17093, effective
222 October 3, 2022; amended at 46 Ill. Reg. 18472, effective November 7, 2022; amended at 47 Ill.
223 Reg. 18457, effective November 28, 2023; amended at 48 Ill. Reg. 2411, effective February 5,
224 2024; amended at 48 Ill. Reg. _____, effective _____.

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226 **SUBPART A: RECOGNITION REQUIREMENTS**
227

228 **Section 1.100 Waiver and Modification of State Board Rules and School Code Mandates**
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- 230 a) As authorized in Section 2-3.25g of the School Code [105 ILCS 5], an eligible
231 applicant, as defined in 2-3.25g(a), or *any Independent Authority established*
232 *under Section 2-3.25f-5 of the School Code* may petition for:
233
- 234 1) Approval of waivers or modifications of State Board of Education rules
235 and of modifications of School Code mandates, which may be requested to
236 meet the *intent of the rule or mandate in a more effective, efficient, or*
237 *economical manner or when necessary to stimulate innovation or to*
238 *improve student performance* (Section 2-3.25g(b) of the School Code); or
239
 - 240 2) Approval of waivers of School Code mandates, which *may be requested*
241 *when necessary to stimulate innovation or to improve student performance*
242 *or the intent of the mandate in a more effective, efficient, or economical*
243 *manner* (Section 2-3.25g(b) of the School Code).
244
- 245 b) "The School Code" comprises only those statutes compiled at 105 ILCS 5.
246
- 247 1) Waivers or modifications from State Board rules or School Code mandates
248 *pertaining to special education, teacher educator licensure, teacher tenure*
249 *and seniority, or* implementing compliance with the federal Every Student
250 Succeeds Act (20 ~~U.S.C.~~ ~~USC~~ 6301 et seq.) or the Every Student Succeeds
251 Act State Plan are not permitted.
252
 - 253 2) Waivers or modifications of mandates pertaining to the use of student
254 performance data and performance categories for teacher and principal
255 evaluations, as required under Article 24A of the School Code, are not
256 permitted and *on September 1, 2014, any previously authorized waiver or*
257 *modification from such requirements shall terminate* (Section 2-3.25g(b)
258 of the School Code).

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- 3) Waivers of mandates contained in Section 5-1 of the School Code or in Section 5-2.1 of the School Code also shall not be requested.
 - c) As used in this Section, "waiver" means a petition to discontinue the implementation of a mandate and "modification" means a petition to partially implement a mandate.
 - d) Each application for a waiver or modification shall provide the following, on a form supplied by the State Board of Education.
 - 1) Identification of the rules or mandates involved, either by quoting the exact language of or by providing a citation to the rules or mandates at issue. Applicants unable to determine the exact language or citation may obtain a copy of, or citation to, the rules or mandates involved by contacting the State Board of Education Legislative Affairs Department by mail at 100 North First Street, Springfield, Illinois, 62777-0001, by email at waivercorrespondence@isbe.net, or by telephone at 217-782-6510.
 - 2) Identification as to the specific waivers or modifications sought. For modifications, the specific modified wording of the rules or mandates must be stated.
 - 3) Identification as to whether the request is for an initial waiver or modification or for the renewal of a previously approved request.
 - 4) For requests based upon meeting the intent of the rule or mandate in a more effective, efficient, or economical manner, a narrative description that sets forth:
 - A) the intent of the rule or mandate to be achieved;
 - B) the manner in which the applicant will meet that intent;
 - C) how the manner proposed by the applicant will be more effective, efficient, or economical; and
 - D) if the applicant proposes a more economical manner, a fiscal analysis showing current expenditures related to the request and the projected savings that would result from approval of the request.
 - 5) If the request is necessary for stimulating innovation or improving student

302 performance, the request must include the specific plan for improved
303 student performance and school improvement upon which the request is
304 based. This plan must include a description of how the applicant will
305 determine success in the stimulation of innovation or the improvement of
306 student performance.

307
308 6) If the request is for a waiver of the administrative expenditure limitation
309 established by Section 17-1.5 of the School Code, the request must include
310 the amount, nature, and reason for the requested relief and all remedies
311 that have been exhausted to comply with the administrative expenditure
312 limitation and shall otherwise comply with Section 17-1.5(d) of the School
313 Code.

314
315 7) The time period for which the waiver or modification is sought. Pursuant
316 to Section 2-3.25g of the School Code, this time period may not exceed
317 five years, except for requests made pursuant to subsection (c)(6) ~~of this~~
318 ~~Section~~, which may not exceed one year (see Section 17-1.5(d) of the
319 School Code).

320
321 8) A description of the public hearing held to take testimony about the
322 request from educators, parents, and students, which shall include the
323 information required by Section 2-3.25g of the School Code.

324
325 9) An assurance stating the date of the public hearing conducted to consider
326 the application and, if applicable, the specific plan for improved student
327 performance and school improvement; affirming that the hearing was held
328 before a quorum of the board or before the regional superintendent, as
329 applicable, and that it was conducted as prescribed in Section 2-3.25g of
330 the School Code; and stating the date the application (and, if applicable,
331 the plan) was approved by the local governing board or regional
332 superintendent.

333
334 e) Each applicant must attach to the application a dated copy of the notice of the
335 public hearing that was published in a newspaper of general circulation, a dated
336 copy of the written notifications about the public hearing provided to the
337 applicant's collective bargaining agent and to those State legislators representing
338 the applicant, and a dated copy of the notice of the public hearing posted on the
339 applicant's website, each of which must comply with the requirements of Section
340 2-3.25g of the School Code. Those State legislators representing the applicant
341 must be notified of the public hearing at least seven days prior to the date of the
342 hearing.

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344 f) Applications must be sent by certified mail, return receipt requested, and

- 345 addressed as specified on the application form.
 346
 347 g) Applications must be postmarked no later than 15 calendar days following the
 348 local governing board's approval. (See Section 2-3.25g(d) of the School Code.)
 349 Applications addressed other than as specified on the application form shall not be
 350 processed.
 351
 352 h) Applications for the waiver or modification of State Board rules or for the
 353 modification of School Code mandates shall be deemed approved and effective 46
 354 calendar days after the date of receipt by the State Board of Education unless
 355 disapproved in writing. Receipt by the State Board shall be determined by the
 356 date of receipt shown on the return receipt form, except in the case of an
 357 incomplete application.
 358
 359 1) An applicant submitting an incomplete application shall be contacted by
 360 staff of the State Board regarding the need for additional information and
 361 the date by which the information must be received in order to avoid the
 362 application's return as ineligible for consideration.
 363
 364 2) The 45-day response time referred to in this subsection (h) shall not
 365 commence until the applicant submits the additional material requested by
 366 the State Board.
 367
 368 3) Each application that has not been made complete by the date identified in
 369 accordance with subsection (h)(1) shall be ineligible for consideration and
 370 shall be returned to the applicant with an explanation as to the
 371 deficiencies.
 372
 373 i) *The State Board may disapprove a request* for the waiver or modification of State
 374 Board rules or for the modification of School Code mandates *if* the request:
 375
 376 1) *is not based upon sound educational practices;*
 377
 378 2) *endangers the health or safety of students or staff;*
 379
 380 3) *compromises equal opportunities for learning; or*
 381
 382 4) *does not address the intent of the rule or mandate in a more effective,*
 383 *efficient or economical manner or does not have improved student*
 384 *performance as a primary goal.* (Section 2-3.25g(d) of the School Code).
 385
 386 j) Disapproval of an application for a waiver or modification of a State Board rule or
 387 for a modification of a School Code mandate shall be sent by certified mail to the

388 applicant no later than 45 calendar days after receipt of the application by the
 389 State Board. An applicant wishing to appeal the denial of a request may do so
 390 within 30 calendar days after receipt of the denial letter by sending a written
 391 appeal by certified mail to the Illinois State Board of Education, Legislative
 392 Affairs Department, 100 North First Street, S-404, Springfield, Illinois 62777-
 393 0001 or by email to waiverscorrespondence@isbe.net. The written appeal shall
 394 include the date the local governing board approved the original request, the
 395 citation of the rule or School Code section involved, and a brief description of the
 396 issue. Appeals of denials shall be submitted to the General Assembly in the
 397 semiannual report required under Section 2-3.25g of the School Code.
 398

399 k) Applications shall be postmarked by ~~July~~~~August~~ 15 to be considered for the fall
 400 waiver report and ~~December~~~~January~~ 15 to be considered for the spring waiver
 401 report. The State Superintendent of Education shall periodically notify school
 402 districts and other potential applicants of the date by which applications must be
 403 postmarked to be processed for inclusion in the next report to the General
 404 Assembly. Each application will be reviewed for completeness. Complete
 405 applications shall be submitted to the General Assembly in the next report.
 406 Incomplete applications shall be treated as discussed in subsections (h)(1) and
 407 (h)(3).
 408

409 l) The State Superintendent shall notify Regional Superintendents of Schools and
 410 Intermediate Service Centers of the disposition of requests for waivers or
 411 modifications submitted by school districts located within their regions.
 412

413 (Source: Amended at 48 Ill. Reg. _____, effective _____)